AGENDA AND RESOLUTIONS

FOR

MEETING OF THE
BOARD OF COMMISSIONERS

January 29, 2020

Daniel C. Hudgins
Chair

Anthony Scott
Chief Executive Office
January 29, 2020 – 5:30 p.m.
ORDER OF BUSINESS

I. CALL TO ORDER
♦ Roll Call
♦ Establish Quorum

II. PUBLIC COMMENTS

III. CHANGES TO THE AGENDA

IV. CHIEF EXECUTIVE OFFICER’S BUSINESS REPORT

V. RESOLUTIONS FOR APPROVAL
1. Resolution Authorizing the Write-Off of Conventional Housing Collection Losses for the Period Beginning November 1, 2019 and Ending November 30, 2019
2. Resolution Approving the Management Agreement Between Laurel Oaks Apartments and The Housing Authority of the City of Durham
3. Resolution Approving Contract Award to Five Star Construction for the Roof Replacement at Hoover Road and Cornwallis Road Apartments
4. Resolution to Approve Legal Services Contract Extension

VI. CLOSED SESSION

VII. ADJOURNMENT
V. Resolutions for Approval
HOUSING AUTHORITY OF THE CITY OF DURHAM

MEMORANDUM

TO: Board of Commissioners
FROM: Anthony Scott, Chief Executive Officer
DATE: January 29, 2020
SUBJECT: Resolution Authorizing the Write-Off of Public Housing Collection Losses for the Period Beginning November 1, 2019 and Ending November 30, 2019

I. STATEMENT OF ISSUE

Durham Housing Authority (DHA) requires that vacated tenant account balances be written off monthly for public housing residents.

II. BACKGROUND

The attached Collection Loss Report represents the total amount of losses from all Conventional Housing programs administered by DHA. The amounts to be written off by Asset Management Project (AMP) for the period beginning November 1, 2019 and Ending November 30, 2019 are as follows:

<table>
<thead>
<tr>
<th>2019 PUBLIC HOUSING WRITE-OFFS BY AMP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period November 1, 2019 to November 30, 2019</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AMP #</th>
<th>Community</th>
<th>Budgeted Write-Off</th>
<th>Current Write-Off</th>
<th>New Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>McDougald Terrace</td>
<td>$21,678.00</td>
<td>674.60</td>
<td>37,830.16</td>
</tr>
<tr>
<td>3</td>
<td>Scattered Sites</td>
<td>$4,911.00</td>
<td>0.00</td>
<td>3,013.00</td>
</tr>
<tr>
<td>4</td>
<td>Oldham Towers</td>
<td>$6,218.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>5</td>
<td>Cornwallis Road</td>
<td>$12,487.00</td>
<td>0.00</td>
<td>$10,636.80</td>
</tr>
<tr>
<td>6</td>
<td>Liberty Street</td>
<td>$7,934.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>7</td>
<td>Club Boulevard</td>
<td>$8,721.00</td>
<td>1470.03</td>
<td>1755.03</td>
</tr>
<tr>
<td>8</td>
<td>Hoover Road</td>
<td>$0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>9</td>
<td>JJ Henderson</td>
<td>$13,808.00</td>
<td>0.00</td>
<td>$5,231.92</td>
</tr>
<tr>
<td>10</td>
<td>Morreene Road</td>
<td>$21,045.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>11</td>
<td>Damar Court</td>
<td>$17,453.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>12</td>
<td>Oxford Manor</td>
<td>$12,066.00</td>
<td>3563.85</td>
<td>$15,143.00</td>
</tr>
<tr>
<td>14</td>
<td>Forest Hill Heights</td>
<td>$5,781.00</td>
<td>0.00</td>
<td>1,326.74</td>
</tr>
<tr>
<td>15</td>
<td>Laurel Oaks</td>
<td>$2,609.00</td>
<td>0.00</td>
<td>$1,980.93</td>
</tr>
<tr>
<td>31</td>
<td>Edgemont Elms</td>
<td>$13,713.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>32</td>
<td>1010 Worth Street</td>
<td>$284.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>33</td>
<td>Goley Pointe-PH</td>
<td>$1,634.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Total</td>
<td>$150,342.00</td>
<td>5708.48</td>
<td>$76,915.36</td>
<td></td>
</tr>
</tbody>
</table>
III. RECOMMENDATION

It is recommended that the Board of Commissioners considers and approves the write-off of collection losses in the amount of $5,708.48 for Public Housing.
RESOLUTION NO._________

RESOLUTION AUTHORIZING THE WRITE-OFF OF CONVENTIONAL HOUSING COLLECTION LOSSES FOR THE PERIOD BEGINNING November 1, 2019 AND ENDING November 30, 2019

WHEREAS, the Housing Authority of the City of Durham has determined that it has exerted all efforts to collect monies owed from former residents; and

WHEREAS, the property management staff has notified each former resident of the amount owed; and

WHEREAS, the regulations of the U.S. Department of Housing and Urban Development rules require a board resolution to write off any and all monies owed that cannot be collected from residents.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Housing Authority of the City of Durham approves the write-off of rents, utilities, repair charges, court costs and late fees owed as per the listing of delinquent accounts shown in the amount of $5,708.48 for the period beginning November 30, 2019 and Ending November 30, 2019

This resolution shall take effect immediately.

Done this 29th Day of January 2020.

RECORDING OFFICER'S CERTIFICATION

I, Anthony Scott, the duly appointed Secretary of the Housing Authority of the City of Durham, do hereby certify that this resolution was properly adopted at the regular meeting of the Board of Commissioners of the Housing Authority of the City of Durham held on December 30, 2019.

(SEAL)

BY: ____________________________________________

Anthony Scott, Secretary
(DHA) RESOLUTION NO. ______

RESOLUTION APPROVING THE MANAGEMENT AGREEMENT BETWEEN LAUREL OAKS APARTMENTS AND THE HOUSING AUTHORITY OF THE CITY OF DURHAM

WHEREAS, Laurel Oaks Apartments is a public housing development which consists of thirty (30) three-bedroom; and,

WHEREAS, Laurel Oaks Apartments elects to convert under the U.S. Department of Housing and Urban Development’s (HUD) Rental Assistance Demonstration (“RAD”) Program via Project Based Vouchers; and

WHEREAS, in connection with the RAD closing Laurel Oaks, LLC (“Laurel Oaks”) is the owner and a North Carolina limited liability company whose sole member is Development Ventures Incorporated, an instrumentality of the Housing Authority of the City of Durham; and

WHEREAS, the Housing Authority of the City of Durham (“DHA”) will serve as the management agent; and

WHEREAS, Laurel Oaks requires a management agreement to capture the business arrangement between the Owner and DHA; and,

WHEREAS, Exhibit A is the property management agreement between the two parties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Housing Authority of the City of Durham finds as follows:

1. That the management agreement between DHA and Laurel Oaks Apartments is acceptable;

2. That the Chief Executive Officer is hereby directed to execute the document necessary to effectuate this agreement;

4. This Resolution shall take effect upon closing of the RAD transaction.

Done this 29th day of January 2020.

RECORDING OFFICER’S CERTIFICATION

I, Anthony Scott, the duly appointed Secretary of the Housing Authority of the City of Durham, do hereby certify that this resolution was properly adopted at the regular meeting of the Board of Commissioners of the Housing Authority of the City of Durham held on January 29, 2020.

(SEAL)

_____________________________

Anthony Scott, Secretary
RESOLUTION NO. ______

RESOLUTION APPROVING THE MANAGEMENT AGREEMENT BETWEEN LAUREL OAKS APARTMENTS AND THE HOUSING AUTHORITY OF THE CITY OF DURHAM

WHEREAS, Laurel Oaks Apartments is a public housing development which consists of thirty (30) three-bedroom; and,

WHEREAS, Laurel Oaks Apartments elects to convert under the U.S. Department of Housing and Urban Development’s (HUD) Rental Assistance Demonstration (“RAD”) Program via Project Based Vouchers; and

WHEREAS, in connection with the RAD closing Laurel Oaks, LLC (“Laurel Oaks”) is the owner and a North Carolina limited liability company whose sole member is Development Ventures Incorporated, an instrumentality of the Housing Authority of the City of Durham; and

WHEREAS, the Housing Authority of the City of Durham (“DHA”) will serve as the management agent; and

WHEREAS, Laurel Oaks requires a management agreement to capture the business arrangement between the Owner and DHA; and,

WHEREAS, Exhibit A is the property management agreement between the two parties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Housing Authority of the City of Durham finds as follows:

1. That the management agreement between DHA and Laurel Oaks Apartments is acceptable;

2. That the Chief Executive Officer is hereby directed to execute the document necessary to effectuate this agreement;

4. This Resolution shall take effect upon closing of the RAD transaction.

Done this 29th day of January 2020.

RECORDING OFFICER’S CERTIFICATION

I, Anthony Scott, the duly appointed Secretary of the Housing Authority of the City of Durham, do hereby certify that this resolution was properly adopted at the regular meeting of the Board of Commissioners of the Housing Authority of the City of Durham held on January 29, 2020.

(SEAL)

BY:

_____________________________
Anthony Scott, Secretary
MANAGEMENT AGREEMENT
BETWEEN
LAUREL OAKS, LLC
AND
HOUSING AUTHORITY OF THE CITY OF DURHAM

THIS MANAGEMENT AGREEMENT (this "Agreement") is made as of the _____ day of ___________, 2020, between Edgemont Elms Housing, Inc., a North Carolina limited liability company (the "Owner"), and Housing Authority of the City of Durham, a North Carolina public body and body corporate and politic (the "Agent").

RECITALS

A. The Owner is the owner of a rental residential apartment complex located at 25?? West Cornwallis Road in Durham, North Carolina known as Laurel Oaks (the "Development"). The Development currently consists of thirty (30) three-bedroom units, and an onsite management office. All of the units will be converted to Project Based Vouchers ("PBV") under the Rental Assistance Demonstration Program ("PBV Units").

B. The Owner intends to convert all thirty (30) public housing units to PBV under the United States Department of Housing and Urban Development ("HUD") Rental Assistance Demonstration ("RAD") program.

C. The Owner desires to engage the Agent and the Agent desires to accept the engagement as management agent of the Development, subject to the terms and conditions contained in this Agreement.

AGREEMENT

Now THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

1. Definitions. As used in this Agreement:

   1.1. "Act" means the United States Housing Act of 1937 (42 U.S.C. §1401 et seq.), as amended from time to time, any successor legislation and all implementing regulations issued thereunder or in furtherance thereof.

   1.2. "Code" shall have the meaning set forth in the Recitals.

   1.3. "Development Documents" means all of the documents related to the financing and operations of the Development, including but not limited to all Mortgage documents and the HAP Contract.

   1.7. "Gross Rental Revenues" means all rents actually collected from tenants of the Development and all subsidies collected from the PBV Units in any month,
excluding (i) any income from investment of cash, (ii) security deposits, (iii) payments for physical installations or finish-out work, (iv) payments in the nature of indemnification or compensation for loss, damage or liability sustained, (v) receipts and other income from or on account of other concessions, (vi) all purchase discounts, and (vii) any sums which, under normal accounting practice, are attributable to capital.

1.8. “HAP Contract” means the Housing Assistance Payments Contract between the Agent and the Owner for the PBV Units, as amended.

1.9. "HUD" shall have the meaning set forth in the Recitals.

1.10. "Management Plan" means the Management Plan for the Development of even date which provides a detailed description of the policies and procedures to be followed in the management of the Development.

1.13. "Operating Account" means the operating account for the Development established, maintained and disbursed in accordance with Sections 4.5 and 5.

1.14. "Operating Budget" means the annual operating budget for the Development prepared in accordance with Section 5.

1.13. “PBV Requirements” means all applicable requirements in connection with the management and operations of the PBRA Units.

1.14. “PBV Units” shall have the meaning set forth in the Recitals.

1.15. “RAD” shall have the meaning set forth in the Recitals.

1.16. “RAD Requirements” means all applicable requirements under the RAD program.

1.17. "Reserve Account" means one or more accounts with reserve or escrow funds to provide for operations, maintenance, repairs, capital improvements, replacement, contingencies or any other purpose related to the Development as required by the Owner.

2. Engagement and Acceptance. The Owner hereby engages the Agent to act as exclusive agent for the management of the Development on behalf of the Owner, and to manage, maintain, operate and secure the Development for the account of the Owner, and the Agent hereby accepts the engagement, all subject to the terms and conditions set forth in this Agreement.
EXHIBIT A

3. Regulations and Regulatory or Contractual Compliance.

3.1. PBV and RAD Requirements. The Agent shall comply with all PBV Requirements and RAD Requirements, including, but not limited to, applicable provisions of/in the Act and HUD regulations promulgated thereunder, HUD Notices, the HAP Contract and all applicable federal statutory, regulatory and executive order requirements, guidance, as those provisions and requirements may be amended from time to time.

3.2. North Carolina Law. The Agent agrees to comply with all applicable laws of the State of North Carolina, and all rules and regulations promulgated in connection therewith.

3.3. Management Policies. In many of its provisions, this Agreement partially defines the nature of the Agent's obligations, with the intention that reference be made to the Management Plan for more detailed policies and procedures. The Agent agrees to comply with the Management Plan regardless of whether specific reference is made thereto in any particular provision of this Agreement.

3.4. Development Documents. The Agent agrees to comply with, and will cause the Development to comply with, the provisions of the Development Documents. The Agent acknowledges that the Owner has furnished the Agent with copies of all Development Documents.

3.5. Entity Documents. The Agent agrees to comply with, and will cause the Development to comply with, all applicable provisions of the Entity Documents. Without limiting the foregoing, the Agent agrees to provide to the managing member of the Owner all information and reports necessary to permit the managing member to comply with all applicable provisions of the Owner's organizational documents.


4.1. Overall Management. The Agent will manage the Development as a market-oriented private development, and will take such actions as are necessary to maintain the Development's marketability as such. The Agent shall have full responsibility for the management, operation, maintenance and security of the Development during the term of this Agreement. The Agent shall perform these duties in an efficient and economical manner by applying customary and acceptable management techniques appropriate for a high quality privately owned Development. The Agent shall also act in a fiduciary capacity with respect to the proper protection of and accounting for the Owner's assets. In this capacity, the Agent shall deal at arm's length with all third parties and shall serve the Owner's interests at all times. In the event of any conflict between the Agent's duties to the Owner as management agent under this Agreement and the requirements of any lender and/or regulatory agency, the Agent shall promptly inform the Owner of the conflict and take such actions to resolve the conflict. At all times, the Agent shall operate the Development in the best interests of the Owner consistent with applicable requirements.

4.2. Notices. Within two (2) business days after receipt, the Agent shall deliver to the Owner a copy of any notice received from any party of a violation or alleged
violation of any applicable rules, regulations, covenants or requirements, or any other related provisions.

4.3. **Marketing.** The Agent will carry out all marketing activities in connection with the Development.

4.4. **Rentals.** The Agent will offer for rent and will rent the dwelling units in the Development subject to the following terms and conditions:

4.4.1. The Agent will show the premises to prospective tenants promptly upon notice of a pending vacancy.

4.4.2. The Agent will follow the Tenant Selection Plan described in the Management Plan.

4.4.3. The Agent will take and process applications for rentals, as set forth in the Management Plan. If an application is rejected, the applicant will receive written notice of the reason for rejection and the rejected application, with reason for rejection noted thereon, and it will be kept on file for one (1) year.

4.4.4. The Agent will prepare all dwelling leases and, if applicable, parking permits, and will execute the same as agent and on behalf of the Owner. The terms of the leases for the units will comply with the pertinent provisions of the Development and Entity Documents, requirements of the Code, RAD and PBV Requirements.

4.4.5. The Agent will furnish to the Owner rent schedules showing rents for all units, which will comply with all applicable restrictions.

4.4.6. The Agent will counsel all prospective tenants regarding their eligibility for units at the Development, and will prepare and verify eligibility certifications and re-certifications in accordance with all applicable requirements under the Development Documents and Entity Documents, requirements of the Code, RAD and PBV Requirements.

4.4.7. The Agent will collect, deposit, and disburse security deposits, if required, in accordance with the terms of each tenant's lease and the provisions of applicable requirements. The amount and handling of each security deposit will be specified in the lease and consistent with all applicable requirements. Any security deposits collected will be deposited by the Agent in an interest-bearing account. Such account shall be separate from all other accounts and funds, with a bank or other financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (“FDIC”). The account will be carried in the Owner's name and shall be designated of record as “Laurel Oaks Apartments: Security Deposit Trust Account.” The Agent will comply with any applicable, state or local laws regarding security deposits, including, without limitation, any applicable laws concerning payment of interest thereon.

4.4.8. The Agent will conduct regular inspections of each unit at the Development (no less than annually), and will participate in on-site inspections of the Development as required by any agency with jurisdiction over the Development or any of the Owner's members and lenders.
4.4.9. The Agent will take all action necessary, including the Agent's best efforts, to rent units at the Development promptly following the availability of such unit for rental.

4.5. Collection of Rents and Other Receipts. The Agent will collect, when due, all rents, charges, and other amounts receivable on the Owner's account in connection with the management and operation of the Development. All receipts from the units (except for tenants' security deposits) will be deposited in a separate account with a bank whose deposits are insured by the FDIC, which account will be carried in the Owner's name and designated of record as “Laurel Oaks Apartments: Operating Account”. Except for amounts due the Agent pursuant to the provisions hereof, the Operating Account shall be the property of the Owner, and the Agent shall have no property interest in the Operating Account.

4.6. Enforcement of Leases. The Agent will secure full compliance by each tenant with the terms of his or her lease. Voluntary compliance will be emphasized, and the Agent will use reasonable efforts (based on available resources and under circumstances deemed appropriate by the Agent) to the end that involuntary termination of tenancies may be avoided to the maximum extent consistent with sound management of the Development. Nevertheless, and subject to the pertinent procedures prescribed in the Management Plan, the Agent may lawfully terminate any tenancy when, in the Agent's judgment, sufficient cause (including but not limited to non-payment of rent), for such termination occurs under the terms of the tenant's lease. For purposes of carrying out its obligations under this Section, the Agent is authorized to consult with legal counsel to bring actions for eviction. Attorneys’ fees and other necessary costs incurred in connection with such actions will be paid out of the Operating Account.

4.7. On-Site Management Facilities. The Agent will maintain a primary management office which office shall be open, at a minimum, five days per week and eight hours per day, Monday through Friday except legal holidays or with the consent of the Owner. The Agent shall maintain a 24-hour emergency response telephone number at all times. The cost associated with this item will be treated as a Development operating expense.

4.8. Agent-Resident Relations. The Agent and all of the Agent's agents, subcontractors and employees shall treat residents of the Development with respect and professionalism at all times. The Agent shall facilitate the tenant's ability to communicate complaints and suggestions and shall record and report to the Owner all complaints received regarding staff performance.

4.9. Maintenance and Repair. The Agent will maintain the Development in good repair in accordance with the Management Plan and local codes, and in a condition at all times acceptable to the Owner, including (but not limited to) cleaning, painting, decorating, plumbing, carpentry, grounds care, and such other maintenance and repair work as may be necessary, subject to any limitations imposed by the Owner in addition to those contained herein. Incident thereto, the following provisions may apply:
4.9.1. Special attention will be given to preventive maintenance and, to the greatest extent feasible; the services of regular maintenance employees will be used.

4.9.2. Subject to the Owner's approval, the Agent will contract with qualified independent contractors for the maintenance and repair of specialized systems and for extraordinary repairs beyond the capability of regular maintenance employees.

4.9.3. The Agent will systematically and promptly receive and investigate all tenant requests for repairs or service, take such action thereon as may be justified, and will keep records of all such action (all as described in further detail in the Management Plan). Upon receipt of any such tenant request, the Agent will inspect the tenant's unit and complete any necessary repairs promptly thereafter. The Agent shall operate the Development such that ninety percent (90%) of all resident work requests are completed or "closed" within twenty-four (24) hours of receipt of such work request. The Agent shall further operate the Development such that one hundred percent (100%) of all resident work requests are either (a) completed or "closed" within forty-eight (48) hours of receipt of such work request or (b) cannot be completed or "closed" within such time period due to factors beyond the control of the Agent, such as the need to order parts not normally carried in inventory, and that the resident has been informed of the delay and the anticipated time for completion within such forty-eight (48) hour period. For purposes of this Section, "closed" shall mean that the work request has been addressed to the satisfaction of the Owner, either by a determination that the work has been completed or that the work is inappropriate to be completed due to the nature of the request. If any emergency repair cannot be made within twenty four (24) hours of notification to the Agent, and the failure to repair within such time will adversely affect the health or safety of the residents, the Agent will arrange alternative accommodations, to the extent available. Records of all requests for repairs will be kept in the applicable unit file and made available for inspection in accordance with the provisions of Section 6 hereof. An emergency repair shall mean any of the following situations of which the Agent is aware: no heat or water, extensive fire damage, electrical power failure, exposed electrical lines, flooded dwelling unit, broken gas line or leak, broken water faucet that could cause damage to property or substantially increase water charges, broken Owner-owned water main line, clogged or broken main sewer line, loose ceiling that could result in injury, broken door locks, toilet back-up or overflow, broken stairs or railings that may result in injury, inoperable fire alarms or equipment, or broken/missing windows that jeopardize security or could cause injury or major loss of heat.

4.9.4. The Agent is authorized to purchase all materials, equipment, tools, appliances, supplies and services necessary for proper maintenance and repair. The price for any items purchased, pursuant to a bulk purchasing arrangement to supply multiple developments under management by the Agent, shall be allocated on a per unit basis. The Agent shall provide the Owner with documentation of such allocation upon request.

4.9.5. Notwithstanding any of the foregoing provisions, the prior approval of the Owner will be required for (a) any unbudgeted expenditure which exceeds $2,500.00 in any one instance for labor, materials, or otherwise in connection with the maintenance and repair of the Development and (b) any budgeted expenditure which exceeds $2,500.00 in any one instance for labor, materials, or otherwise in connection with
the maintenance and repair of the Development. Prior approval shall not be required for emergency repairs involving manifest danger to persons or property or required to avoid suspension of any necessary service to the Development, provided in any such event the Agent informs the Owner of the facts as promptly as possible.


4.10.1. The Owner and Agent agree to obtain contract materials, supplies and services at the lowest possible cost (taking into account quality, durability, scope of work, bidder's reputation and other relevant factors) and on the terms most advantageous to the Development (in order to maximize Development income) and to secure and credit to the Development all discounts, rebates or commissions obtainable with respect to purchases, service contracts and other transactions on behalf of the Development (including any sales and property tax relief granted by the State or local government).

4.10.2. The Agent shall solicit for any amounts above the petty cash threshold, but not exceeding $100,000, by using the small purchase procedures. Under small purchase procedures, the Agent shall obtain a reasonable number of quotes (no less than three); however, for purchases of less than $2,000, also known as micro purchases, only one quote is required provided the quote is considered reasonable by the Agent based on recent research, experience, other similar purchases, and other applicable factors. To the greatest extent feasible, and to promote competition, micro and small purchases should be distributed equitably among qualified sources. Quotes for small purchases may be obtained orally (either in person or by phone), by fax, email, or in writing. Awards shall be made to the qualified vendor that provides the best value to the Owner. If an award is to be made for reasons other than lowest price, documentation shall be provided in the procurement file. The Agent shall not break down requirements aggregating more than the small purchase threshold (or the micro purchase threshold) into several purchases that are less than the applicable threshold merely to: (1) permit use of the small purchase procedures or (2) avoid any requirements that applies to purchases that exceed those thresholds.

4.10.3. The Owner and the Agent agree that all goods and services purchased from individuals or companies having an identity-of-interest with the Agent or the Owner shall be purchased at costs not in excess of those that would be incurred in making arms-length purchases on the open market. All agreements with individuals or companies having an identity-of-interest with the Agent shall include the following provisions: “Upon request of HUD or (name of owner or Agent), (name of contractor or supplier) will make available to HUD, at a reasonable time and place, its records and records of identity-of-interest companies which relate to goods and services charged to the project. Records and information will be sufficient to permit HUD to determine the services performed, dates services were performed, location at which the services were performed,

time consumed in providing the services, charges made for materials, and the per-unit and total charges levied for said services.”

4.11. Utilities and Services. In accordance with the Management Plan and the approved Operating Budgets, the Agent will make arrangements for water, electricity (for the non-dwelling space only), gas, fuel oil, sewage and trash disposal, vermin extermination, common area maintenance (including landscaping and removal of snow and
ice from all walks and parking areas servicing the Development), decorating, laundry facilities and telephone services (for the non-dwelling space only). Subject to the Owner's prior approval, the Agent will make such contracts as may be necessary to secure such utilities and services.

4.12. Reserve Accounts. The Agent shall establish Reserve Accounts as directed by the Owner.

5. Budgets and Operating Account.

5.1. Operating Budgets. The Agent shall prepare and submit to the Owner, within thirty days of execution of this Agreement, a proposed lease up and operating budget for the Development for the lease up year. Thereafter, no later than ninety (90) days prior to the beginning of any fiscal year of the Owner, the Agent shall prepare an initial draft Operating Budget for the Development. The Agent shall submit the draft to the Owner for review. The Owner may cause the Agent to amend the proposed Operating Budget in its reasonable discretion following consultation with the Agent. The Agent will keep the Owner informed of any anticipated deviation from the receipts or disbursements stated in the approved Operating Budget. No material deviation from the approved Operating Budget may be made without the prior approval of the Owner.

5.2. Disbursements from Operating Account.

5.2.1. From the funds collected and deposited by the Agent into the Operating Account pursuant to Section 4.5, the Agent will make the following disbursements from the Operating Account promptly when payable:

a) Reimbursement to the Agent of (i) the compensation payable to the employees specified in this Agreement and/or the Management Plan and the approved Operating Budget, (ii) the taxes and assessments payable to local, state, and Federal governments for such personnel and (iii) any other payroll expenses in connection with the employment of such personnel;

b) If applicable, the amounts specified in any Development Document, Entity Document or other document as required to be funded into the Reserve Accounts;

c) All sums otherwise due and payable by the Owner as expenses of the Development and authorized to be incurred by the Agent under the terms of this Agreement and the Operating Budget, including the costs of all maintenance, repairs and services and compensation payable to the Agent for its service hereunder.

d) Expenses identified in this Agreement as operating expenses of the Development shall only be permitted up to the amount set forth in the Owner-approved Operating Budget, as it may be amended from time to time, or with the Owner's written approval in advance. All excess costs shall be at the Agent's sole cost and expense.
5.2.2. Except for the disbursements authorized in Section 5.2.1, funds will be disbursed or transferred from either Operating Account only as the Owner may from time to time direct in writing.

5.2.3. In the event the balance in either Operating Account is at any time insufficient to pay disbursements authorized under Section 5.2.1, above, the Agent will inform the Owner of that fact. Provided such disbursements are within the amounts anticipated by the Operating Budgets or otherwise approved by the Owner in advance, the Owner will then remit to the Agent sufficient funds to cover the deficiency. In no event will the Agent be required to use its own funds to pay such disbursements unless the disbursements are in excess of the amounts anticipated by the Operating Budgets or the amounts approved by the Owner in advance, in which case such amounts shall be paid by the Agent at its sole cost and expense.

5.3. **Signature Authority.** Notwithstanding any other provision of this Agreement, the Owner, in addition to the Agent, shall have full signature authority over the Operating Account and all Reserve Accounts.

6. **Record Keeping and Reporting.** In addition to any requirements specified in the Management Plan, Development Documents, Entity Documents or other provisions of this Agreement, the Agent will have the following responsibilities with respect to records and reports.

6.1. **Record Keeping.** The Agent will establish and maintain a comprehensive system of records, books, and accounts in a manner conforming to the requirements under the Entity Documents and Development Documents, the directives of the Owner and all other applicable requirements and in accordance with generally accepted accounting principles. All records, books, and accounts will be subject to examination at reasonable hours by any authorized representative of the Owner and any governmental or regulatory agency providing funds for the Development or having jurisdiction over the Development.

6.2. **Monthly Reports.** The Agent will prepare and submit to the Owner on a monthly basis all accounts, records, reports, documents, and other information required under the Development Documents and Entity Documents. The Agent shall deliver such reports to the Owner’s managing member by the 10th day of the preceding month.

6.3. **Quarterly Reports.** The Agent will prepare and deliver to the Owner quarterly reports containing the information set forth in the Development Documents and Entity Documents, as well as such other reports the Owner reasonably requires. The Agent will deliver such reports to the Owner’s managing member by the 15th day of the month preceding the quarter.

6.4. **Annual Reports.** The Agent will prepare and deliver to the Owner annual reports containing the information set forth in the Development and Entity Documents, as well as such other reports the Owner reasonably requires. The Agent will
deliver such reports to the Owner’s managing member by February 21st of the following year.

6.5. Miscellaneous Reports. The Agent will furnish such information as may be reasonably requested by the Owner from time to time with respect to the financial, physical, or operational condition of the Development. The Agent shall further assist the Owner and the Owner's managing member, as reasonably necessary, in providing all other information and preparing all other reports as the Owner or the Owner's managing member is required to provide under the Development Documents, Entity Documents or the requirements of any lender, investor or any governmental or regulatory agency with jurisdiction over the Development.

6.6. Audits. The Agent shall permit the Owner, members of the Owner or the Owner's representative to inspect the Development, to review the administrative and financial procedures of the Agent and to audit the files of the Agent with respect to the operation of the Development from time to time upon reasonable notice. The Agent shall notify the Owner immediately upon receipt of any formal or informal notification of any pending regulatory inspections.

7. Employees.

7.1. The Agent shall be responsible for all personnel involved in the performance of the Agent's obligations under this Agreement. All such personnel shall be considered employees or agents of the Agent and will be hired, paid, supervised and discharged by the Agent or agents of the Agent. The Agent shall be responsible for compliance with all employment laws, including minimum wage standards, and for payment of all compensation (including fringe benefits) and all local, state, and Federal taxes and assessments (including but not limited to Social Security taxes, unemployment insurance, and worker's compensation insurance) incident to the employment of such personnel.

7.2. The Management Plan and the Operating Budget shall set forth the type, number, qualifications and duties of the personnel to be regularly employed by the Agent in the management of the Development. Any additional employees required to perform the duties and obligations of the Agent pursuant to the terms of this Agreement in accordance with the quality standards set forth in the Management Plan who are not included in the Management Plan and Operating Budget shall be compensated at the Agent's sole cost and expense.

7.3. The compensation (including fringe benefits) of the on-site administrative and maintenance employees will be set forth in the annual Operating Budgets. The Owner will reimburse the Agent for compensation (including fringe benefits) payable to the on-site management and maintenance employees, and for all local, state, and Federal taxes and assessments (including but not limited to Social Security taxes, unemployment insurance, and workman's compensation insurance) incident to the employment of such personnel.

7.4. Compensation (including fringe benefits, taxes and assessments incident to employment) of the Agent's off-site employees may be payable out of the
Development's operating budget only if specifically approved by the Owner and reflected in the Operating Budgets. All other off-site bookkeeping, off-site clerical and other off-site management overhead expenses (including but not limited to costs of office supplies and equipment, postage, transportation for managerial personnel, and telephone services) will be borne by the Agent out of its own funds and will not be treated as Development expenses.

7.5. The Agent is an equal opportunity employer. The Agent will hire staff and on-site personnel in conformance with all applicable equal opportunity rules and regulations. In addition, the Agent will use its best efforts to meet any hiring goals established by the Owner in its discretion.

8. **Insurance, Indemnity and Bonds.**

8.1. **Insurance.** The Owner will inform the Agent of the type and amount of all insurance to be carried with respect to the Agent, and the Development and its operations, and the Agent will cause such insurance to be placed and kept in effect at all times. The Agent will pay all premiums for the Development out of the Operating Account. All premiums for the insurance to be carried by Agent required by the Owner will be paid from the Operating Account only with the prior approval of the Owner and will be included in the Operating Budget. The Agent will investigate and furnish the Owner with full reports regarding all accidents, claims, and potential claims for damage relating to the Development, and will cooperate with the Owner's insurers in connection therewith.

8.2. **Indemnity.** The Agent shall indemnify and hold harmless the Owner, its members, officers, directors, and employees from any and all liabilities, claims, actions, judgments, awards, settlement amounts, and costs and expenses, including but not limited to, reasonable and actual attorney’s fees arising out of or resulting from acts or omissions of the Agent (a) that constitute negligence or willful misconduct, and/or (ii) that constitute a breach of any term of this Agreement, provided such acts or omissions are not caused in whole or in part by the Owner. The Owner shall indemnify and hold harmless the Agent, its commissioners, officers, directors, members and employees for all liabilities, claims, actions, judgments, awards, settlement amounts, and costs and expenses, including but not limited to, reasonable and actual attorney’s fees arising out of or resulting from acts or omissions of the Owner(s) that constitute negligence or willful misconduct, and/or that constitute a breach of any term of this Agreement, provided such acts or omissions are not caused in whole or in part by the Agent.

8.3. **Fidelity Bond.** The Agent will furnish, at its own expense, a fidelity bond pursuant to established Requirements. The terms and conditions of the bond, and the surety thereon, will be subject to the approval of the Owner. The bond will provide coverage for all persons required to be covered.

9. **Non-Discrimination.** In the performance of its obligations under this Agreement, the Agent will comply with, and will use reasonable efforts to ensure that all subcontractors comply with, the provisions of any Federal, state or local law prohibiting discrimination on the grounds of race, color, sex, sexual orientation, creed, handicap/disability, age or national origin, including without limitation: Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the regulations of HUD related to the Housing Choice Voucher Program, regulations issued pursuant to Executive Order 11063, the Fair Housing Act, Title VIII of the 1968 Civil Rights Act,
Section 504 of the Rehabilitation Act of 1973 (as amended), the Age Discrimination Act of 1975 and all regulations and administrative instructions implementing these laws, and all other requirements.

10. **Compensation.** The Agent will be compensated for its services under this Agreement in an amount equal to seven percent (7.00%) of Net Rental Revenues from the preceding month. The fee earned by the Agent for any month may be withdrawn by the Agent from the Operating Account after the conclusion of each such month.

11. **Term.** This Agreement shall commence as of _______, and continue in full force and effect until _______ (the “Initial Term”). After the Initial Term, the term of this Agreement shall be deemed renewed and extended automatically for subsequent one-year terms (each such shall be referred to as a “Renewal Term”), unless terminated pursuant to Section 12.

12. **Termination.**

12.1. **Termination by Parties/Members.**

12.1.1. **At the end of the Term.** At the end of the Initial Term or any Renewal Term, either the Agent or the Owner may terminate this Agreement in its sole discretion upon ninety (90) days prior notice to the other party. In the event of a termination under this subsection, the effective date of termination shall be the end of the applicable term.

12.1.2. **If Required by the Owner's Members.** The Owner shall be obligated to terminate this Agreement if required to do so by its members pursuant to the terms of the Operating Agreement. In the event of a termination under this subsection, the effective date of termination shall be in accordance with the date provided in the Operating Agreement, if the Operating Agreement does not provide for an effective date of termination, the effective date shall be ninety (90) days after delivery of the notice of termination.

12.2. **Termination for Cause.** Notwithstanding anything to the contrary contained in this Agreement, the Owner may terminate this Agreement effective immediately upon occurrence of any of the following events:

12.2.1. The Agent breaches any of its duties or obligations under or fails to comply with any material provision of this Agreement and such breach or failure is not cured within thirty (30) days following written notice thereof or, if such cure cannot be completed within such period, the Agent commences the cure within such 30-day period, diligently prosecutes the cure to completion, and completes the cure within such additional time as is reasonably necessary but not longer than one hundred twenty (120) additional days.

12.2.2. The Agent has commenced a voluntary case under any bankruptcy, insolvency or other similar law, or an involuntary case under any such law has been filed against the Agent and has not been discharged within ninety (90) days after filing, or any assignment for the benefit of creditors has occurred;
12.2.3. A receiver, liquidator, assignee, trustee, custodian, sequestrator or similar official has been appointed with respect to or has taken possession of the Agent or any substantial part of the Agent's property, possessions or activities;

12.2.4. The Agent leases any unit or operates the Development in any manner other than in full compliance with the Code, RAD Requirements, PBV requirements, Development and Entity Documents;

12.3. **Agent's Deliveries Upon Termination.**

12.3.1. In the event of any termination of this Agreement, the Agent will deliver possession of the Development to Owner within forty eight (48) hours of the effective date of such termination.

12.3.2. In the event of any termination of this Agreement, the Agent shall, within ten (10) business days of the effective date of such termination:

   a) Deliver to the Owner all of the Development’s cash, accounts and investments;

   b) Provide written confirmation to the financial institution(s) holding the Security Deposit Account and Operating Account that the Agent shall no longer have access to such accounts or the funds therein, and that all such accounts and the funds therein are the sole and exclusive property of the Owner. A copy of such confirmation shall be provided contemporaneously to the Owner.

12.3.3. In addition, within thirty (30) days after such termination, the Agent will:

   a) Turn over to the Owner all of the Development's records, including records regarding cash, accounts and investments;

   b) Turn over to the Owner all leases, contracts, insurance policies, books, files and all other materials and documents in the Agent's possession or control relating to the Development;

   c) Submit to the Owner final versions of any and all financial statements required by this Agreement;

   d) Assign to the Owner any rights the Agent may have in and to any existing contracts related to the operation and maintenance of the Development;

   e) Notify the Owner regarding settlement of all unpaid bills for the Development and the appropriate account from which such bills should be paid; and

   f) Notify each resident that all future rent payments shall be made directly to the Owner.
12.4. **Other Termination Matters.** After the Owner and the Agent have accounted to each other with respect to all matters outstanding as of the effective date of termination, the Owner will, within ten (10) days from the effective date of termination, provide the Agent amounts satisfactory to the Agent, against any obligations or liabilities the Agent may properly have incurred on behalf of the Owner hereunder, as well as any amount of compensation payable to the Agent in accordance with Section 10. If the effective date of termination does not fall at the end of a month, the amount of compensation payable to the Agent shall be pro-rated based on the number of days of service provided by the Agent.

13. **Miscellaneous.**

13.1. **Limitation on Authority.** In addition to any and all other limitations on the authority of the Agent set forth in this Agreement, the Agent shall not be authorized, without the express prior written consent of the Owner, to take any action that, if taken by the Owner, would constitute a default under any of the Development Documents, Entity Documents, or any tenant lease of a unit at the Development.

13.2. **Successors and Assigns; Assignment.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of each of the parties. This Agreement may be assigned by either party only with the consent of the other party, which consent may be withheld or granted in the consenting party's sole discretion.

13.3. **Waiver.** No delay or omission by either party in exercising any right or remedy available hereunder shall impair any such right or remedy or constitute a waiver thereof in the event of any subsequent occasion giving rise to such right or availability of remedy, whether of a similar or dissimilar nature.

13.4. **Amendment.** This Agreement constitutes the entire agreement between the Owner and the Agent with respect to the subject matter hereof. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties.

13.5. **Notice.** Any notice or other communication given or made, pursuant to this Agreement, shall be in writing and be deemed given if (i) delivered personally or by courier, (ii) sent by overnight express delivery, or (iii) mailed by registered or certified mail (return receipt requested), postage prepaid, to a party at its respective address set forth below (or at such other address as shall be specified by the party by like notice given to the other party);

If to Agent:
Housing Authority of the City of Durham, N.C.
330 East Main Street
Durham, NC 27701
Attention: Mr. Anthony Scott, Chief Executive Officer
All such notices and other communications shall be deemed given on the date of personal or local courier delivery, telecopy transmission, delivery to overnight courier or express delivery service, or deposit in the United States Mail, and shall be deemed to have been received (i) in the case of personal or local courier delivery, on the date of such delivery, (ii) in the case of delivery by overnight courier or express delivery service, on the date following dispatch, and (iii) in the case of mailing, on the date specified in the return receipt therefor.

13.6. **Governing Law, Compliance with Laws.** This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina applicable to contracts made and to be performed therein. The Agent will take such actions as may be necessary to comply promptly with any and all governmental orders or other requirements affecting the Development, whether imposed by Federal, state, county or municipal authority. Nevertheless, the Agent shall take no action so long as the Owner is contesting, or has affirmed its intention to contest, any such order or requirement. The Agent will notify the Owner in writing of all notices of such orders or other requirements, within seventy-two (72) hours from the time of their receipt.

14.7. **Counterparts.** This Agreement may be executed in multiple counterparts and all such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

14.8. **Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it has been held invalid or unenforceable shall not be affected thereby. Each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

[Signature Page(s) to Follow]
IN WITNESS WHEREOF, the parties by their duly authorized officers have executed this Agreement on the date first above written.

OWNER:

LAUREL OAKS, LLC

By: ____________________________
   Anthony Scott, President

AGENT:

Housing Authority of the City of Durham, N.C.

By: ____________________________
   Anthony Scott, CEO
RESOLUTION NO. _____

RESOLUTION APPROVING CONTRACT AWARD TO FIVE STAR CONSTRUCTION FOR THE ROOF REPLACEMENT AT HOOVER ROAD AND CORNWALLIS ROAD APARTMENTS

WHEREAS, the Board of Commissioners approved Resolution #3606 for the selection and authorized a contract to be entered into with Five Star Construction in the amount of $933,937.00 (the base bid) at the December 29, 2019 Board meeting for the roof replacement at both Hoover Road and Cornwallis Road apartments; and,

WHEREAS, Five Star Construction notified the supervising Architect, Neighboring Concepts, that their base bid omitted some division work for the roof replacement at Hoover Road; and,

WHEREAS, Neighboring Concepts asked all bidders to provide an updated best and final pricing for equitability for all bidders; and,

WHEREAS, after updated quotes were received and considered by Neighboring Concepts, Five Star Construction amount of $1,393,800.00 (the base bid) was deemed the lowest responsive and responsible bid of the three bidders.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Housing Authority of the City of Durham finds as follows:

1. That the revised base bid of Five Star Construction be accepted and a contract entered into with Five Star Construction in the total amount of $1,393,800.00 by the Housing Authority of the City of Durham;

2. That, consistent with 24 CFR 85.36(b)(9) Procurement Standards, that Procurement division the Housing Authority of the City of Durham maintains records sufficient to detail the significant history of the procurement, including the basis for the selection and contract price;

3. That the Chief Executive Officer is hereby directed to execute all contracts or other documents necessary to effectively award this contract;

4. This Resolution shall take effect immediately.

Done this 29th day of January 2020.

RECORDING OFFICER’S CERTIFICATION

I, Anthony Scott, the duly appointed Secretary of the Housing Authority of the City of Durham, do hereby certify that this resolution was properly adopted at the regular meeting of the Board of Commissioners of the Housing Authority of the City of Durham held on January 29, 2020.

(SEAL)  

BY: ____________________________  

Anthony Scott, Secretary
RESOLUTION NO. ______

RESOLUTION TO APPROVE LEGAL SERVICES CONTRACTS

WHEREAS, a Request for Qualifications for Legal Services was issued on August 30, 2019; and

WHEREAS, responses were received from 5 firms; and

WHEREAS, the evaluation of the request for qualifications is still pending.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of The Housing Authority of the City of Durham, as follows:

1. That, the contract with The Banks Law Firm be extended for an additional period of 60 days

2. That, consistent with 24 CFR 85.36 (b) (9) Procurement Standards, the Housing Authority of the City of Durham maintains records sufficient to detail the significant history of the procurement;

3. That, the Chief Executive Officer is hereby directed to execute all contract documents or other documents necessary to effectively extend this contract.

4. That, this resolution shall take effect immediately.

Done this 29th day of January 2020.

RECORDING OFFICER’S CERTIFICATION

I, Anthony Scott, the duly appointed secretary of the Housing Authority of the City of Durham, do hereby certify that this resolution was properly adopted at a regular meeting of the Board of Commissioners of the Housing Authority of the City of Durham held on January 29, 2020.

(SEAL)                                           BY: ______________________________
                                                 Anthony Scott, Secretary