



Town Council
Regular Meeting Minutes
March 26, 2019

The Bedford Town Council of the Town of Bedford held a regularly scheduled meeting Tuesday, March 26, 2019, at 7:00 p.m. in the Town Municipal Building Council Hall.

Town Council members present:

Mayor Steve Rush, Vice Mayor Tim Black, Councilman Stacey Hailey, Councilman Bruce Johannessen, Councilman Bryan Schley, Councilman Darren Shoen and Councilman Robert Wandrei

Town Council members absent:

None.

Town Staff present:

Town Manager Bart Warner, Assistant Town Manager Sonia Jammes, Town Attorney William W. Berry, IV, Director of Public Services D. W. Lawhorne, Chief of Police Todd Foreman, Electric Director John Wagner and Mary Boone Recording Secretary.

Town Staff absent:

None.

Others present:

Michael Lockaby, Esq.

Mayor Rush opened the meeting and led all present in saying the Pledge of Allegiance to the Flag.

APPROVAL OF MINUTES:

Mayor Rush declared that the Minutes of the regular Council Meeting held on March 12, 2019, were approved as distributed.

REPORT OF TOWN MANAGER:

Town Manager Bart Warner reported:

- I don't have anything specific to report on tonight. I know we have some folks that probably want to address you and I want to respect their time. I do want to note that later on we are going to ask for an addition to the agenda, staff is going to be applying for a Rural Business Development Grant on behalf of the EDA to fund a revolving grant program and we will need a resolution of support for that purpose and I will speak up in a couple of minutes about that.

APPEARANCES BEFORE COUNCIL:

None.

DEPARTMENT HEAD REPORTS:

Public Services

Director of Public Works D. W. Lawhorne reported:

- We have been working on the fitness center at the park and putting that together and it should be complete over the next 30 days weather dependent.
- This past week we did our required advertisement in the newspaper for the landfill closure for public comment.

Finance

Assistant Town Manager Sonia Jammes reported:

- I have provided you with a synopsis of the proposed budget that encompasses all of the changes as of the last budget work session that we discussed. Please let me know if you have any questions or clarifications once you review that.
- The proposed tax hearing has been advertised in the newspaper and is scheduled to take place at the April 23 Council meeting. The proposed budget hearing is scheduled to take place at the April 23 Council meeting as well. Depending on the outcome of the tax hearing we may or may not vote on the budget that night. If you choose not to then the formal vote on the proposed budget will take place at the May 14 Council meeting.
- We have just scheduled the FY2019 pre audit. It will take place June 10-12 and the full audit is scheduled to take place August 26-30. Also, you received your February 19 financials in your packet on Friday. If you have any questions regarding those I would be happy to entertain those questions at this time.

Police

Chief of Police Todd Foreman reported:

- The Museum has a display of historic police and sheriff department memorabilia that they put up and opened this Saturday.
- We had a group play basketball at Edmund Street Park.
- We have Community Day coming up in May.

Electric

Electric Director John Wagner reported:

- We have a contractor working on Longwood and Forest Road to extend our 69 KV line.
- We will be starting the line relocation at Big Otter Mill after April 1. It is the same contractor.

CITIZEN COMMENTS:

None.

COUNCIL COMMENTS:

Councilman Johannessen – The Central Virginia Planning District Commission is looking into several grants for the area and we probably need to participate in some of those if we can.

We have raised the money for plants around Town.

REPORT OF COUNCIL COMMITTEES:

Finance Committee

Vice Mayor Black reported the Finance Committee met yesterday and everything looks to be in good shape.

REVISIONS TO THE AGENDA:

Add Resolution of the Town Council of Bedford in support of applying for a USDA Grant for establishing a revolving loan fund in the Town of Bedford, Virginia and authorizing staff to sign required USDA forms.

PUBLIC HEARINGS:

Town Manager Bart Warner read aloud the following Public Hearing Notice:

The Town Council of Bedford, Virginia, on Tuesday, March 26, 2019 at 7:00 P.M. in the Town Council Chambers, Municipal Building, 215 East Main Street, Bedford, Virginia 24523 will hold a public hearing concerning a ground lease between the Town of Bedford and Waukeshaw Development, Inc. as well as a

performance agreement between the Town of Bedford, the Economic Development Authority of the Town of Bedford, and Waukeshaw Development, Inc. The agreements relate to conveyance of property identified as Town of Bedford Tax Map Nos. 174-5-1-T, 174-5-2-T, 174-5-3-T, 174-5-4-T, 194-A-70-T (also known as the Old Bedford Middle School Property).

By the Authority of The Town Council
of the Town of Bedford

Mayor Rush opened the Public Hearing at 7:11p.m.

Mrs. Megan Bond 530 Westview Ave Bedford, Virginia 24523

I agree with Town Council that something productive must be done with our former school buildings. I like the ideas that Dave McCormack has proposed for the use of the buildings and though I question some of the Town's financial incentives I stand here tonight to address the part of the plan that will turn a section of the Middle School field into a parking lot. I'm not sure that the concerns of the Town citizens who live on Westview Ave and Sunset Ave have been heard. Especially the concerns of the neighbors who live in homes that border the Middle School field. Our homes are our biggest investments and our havens. None of us bought a home across the street from or adjacent to a parking lot, we bought homes on a quiet street with no outlets, on a street of lawns and homes. Such a street allows us relative privacy, peace and know most of the people who drive up and down our road. Tomorrow marks 22 years that my husband Jon and I have lived in our home on Westview Ave. In those years we have slowly turned our home into our haven. The idea of a parking lot being constructed across the street from our home is devastating. We have not worked on our home for 22 years to live across the street from a parking lot and while many people bought beautiful homes across the street from parking lots we did not. Such a parking lot would see cars coming and going at all hours and would light up our night sky. We would not dream of coming into your neighbourhood and constructing a parking lot. I ask that you afford us the same consideration. Further and equally important the plan for access to and from this parking lot via Westview Ave is a gross injustice to the residents of Westview Ave and Sunset Ave. The increased traffic would change things significantly for all of the residents who live on these two streets. We would become a busy street and none of us purchased a home on a busy street. Traffic is never a good thing and most especially when children are involved. A neighbour and I did a quick count of the children on Westview Ave and Sunset Ave, we counted 40. 40 children who walk, ride bikes, skateboard, drive, run and play in the very area where you are proposing access to a parking lot. We are asking that you hear us, we are asking for compromise, we are happy in joining you in finding a solution that will work for all, perhaps more parking in front of the buildings or a small parking garage in the back lot. Has access to the parking lot via a small road going between the two schools been considered? And though I can't imagine an apartment resident relishing a walk from any of the field area up to an apartment. Have you considered a small lot at the far end of the field, access could be by way of a road that used to exist there and if deemed necessary the one way road issue next to the school could be addressed by a small traffic light with a motion sensor or even a big mirror that would

allow drivers to see an oncoming car. Surely a compromise can be reached, please invite us to sit at the table to brainstorm viable alternatives to a parking lot and entry way on Westview Ave.

Ms. Betty Lambeth Gereau 1108 Ashland Ave Bedford, Virginia 24523

You have heard me talk about the significance of these properties before so I'm not going to go into detail. This is one of the most significant properties in Bedford due to its location, its architecture, its history and contributing to the community sense of place because of its uses as a school, site for a wide variety of community events, it has had a great impact on generations of citizens. After much consideration, study and RFP's you now have an opportunity to restore and adaptly reuse these defunked and unique buildings to contribute to Bedford's economy, providing enhanced recreation, entertainment, tourism and more. You have a reliable proven developer who I'm sure would consider the details of things that people of the neighbourhood want. He is a specialist in this type of project and I'm sure neighbourhood meetings are not unknown to him. I encourage members of Council to seize the opportunity before you and move forward immediately and put this property back in service for the citizens and visitors alike. Please finalise the proposed agreement, it makes good economic sense. Hopefully there will be a large sign on the lawn before the D-Day visitors come saying that this project is going on.

Mr. Jim Towner 553 Westview Ave Bedford, Virginia 24523

We are not opposed in the least to the boutique hotel and apartments. What we are opposed to is trying to do too much with the existing property. I said that last time and I will say it again, the maintenance of the gym for the purpose of "Town use" and possibly office space, I don't see it. The cafeteria I know there are plans to use that as an incubator for chefs but I believe there are other properties that can equally serve that on the school to school street. My biggest concern is why we are not considering taking down the gym, taking down the cafeteria and using that for parking and as Megan indicated the path between where the porticos go would make a wonderful traffic pattern. I noticed on your recommendation that you talked about moving the parking lot up to Westview and keeping "the athletic fields in the back" which again I think could easily be reversed. We want to see how we can get together to get the schools reutilized but at the same token not try to cram more cars, more traffic where we need parking to make the project viable. I think without parking the project may not be as viable as it was proposed to be. I know the Board speaks for the whole Town and not just Westview Ave. There are 60 houses on Westview but I do think you remember me standing before you and asking if we could get a B&B on Westview Ave and the concern was the additional traffic. I think what you are proposing here makes that look kinda silly. I ask you to look into your hearts if it is a matter of money I understand that. How are we going to get the buildings torn down that might cost some money? It might take an investment to get those buildings down, to get it cleaned up and provide the developer with a clean slate. I understand there are some implications revolving around tax credits. If you don't have so many buildings to rehab then you don't need as many tax credits do you? I ask for consideration not to touch those playing fields but if you have to have additional parking put it in the back where there is already is a road and provide the front part for the athletic fields and protect the neighbours so that we can have the desired improvements and good stewardship for the street of Westview Ave and the folks that live there.

Mr. Jon Bond 530 Westview Ave Bedford, Virginia 24523

I discussed with you at the last public forum that installing an entrance way and parking lot on the Westview Ave end of the soccer field is a bad plan for the residents of Westview Ave and Sunset Ave. Now I would also like to suggest that it is unnecessary. At that time members of Council and the developer were provided input from the neighbours of the project who expressed concerns about the proposed entrance way and parking lot. We now have new contract and none of the language regarding this matter was revised. The contract still grants the developer the option to install an entrance way from Westview Ave and construct a parking area on the Westview Ave end of the soccer field. What truly bothers me is that an alternative does exist and no legitimate reason has been provided that supports the Westview Ave entrance way or adjacent placement of the parking area. I suggest to you now that this is an area of the contract where there is opportunity for compromise. Concerns have been expressed about the narrow passage around the old Middle School building however vehicles including buses have been used on this road to reach the back parking area for over 50 years. This project will not change the use of this passage way and I contend that it will continue to be used before, during and after this project is complete. If this passage way will continue to be used then there is no reason why the existing road to the soccer field located at the opposite end of Westview Ave behind the back stop can not be used to access the overflow parking lot. This solution would position the parking area at the opposite end of the soccer field away from Westview Ave and prevent the need for an entrance way from Westview Ave. On another note the contract calls for 50 apartments instead of 74 in the original plan. The reduced number of apartments would allow for 36 fewer spaces. Depending on the size of the overflow lot this could negate the need to utilize the field in any manner for parking. In closing I would like to say to the members of Council and to the developer that you now have an opportunity to be a good neighbour, an opportunity to prove that you are not only willing to listen but you are also willing to take action.

Mrs. Christy Accordino 531 Westview Ave Bedford, Virginia 24523

Gin was one of our realtors and Megan is my neighbour that lives right across the street from us. Where we live is right next door to the soccer field and these rec fields we are talking about. Who is not here with me is my 4 year old and my 1 year old. We use the soccer fields all the time. One of my favorite memories was this winter we went sledding, it is a pretty decent sized field. There are also some steps that correlate to the size of that hill that is there. We have 2 dogs and we walk up and down that street all of the time. I unfortunately don't have the experience that perhaps maybe Megan brings to the table. She has lived there 22 years, we have lived there at our house for 3 years and moved here from Denver Colorado. We moved from a big city we bought the house with beautiful views of the Peaks and we like the small Town feel. I wanted to know my neighbours, I wanted to live on the same street as one of our realtors, I wanted to deliver Christmas cookies, I wanted all of that and that is why we moved here. That is why we are raising a family on Westview Ave. I am on the same page, I believe coming from a big city I know all of about justification and taking old buildings and turning them into something new. That is not my disagreement tonight, my disagreement is turning that field into a parking lot and having the entrance way right next door to my house on Westview Ave and increasing the

traffic on our street because it is not just me it could be 4 year old, it could be my 1 year old that lives in that house for the next 70 years. I just ask that you take that into consideration. I would love to be a part of additional conversations and come up with compromises and additional solutions which one of the additional solutions is to move the parking lot as Jon already said to the back half of the field. That is why I'm here tonight and hope that you take my thoughts into consideration.

Mr. Paul Roderique 524 Westview Ave Bedford, Virginia 24523

I live across the street from the fields that we have been talking about. I have been there maybe 4 years now. Here is a couple of things that when I was doing a little research on this and trying to understand the thinking behind the proposal I came across the comprehensive plan for the development in Bedford that was approved a little more than a year and a half ago. In the plan 6 CF II said preserve the Bedford Middle School athletic field and incorporate into the Town system of public parks it was listed as an ongoing item. I'm not sure when that suddenly got abandoned, I thought that was a great plan, great idea for the use of the fields. I have heard talk about moving the athletic fields down to the other end. What I see every day out there is I see soccer being played, soccer fields, soccer goals, it is used by the Middle School, it is used by the High School, it has been used by recreational teams, I have seen it used by adult recreational teams. It is the soccer fields that I see used. As a former soccer coach I know you cannot move that field to the other end of that lot. If you go there you will see it is a ravine that drops off somewhere around 12 to 20 feet it looks like, straight down there is no way unless you are putting up some kind of barrier to keep soccer balls from flying down that hill no matter which way you orient it. Where it is now the ball either goes up against the fence on one end or out towards the baseball field on the other end no problem. So I don't see that as being a practical solution. I think you will end up with just the field nobody really using it or you are going to have to change the nature of it to something very small. I encourage you to rethink just that alone. We live on a one access street there is only one way in off Longwood there are 48 homes in there right now and your taking about 56 parking spaces so there will be issues for everybody that lives in that neighbourhood and in that same comprehensive plan it talked about the fact that single family neighbourhoods are one of our most attractive assets so why would we want to do anything to under mind a really great neighbourhood. I love the neighbourhood and I think this would hurt it. I don't have a problem with a hotel, I trust that you all know what is best as far as what we need, additional parking space, I don't have a problem with development or progress I do have a problem with what is being planned in that field. I don't think it is a practical application for this Town, I think it is going to hurt us that live there, I think it ultimately going to hurt the Town to lose that asset.

Mr. Noel Ward 1028 Equine Ridge Road Bedford, Virginia 24523

I lived at 1028 Equine Ridge which is actually in the County but we sold our house in 24 hours and so we are essentially homeless at this point. We have been living with my brother at 524 Westview Ave for 5 months now waiting for a house to come up in the Town. My first choice in this Town is Westview Ave, my absolute number one choice is Westview Ave but if this happens and there is a parking lot there I am no longer interested in living on Westview Ave. I'm not the

only person that feels that way I know other people will feel that way they will not opt to purchase homes where a parking lot is with the increased traffic. As an interested buyer I won't buy on Westview Ave if this happens, I just wanted to let everyone know that.

Mr. David Sensenig 517 Longwood Ave Bedford, Virginia 24523

My name is David Sensenig I live at 517 Longwood Ave. That is the property adjacent to the school building on the corner of Westview Ave and Longwood Ave. I think everyone very eloquently stated their positions, factual positions concerning the residents of Longwood Ave and Westview Ave concerning the athletic fields. I don't know what is on your mind. I have heard some people talk about well that is a zoning issue and I have read through the agreement and the agreement references traffic studies and perhaps in some peoples mind that can say well I understand those concerns but those can be addressed through zoning but it is not a zoning issue it is not part of the zoning it is not part of a zoning issue because the Town owns the property. It becomes a zoning issue if you sell or lease the property. If I want a parking lot in front of my house the only way to stop that one hundred percent is not to sell the property in front of my house. Once I sell it then it is subjected to zoning then you are at a whole different level of control, compromise, a different level of what you can do. So if in your minds you're sitting here today thinking ok I respect that issue and I understand the issue, I agree with the people on Westview Ave but that issue can be addressed but otherwise I think you are doing a disservice. What I ask with regard to the property is you consider what you have now and what you will have the day after the agreement is signed. Please don't just look at that as just a zoning issue.

There being no more comments, the Mayor closed the Public Hearing at 7:33p.m.

CONSENT AGENDA:

Reappointment of Members - Local Board of Building Code Appeals (LBBCA).

Member terms of the LBBCA expire on April 20, 2019. Current members have unanimously agreed to continue to serve on the LBBCA for an additional term. Terms are proposed to be staggered on two and three year increments for this term only, so they will not expire collectively again in the future. Certain members have agreed to three-year appointments.

ACTION REQUESTED:

Council is requested to reappoint LBBCA members as follows:

Jonathan Buttram – 2-year term to expire April 20, 2021
Harvey Johnson – 2-year term to expire April 20, 2021
Wesley Crowder – 2-year term to expire April 20, 2021
Edgar Mitchell – 3-year term to expire April 20, 2022
Jody Mayhew – 3-year term to expire April 20, 2022

On a motion by Councilman Hailey, seconded by Councilman Schley, voted upon and carried by a roll call vote, Council approved to reappoint the following LBBCA members:

Jonathan Buttram – 2-year term to expire April 20, 2021

Harvey Johnson – 2-year term to expire April 20, 2021

Wesley Crowder – 2-year term to expire April 20, 2021

Edgar Mitchell – 3-year term to expire April 20, 2022

Jody Mayhew – 3-year term to expire April 20, 2022

Roll call vote follows:

Vice Mayor Black	aye
Councilman Hailey	aye
Councilman Johannessen	aye
Councilman Schley	aye
Councilman Shoen	aye
Councilman Wandrei	aye
Mayor Rush	aye

Appointment of Members – Keep Bedford Beautiful Commission

Mr. Travis Stanley and Mr. Jeremiah Sampson have expressed an interest in serving on the Keep Bedford Beautiful Commission. The vacancies have been advertised in the local newspaper, and no other citizens have volunteered to serve.

ACTION REQUESTED:

Council is requested to appoint Mr. Travis Stanley and Mr. Jeremiah Sampson to serve on the Keep Bedford Beautiful Commission, said terms to expire June 30, 2022.

On a motion by Councilman Hailey, seconded by Councilman Schley, voted upon and carried by a roll call vote, Council appointed Mr. Travis Stanley and Mr. Jeremiah Sampson to serve on the Keep Bedford Beautiful Commission, said terms to expire June 30, 2022. Roll call vote follows:

Councilman Hailey	aye
Councilman Johannessen	aye
Councilman Schley	aye
Councilman Shoen	aye
Councilman Wandrei	aye
Vice Mayor Black	aye
Mayor Rush	aye

Request to Close Streets for Bedford Get Together Goes Back to School

Bedford Get-Together is teaming up with Jonathan Hayden’s “Back to School Fun Day” on Saturday, August 10, 2019, from 4:00 p.m. to 9:00 p.m. for the overall event of “Bedford Get Together Goes Back to School”. They are requesting permission to close to vehicle traffic

Washington Street from South Bridge Street to Mill Street and the lower half of Center Street from 3:00 p.m. to 10:00 p.m. on that day so vendors will have adequate space in which to set up.

Affected businesses will be notified, as well as the Police Department, Fire Department and Rescue Squad.

ACTION REQUESTED:

Town Council is requested to close the above streets for Bedford Get Together Goes Back to School on Saturday, August 10, 2019, from 3:00 p.m. to 10:00 p.m.

On a motion by Vice Mayor Black, seconded by Councilman Hailey, discussion ensued regarding facility use and manpower, Bart Warner said he would work with Mr. Lawhorne on the facility use policy, voted upon and carried by a roll call vote, Council approved to close Washington Street from South Bridge Street to Mill Street and the lower half of Center Street from 3:00 p.m. to 10:00 p.m. on August 10, 2019. Roll call vote follows:

Councilman Johannessen	aye
Councilman Schley	aye
Councilman Shoen	aye
Councilman Wandrei	aye
Vice Mayor Black	aye
Councilman Hailey	aye
Mayor Rush	aye

OLD BUSINESS:

None.

NEW BUSINESS:

Performance Agreement – Bedford Middle School Redevelopment

On March 11, 2017, Town Council directed staff to develop a process for consideration of redevelopment of the Bedford Middle School property located in the center of town. A Request for Proposals was advertised and three responses were received as of November 1, 2017. The respondents presented their ideas at a public meeting on December 14, 2017. As a result of public input and discussion among Council members, the Town entered into negotiations with Waukeshaw Development, whose proposal includes the conversion of the primary brick middle school building into market rate apartments and the older stucco building (commonly referred to as “Old Yellow”) into a boutique hotel.

An additional public hearing regarding a draft agreement with Waukeshaw Development was conducted on November 13, 2018. Based on feedback at that point and subsequent discussions between the Town and Waukeshaw, a finalized draft has been developed and submitted for

review. A copy of the agreement (which includes the Town Economic Development Authority as a party) is attached.

ACTION REQUESTED:

Town Council is requested to approve the Performance Agreement with Waukeshaw Development to initiate redevelopment of the former Bedford Middle School property.

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT (“Agreement”) is made as of this __ day of _____, 2019, by and between the TOWN OF BEDFORD, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (the “Town”), the ECONOMIC DEVELOPMENT AUTHORITY OF THE TOWN OF BEDFORD, VIRGINIA, a political subdivision of the Commonwealth of Virginia under the Industrial Development and Revenue Bond Act (the “Authority”), and WAUKESHAW DEVELOPMENT, INC., a Virginia corporation (the “Company” or “Waukeshaw”).

Recitals

WHEREAS, the Company desires to develop the following properties (collectively the “Property”), which are more specifically described in **Exhibit A** hereto:

Property Address: 503 Longwood Ave, Bedford, VA

Property Parcel IDs: 174-5-1-T, 174-5-2-T, 174-5-3-T, 174-5-4-T, 194-A-70-T

Property Description: Bedford Middle School Property and ‘Old Yellow’;

WHEREAS, the Company contemplates redeveloping the Property by converting the ‘Old Yellow’ structure to a hotel with approximately 34 rooms, the Old Middle School structure to an apartment building with approximately 50 market-rate apartment units, together with other improvements, for a total direct investment of approximately \$10 million, for a net direct investment in the Town of approximately \$9.6 million, together with associated spinoff economic impacts and increased tax revenues; and

WHEREAS, the Town contemplates that it will lease the Property to the Company during a Due Diligence Period of six months, which may be extended to 12 months or terminated early by the Company, followed by sale to the Company upon completion of the Due Diligence Period, as permitted by Section 15.2-1802 of the Code of Virginia, 1950, as amended; and

WHEREAS, the Authority contemplates granting the Company a credit line for due diligence items, secured by a promissory note and deed of trust, which will be forgiven upon satisfactory completion of performance targets; and

WHEREAS, the Town and Authority desire for the Company to complete the Project; and

WHEREAS, the Town and Authority expressly find, by adopting this Agreement, that entry of this Agreement will further the public safety, health, and general welfare by increasing

the tax base, increasing commerce, and incenting a business to locate in the Commonwealth, and that these are the animating purposes for entry into this Agreement.

Witnesseth

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained herein, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree:

1. Lease & Due Diligence Period.

- a. *Lease.* The Town shall grant the Company a ground lease for the Property substantially as set forth in **Exhibit C** upon signing of this Agreement. The Lease shall extend for six (6) months from the date of this Agreement to perform any due diligence (the “Due Diligence Period,” which term shall include any extensions) necessary to determine whether the Property is suitable for the Project. If the Company is diligently pursuing due diligence items, the Due Diligence Period may be extended for one (1) additional six (6) month term at the discretion of the Town. The Company may, at its sole discretion, exercise its option to close on purchase of the Property early as set forth in the Lease.
- b. *Town to Share Information.* Within five days of the execution of this Agreement, the Town will provide the Company with copies of all due diligence items requested by the Company. These include, but are not necessarily limited to, any existing surveys and plats of the Property, any photos and building plans, historic or otherwise, any environmental studies or written communications with the Environmental Protection Agency (EPA), the Virginia Department of Environmental Quality (DEQ), or any other governmental agency, any environmental reports, any existing title commitment or policy for the Property, and any physical inspection reports or warranties.
- c. *Access to Property During Due Diligence Period.* Within five days of execution of this Agreement, the Town will provide the Company with copies of all keys, codes, or other security information reasonably necessary for it to make all inspections and tests necessary for due diligence. The Company shall have full and complete access to the Property to carry out the objectives of this Section.
 - i. During the Due Diligence Period, the Company, its agents, employees, representatives, and contractors, at the Company’s sole cost and expense, may perform such tests, inspections, and examinations of the Property as the Company deems advisable, including without limitation investigations with regard to title, physical condition, environmental matters, matters of survey, flood plain, utilities availability, zoning and building code, and other applicable governmental requirements, financing requirements, and development requirements.
 - ii. Company shall assume all risks involved in entering upon the Property for the performance of such activities and shall indemnify and hold Town harmless from and against all loss or expense by reason of any liability

from loss or damage to person or property sustained by anyone arising out of, or in connection with, any such entrances on the Property by the Company, its agents, employees or contractors. The Company shall repair any damage caused by Company or its agents, employees, or contractors resulting from its or their entry upon the Property and restore the Property to the condition existing on the date of this Agreement.

- d. *Town to Assist in Application for Historic Preservation Designation.* The Town shall act as applicant during the Due Diligence Period for “Part 1” and “Part 2” applications to both the Virginia Department of Historic Resources and the National Park Service, to work with the Company’s historic consultant to complete and submit those applications.

2. Credit Line & Deed of Trust.

- a. *Town to Transfer Funds to the Authority.* As soon after execution of this Agreement as practical, the Town shall transfer \$400,000 to the Authority (the “Incentive Fund”), in trust to fulfill the terms of this Agreement.
- b. *During Due Diligence Period.* During the Due Diligence Period, the Company may draw against the Incentive Fund for the following items:
 - i. Determination of the eligibility of the Property or any part thereof for the State or National Historic Register, or both;
 - ii. Preparation and application fees associated with “Part 1” and “Part 2” applications to the Virginia Department of Historic Resources and the National Park Service;
 - iii. An American Land Title Association (ALTA) and topographic survey;
 - iv. A title search;
 - v. A Phase 1 Environmental Site Assessment (ESA);
 - vi. Retention and work by a consultant or consultants retained to seek or determine other grant funding opportunities from third parties to this Agreement;
 - vii. Costs of rezoning the Property as contemplated herein;
 - viii. Structural assessment;
 - ix. Preliminary architectural design work;
 - x. Selective demolition or abatement, as required by a lender or the Town’s Chief Building Official;
 - xi. Required matches for grants to benefit the project;
 - xii. Application fees and costs of preparation of applications and information for other grants and incentives from any third party; and

- xiii. Such other and further due diligence items as the Company may request reimbursement for, and the Authority may determine are reasonable to reimburse.
- c. *Purchase Option.* Upon exercise of the Purchase Option set forth in the Lease, the Town shall give the Company a deed in substantially the form set forth in **Exhibit F** as soon as the necessary closing documents may be prepared and closing scheduled.
- d. *Credit Line.* Upon closing on the purchase of the Property, the Company shall give the Authority a non-interest-bearing promissory note and deed of trust in substantially the form set forth in **Exhibit D** and **Exhibit E**. All draws of funds for Due Diligence Items during the Due Diligence Period as permitted under Subsection 2.b shall be made a balance against the Deed of Trust at closing. The Company may, at its election and at any time during the term of the Note, draw upon the credit line to its maximum permitted principal of \$400,000 for any lawful purpose related to the Project, including, but not limited to, payment of permitting fees that the Town is not able to waive or matches for grants. The Authority will subordinate its Deed of Trust to a deed of trust securing a construction loan on the Property for the Project if such subordination is required by the Company's lender.
- e. *Forgiveness of Credit Line.* If the Company faithfully meets its performance commitments under Section 3 and otherwise complies with the terms of the Promissory Note and Deed of Trust, the Authority shall forgive the balance on the credit line set forth in Section 2.d upon substantial completion as set forth in Section 3.c and release the Deed of Trust.

3. Company's Performance Commitments.

- a. *Rezoning Application.* The Company, as the applicant, will initiate a change of zoning within the first ninety (90) days after exercise of its Option to accommodate the proposed development. The new zoning shall be "CNW," subject to the proffered conditions attached hereto as **Exhibit B**. The Company shall prepare the application and associated documents; provided, however, that the Town will not unreasonably refuse any assistance or information necessary for the application or processing of the rezoning. This paragraph in no manner binds the legislative discretion of the Town Council to approve or deny any rezoning. However, in the event the rezoning is denied or is conditioned in a manner that will frustrate the manifest intent of this Agreement, the Company may terminate the Agreement and return all intellectual property to the Town, without any further liability for performance.

Company shall submit to the Town with its application a traffic study and traffic and parking management plan prepared by a qualified professional. Such plan shall be considered by the Planning Commission and Town Council, and approved as part of the rezoning or site plan for the Property.

- b. *Intent of Project.* Company represents that the Project cost (including but not limited to construction and related soft costs) is estimated at \$10,000,000, though the final actual cost may vary from that estimate as the Project evolves. The intended uses are:
- The ‘Old Yellow’ building will be redeveloped as a boutique hotel, with approximately 34 rooms.
 - The Middle School building will be redeveloped with approximately 50 market-rate apartment units; provided, however, that the existing auditorium space will be preserved as an auditorium. The Company shall be responsible for programming the auditorium.
 - The cafeteria building will be used as a catering kitchen and classroom or office space.
 - The gymnasium building will be maintained as gymnasium space; the existing classroom space in the building may be adapted to office space.
 - The existing athletic field will be reconfigured by moving the specified area of play westward (i.e., away from Westview Avenue) and inserting parking to the smallest extent allowed by code and providing the most minimal impact in terms of drainage, erosion, noise, and odor concerns.
 - All proposed uses will be clearly identified within a site plan submitted by the Company that is fully compliant with Section 1002.02 of the Town of Bedford Land Development Regulations.
- c. *Completion.* The Company shall have thirty-six (36) months from closing on the sale of the Property to substantially complete the Project. “Substantially complete” means that the Old Yellow and Middle School structures are substantially complete and able to obtain a final certificate of occupancy for the entire structures for the uses set forth in Subsection b., above, in the judgment of the Chief Building Official for the Town of Bedford.

4. Town and Authority Commitments. In addition to the foregoing, the Town and the Authority agree to provide the following in conjunction with the redevelopment and construction of the Property by the Company:

- a. *Incentive Conduit.* The Town agrees that it will not unreasonably refuse to act as conduit for any additional incentives or funds identified by the Town or the Company that may benefit the project, including those that must be procured by a not-for-profit entity or municipality.
- b. *Permitting Fee Waiver.* The cost for any and all permitting fees under the control of the Town shall be granted back to the Company through the Town within 60 days after payment thereof for the first forty-eight (48) months following execution of this Agreement. The Company acknowledges that the Town may have no authority to waive a fee from another agency, but the Town agrees to act in certain cases as an agent of the Company seeking any and all incentives from other agencies that may benefit the Project.

- c. *Traffic Study Grant.* Should the Company seek a grant for a traffic study under which the Town must submit the grant application, the Town shall apply for a planning grant to cover the cost of obtaining such a study, provided, however, that the Town does not guarantee that any such grant will be obtained, and the Company shall be completely responsible for any match or other costs involved in the development and publication of said study.
- 5. Default & Lease.** If the Company fails to receive historic preservation certification Part 1 and 2 (conditional) and commence construction and renovation activity within twenty-four (24) months of closing on purchase of the Property, as evidenced by issuance of a building permit and substantial actual construction activity, the Company shall be in default of this Agreement, and the Authority may foreclose immediately in accordance with the terms of the Note and Deed of Trust. If the construction is not substantially complete within thirty-six (36) months, as set forth in Section 2.d., above, the Company shall be in default of the Agreement, and the and the Authority may foreclose immediately in accordance with the terms of the Note and Deed of Trust.
- 6. Force Majeure.** In the event that any party to this Agreement is delayed or prevented from performing any of its respective obligations (the “Delayed Party”) under this Agreement by reason of strikes, lockouts, labor problems, inability to procure materials, contractors, professionals, inability to obtain utilities or failure of utilities, laws or other governmental requirements, riots, war, or other cause not brought about by the Delayed Party, and not related to any financial liability on the part of the Delayed Party, the time for performance of the obligation shall be extended by a period of time equal to the period of such delay or prevention.
- 7. Intellectual Property.** In the event the Company elects not to exercise the Option to Purchase, it shall promptly turn over to the Town any intellectual property created in Due Diligence Period.
- 8. Notices.** Notices required under this Agreement shall be given at the following addresses. These addresses may be changed by sending notice to all other parties at the addresses below.

If to Company, to:
WAUKESHAW DEVELOPMENT, INC.
245 East Bank Street
Petersburg, Virginia 23803
Attn: Dave McCormack

If to the Town, to:

TOWN OF BEDFORD, VIRGINIA
215 East Main Street
Bedford, Virginia 24523
Attn: Barrett F. Warner, Town Manager

With a copy to:

GUYNN, WADDELL, CARROLL & LOCKABY, P.C.
415 South College Avenue
Salem, Virginia 24153
Attn: Michael W.S. Lockaby, Esq.

If to Authority, to:

ECONOMIC DEVELOPMENT AUTHORITY OF THE TOWN OF BEDFORD,
VIRGINIA
215 East Main Street
Bedford, Virginia 24523
Attn: Mary Zirkle, Economic Development Coordinator

With a copy to:

CASKIE & FROST, P.C.
2306 Atherholt Road
Lynchburg, Virginia 24501
Attn: Theodore J. Craddock, Esq.

- 9. Assignability.** No obligation under this Agreement may be assigned to a third party without the prior written consent of all Parties except that the Company may assign this Agreement, or any part thereof, to an entity under common control with the Company upon providing the Town and the Authority written notice of such assignment. Any such assignment, however, shall not relieve the Company from any of its obligations under this Agreement.

10. Miscellaneous.

- a. Any Party may cause this Agreement or a memorandum hereof to be recorded among the land records of Bedford County, Virginia, so as to ensure that its provisions shall both bind and inure to the benefit of their successors in interest. In the event signatures of the other Parties are necessary for such recordation, the Parties agree to provide such signatures.
- b. The Company agrees to hold the Town and the Authority and their officers, directors, councilors, and employees free and harmless for and from any and all claims, causes of action, damages or any liability of any type, including reasonable attorney's fees, on account of any claims by or any injury or damage to the Company, its employees, officers, directors, and contractors for any action, suit, or other claim arising in any way out of any actions, omissions or activities of the Company or its agents, employees, or representatives related to the performance of their obligations in this Agreement.

- c. This Agreement, including the exhibits hereto, constitutes the full and complete agreement of the Parties respecting its subject matter, and any prior or contemporaneous agreements or understandings, written or oral, are hereby merged into and superseded by the provisions of this Agreement. This Agreement may only be amended or supplemented by a subsequent writing of equal dignity except where expressly set forth herein.
- d. No covenant, agreement, or obligation contained in this Agreement shall be deemed to be a covenant, agreement, or obligation of any present or future director, officer, employee, or agent of the Town or the Authority in his or her individual capacity, and neither Town nor Authority officials nor any officer, employee, or agent thereof executing this Agreement or any related instrument shall be liable personally on this Agreement or such instrument or be subject to any personal liability or accountability by reason of the execution and delivery thereof. No director, officer, employee, or agent of the Town or the Authority shall incur any personal liability with respect to any other action taken by him or her pursuant to this Agreement or any of the transactions contemplated hereby or thereby, provided he acts in good faith.
- e. Any obligation of the Town to pay, set aside, or otherwise appropriate funds for performance of this Agreement in future fiscal years shall be construed to be subject to annual appropriation and shall not constitute a pledge of the full faith and credit of the Town. The obligations of the Authority under this Agreement are not general obligations of the Authority but are limited obligations payable solely from revenues and receipts derived by the Authority from the Town pursuant to this Agreement. **THE OBLIGATIONS OF THE AUTHORITY AND THE TOWN HEREUNDER SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR PLEDGE OF THE FAITH AND CREDIT OF THE COMMONWEALTH OF VIRGINIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE AUTHORITY AND THE TOWN.**
- f. If any action is required to be performed, or if any notice, consent or other communication is given, on a day that is a Saturday or Sunday or a legal holiday in the Commonwealth of Virginia, such performance shall be deemed to be required, and such notice, consent or other communication shall be deemed to be given, on the first business day following such Saturday, Sunday or legal holiday. Unless otherwise specified herein, all references in this Agreement to a “day” or “days” shall refer to calendar days and not business days.
- g. This Agreement shall be construed according to the laws of the Commonwealth of Virginia without regard to its principles of conflicts of laws. The Parties consent to exclusive venue and jurisdiction in the Circuit Court or General District Court, as appropriate, for Bedford County, Virginia.
- h. The Parties agree that, except as specifically provided in this Agreement, each Party shall bear its own legal costs with regard to any obligation under this

Agreement or in any action or suit for the enforcement hereof.

- i. This Agreement has been jointly drafted by the Parties, who are all sophisticated and knowledgeable about the subject matter and have had the opportunity to consult with counsel, and is to be construed as jointly drafted and not be construed against any of the Parties as the drafter. This Agreement is severable, and if any provision is found to be invalid by any court of competent jurisdiction, the remainder shall survive.
- j. All Parties warrant that the signatories below have full authority, and have undertaken such legal actions as may be necessary to ensure such authority, to bind the entities of which they are representatives to the full extent permitted by law. The Company agrees that, during the term of this Agreement, it shall not allow its corporate existence to lapse or its certificate of authority in the Commonwealth of Virginia to be revoked or cancelled at any time.
- k. Time is of the essence of all obligations set forth herein for which a time is stated.
- l. The failure of any Party to this Agreement to insist upon strict compliance with any term herein shall not be construed to be a waiver of that requirement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement the day and year first written.

WAUKESHAW DEVELOPMENT, INC.:

Dave McCormack, President

TOWN OF BEDFORD, VIRGINIA:

Steve C. Rush, Mayor

ECONOMIC DEVELOPMENT AUTHORITY OF
THE TOWN OF BEDFORD, VIRGINIA:

_____, Chair

Exhibit A

TRACT A:

All that certain tract or parcel of land lying and being in the Town of Bedford, Virginia, on the north side of Longwood Avenue and of metes and bounds, courses and distances as follows:

BEGINNING at an iron pipe in Guy's Line, thence with Hayes' line S. 70° 44' 157.6 feet to an iron pipe, thence S. 20° W. 376.4 feet to a point in the north edge of the concrete sidewalk on the north side of Peaks Street, thence along the edge of said street and sidewalk S. 55° 06' E. 206.5 feet, thence on an irregular curve of said walk to the left, located by a base line N. 66° 54' E. (at 7 feet the edge of the walk is right 3.8 feet; at 16 feet, is right 6.2 feet; at 26 feet is right 4.8 feet) in all 34.5 feet thence along the edge of Longwood Avenue and the edge of said concrete sidewalk N. 32° 54' E. 51.1 feet, thence N. 62° 42' E. 194.4 feet to an iron pipe, thence N. 73° 35' W. 35 feet to an iron pipe, thence with his and others' line N. 2° 10' W. 584.2 feet to an iron pipe, thence N. 87° 24' W. 345.5 feet to an iron pipe, thence with Guy's Line S. 11° 55' W. 476.3 feet to the point of BEGINNING; and containing 8.37 acres, more or less.

And being comprised of the following lots or parcels:

PARCEL 1

The residue of a tract formerly containing 0.85 acre, more or less, conveyed to the Town of Bedford by E.W. Connell by Deed dated September 27, 1941, of record in the Clerk's Office of the Circuit Court for Bedford County, Virginia, in Deed Book 195, page 540; after deducting therefrom a conveyance off to Sydnor W. Hayes by the Town of Bedford of a strip of said tract to close an alley, by Deed dated September 13, 1949, and of record in the aforesaid Clerk's Office in Deed Book 228, page 18, together with the easements appurtenant thereto.

PARCEL 2

A tract of 6.09 acres, more or less, conveyed to the School Board of the Municipal District of the County of Bedford, by Junia A. Graves, unmarried, and F.O. Thomas, et ux., by Deed dated April 1, 1912, of record in the Clerk's Office of the Circuit Court for Bedford County, Virginia, in Deed Book 106, page 42; and subject to a certain easement dated December 12, 1949, from the Municipal School Board of the Town of Bedford, Virginia, to W.W. Childress and Mary P. Childress, of record in the aforesaid Clerk's Office in Deed Book 229, page 178.

PARCEL 3

A tract of 2.29 acres, more or less, conveyed to the School Board of the Municipal District of the County of Bedford, by C.E. Harris, et al., Trustees of St. John's Protestant Episcopal Church, Bedford, Virginia, by Deed dated July 1, 1920, of record in the aforesaid Clerk's Office in Deed Book 130, page 412.

PARCEL 4

A tract containing 5,417 square feet, more or less, conveyed to the Municipal School Board of the Town of Bedford, by Hanford R. Johnson by Deed dated November 14, 1939, and of record in the aforesaid Clerk's Office in Deed Book 189, page 30.

AND BEING IN TOTAL that same property conveyed by the County School Board of Bedford County, Virginia, to the City of Bedford, Virginia (now the Town of Bedford, Virginia), by Deed dated June 27, 1985, and of record in the aforesaid Clerk's Office at Deed Book 591, page 171.

TRACT B:

All those certain lots or parcels of land, together with the privileges and appurtenances thereunto belonging, fronting on the west side of Westview Avenue (formerly Belmont Avenue) in the City of Bedford, Virginia, and being Lot 1 fronting 86.1 feet on Westview Avenue and Lots 2, 3, and 4 each fronting 75 feet on Westview Avenue as shown on a certain Plat of Survey entitled, "Plat of the F.O. Thomas Lots situated on the West Side of Belmont Avenue in the Town of Bedford, Virginia," dated August 6, 1936, made by James L. Patterson, C.L.S., and of record in the Clerk's Office of the Circuit Court of Bedford County, Virginia, in Plat Book 3, page 122. And being the same identical lots which were acquired by the County School Board of Bedford County, Virginia, as follows:

LOT 1

Lot 1 from John N. Thomas, et ux., et al., by Deed dated July 3, 1967, and of record in the aforesaid Clerk's Office in Deed Book 341, page 655.

LOT 2

Lot 3 from Cosey Updike Davey, widow, by Deed dated July 25, 1969, and of record in the aforesaid Clerk's Office in Deed Book 356, page 328.

LOTS 3 & 4

Lots 3 and 4 from C.C. Moore, et ux., by Deed dated July 26, 1969, and of record in the aforesaid Clerk's Office in Deed Book 356, page 330.

AND BEING IN TOTAL that same property conveyed by the County School Board of Bedford County, Virginia, to the City of Bedford, Virginia (now the Town of Bedford, Virginia), by Deed dated March 1987, and of record in the aforesaid Clerk's Office at Deed Book 804, page 107.

**BEEDROP MIDDLE SCHOOL
PROPOSED REDEVELOPMENT
CURSOR SITE PLAN
May 25, 2018**

- Areas/Buildings to be Leased by Waukesha
- Areas/Buildings of Identified or Potential Town/Public Interest

- KEY:**
1. Principal brick building (Market rate apartments)
 2. "Old Yellow" building (Boutique hotel)
 3. Gymnasium building (Spill between gym and classrooms)
 4. Athletic field
 5. Proposed new parking adjacent to Westview Avenue
 6. Cafeteria building
 7. Auditorium
 8. Proposed new parking adjacent to existing rear parking
 9. Existing parking in front of "Old Yellow" building
 10. Existing driveway and rear parking
 11. Existing driveway and rear parking
 12. Existing green space

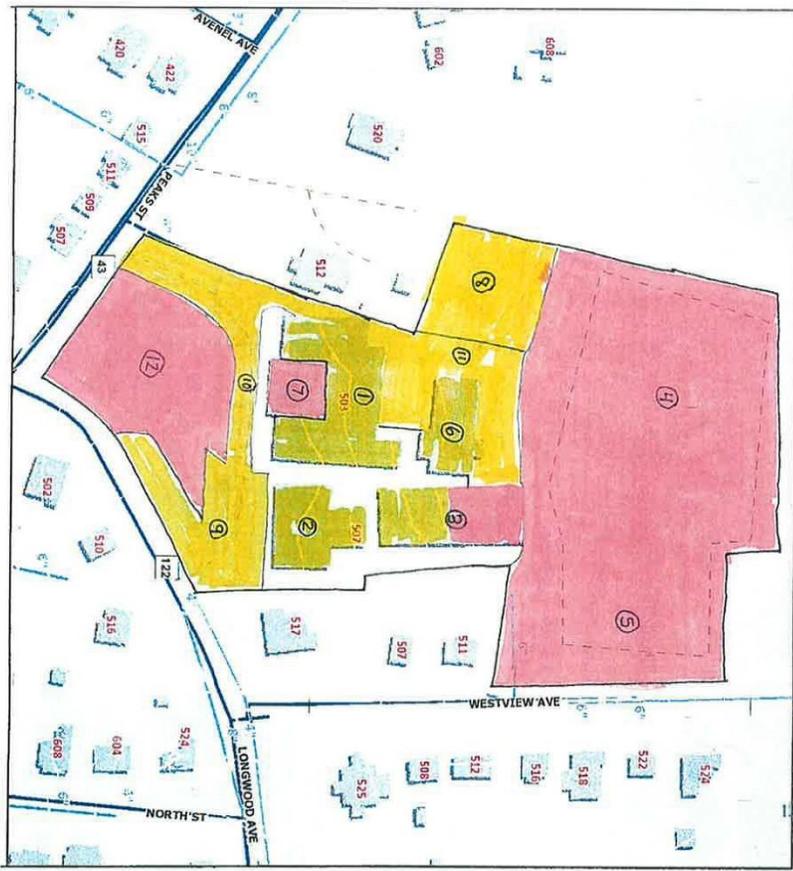


Exhibit B
REZONING PROFFERS

These proffers are voluntarily submitted by the applicant pursuant to Section 1004 of the Land Use Regulations of the Town of Bedford, Virginia, and Section 15.2-2298 of the Code of Virginia, 1950, as amended. The applicant proffers the following conditions:

1. The applicant proffers these conditions as part of its application for rezoning of the parcel or tract known as Tax Map Nos. 174-5-1-T, 174-5-2-T, 174-5-3-T, 174-5-4-T, 194-A-70-T from the _____ () District to the Central Neighborhood Workplace (CNW) District.

2. The applicant proffers that he will not make the following uses that are permissible in the CNW District:

- a. Agriculture.
- b. Kennels.
- c. Child care centers, family day care homes, and group homes.
- d. Boardinghouses, lodges, fraternities, and sororities.
- e. Mobile home parks.
- f. Billiard parlors, bowling alleys, and other sports or amusement properties.
- g. Laundries and dry cleaners, except as a private facility for residents only.
- h. Bus terminal facilities.
- i. Dancing establishments.
- j. Motor vehicle sales.
- k. Nightclubs and bars, except as ancillary to the hotel use.
- l. Temporary uses.
- m. Clinics and doctors' offices.
- n. Emergency homeless shelters.
- o. Automobile service stations.
- p. Car washes.
- q. Mini-storage or mini-warehouse units.
- r. Automotive, bus, and truck mechanical and body repair garages.
- s. Licensed group homes for children.
- t. Crisis centers.
- u. Tattoo parlors.

- v. Automobile, washing facility and/or repair, mechanical and body garage.
- w. Automobile refueling, washing, mechanical and/or body repair.
- x. Bottling plants or distribution operations and bus terminals.
- y. Cold storage plants and food locker plants.
- z. Abattoirs or slaughterhouses.
- aa. Shops for repair of goods.
- bb. Printing, blueprinting, bookbinding, photostatting, and photocopying shops.
- cc. Private utilities.
- dd. Private sanitary or solid waste facility.
- ee. Manufacture of asphalt paving and roofing materials.
- ff. Automobile, bus, and truck refueling, repair garage, mechanical and body, provided all operations are conducted in a building which shall not have any opening other than a stationary window within 100 feet of a residential district and which shall not store or otherwise maintain any parts or waste material outside such building.
- gg. Automobile sales and their accessory uses which need not be enclosed, provided that any mechanical or body repair must be conducted entirely within a structure which shall not have any opening other than a stationary window within 100 feet of a residential district and that all vehicles on used car sales lots must be in operating condition at all times.
- hh. Blacksmith shop, welding, or machine shop, except on a small scale in connection with a bona fide educational program.
- ii. Boat building, except on a small scale in connection with a bona fide educational program.
- jj. Bottling plants or distribution operations.
- kk. Building and contractor's storage and equipment yards when located entirely within a building or fenced-in area, except for periods of not more than three consecutive months during periods of actual construction.
- ll. Cabinet making, furniture and upholstery shops, except on a small scale in connection with a bona fide educational program.
- mm. Public sanitary or solid waste management facility, recycling bins or facilities, except usual or customary dumpsters for permitted uses and screened dumpster for not more than three consecutive months during periods of actual construction.
- nn. Cold storage plants and food locker plants, not including slaughtering.

- oo. Food locker plants, not including slaughtering.
- pp. General warehousing.
- qq. Manufacturing, processing, assembling, or fabricating industries not in conflict with the provisions of this ordinance or other town ordinances and/or regulations, except on a small scale in connection with a bona fide educational program.
- rr. Mini-storage, or mini-warehouse units.
- ss. Public utility structures and buildings, including electric and natural gas substations, telephone exchanges, radio stations, and similar structure for the storage of supply equipment or service operations when screened, and other facilities for the provision and maintenance of public utilities, including railroads and facilities, and water and sewage installations, rescue squads, fire departments and government owned armories.
- tt. Printing establishments, except on a small scale in connection with a bona fide educational program.
- uu. Shops for the repair of goods sold at retail stores.
- vv. Temporary uses including sale of Christmas trees, tents for revivals, carnivals, church bazaars, sale of seasonal fruit and vegetables from roadside stands, but such use shall not exceed four months in any calendar year; except a Town-sponsored farmer's market not more than one day a week.
- ww. Truck terminals.
- xx. Transportation terminal facilities.
- yy. Commercial communication towers, except concealed small-cell and micro-wireless facilities as defined in Section 15.2-2316.3 of the Code of Virginia, 1950, as amended.
- zz. Private sanitary or solid waste facility, recycling bins or facilities, except usual or customary dumpsters for permitted uses and screened dumpster for not more than three consecutive months during periods of actual construction.
- aaa. Private utility structures and buildings, including electric and natural gas substations, telephone exchanges, radio stations, and similar structure for the storage of supply equipment or service operations when screened, and other facilities for the provision and maintenance of public utilities, including railroads and facilities, and water and sewage installations, rescue squads, fire departments and government owned armories.
- bbb. Establishments engaged in the manufacture of asphalt paving and roofing materials.
- ccc. Automobile washing facility and/or repair, mechanical and body garage.

- ddd. Bottling plants or distribution operations and bust terminals.
 - eee. Building and contractor’s storage and equipment yards when located entirely within a building or structure, except for periods of not more than three consecutive months during periods of actual construction.
 - fff. Uses specified in Section 609 of the Land Use Regulations, unless otherwise permitted in Sections 608 or 611 and not ruled out under these proffers.
3. The applicant further proffers substantial conformance with the Master Concept Plan attached to these proffers and incorporated herein as _____, entitled “_____,” dated _____.

EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF THE APPLICANT:
 WAUKESHAW DEVELOPMENT, INC.:

 J. David McCormack, President

COUNTY/CITY OF _____,
 COMMONWEALTH OF VIRGINIA, to wit:

The foregoing instrument was acknowledged before me this _____, 2019, by _____ on behalf of _____.

My commission expires: _____
 Notary registration number: _____

 Notary Public

Exhibit C

Prepared by:

Michael W.S. Lockaby

VSB No. 74136

Guynn, Waddell, Carroll & Lockaby P.C.

415 South College Avenue

Salem, Virginia 24153

Tax Map No.: 174-5-1-T, 174-5-2-T, 174-5-3-T, 174-5-4-T, 194-A-70-T

This lease is partially exempt from recordation taxes and fees pursuant to Section 58.1-811(C)(4) of the Code of Virginia, 1950, as amended.

GROUND LEASE

THIS GROUND LEASE is made this ___ day of _____, 2019, by and between the TOWN OF BEDFORD VIRGINIA, a municipal corporation of the Commonwealth of Virginia (“Lessor”), and WAUKESHAW DEVELOPMENT, INC., a Virginia corporation (“Lessee”).

RECITALS

WHEREAS, the Lessor is the owner of that certain real property known as Town of Bedford Tax Map Nos. 174-5-1-T, 174-5-2-T, 174-5-3-T, 174-5-4-T, 194-A-70-T, also known as the Old Bedford Middle School Property (the “Property”);

WHEREAS, Lessee proposes to redevelop the Old Bedford Middle School Property as apartment space, hotel space, and other office spaces, while retaining use of the auditorium and gymnasium for community and public purposes;

WHEREAS, in furtherance thereof, the Parties desire to enter this lease.

WITNESSETH

NOW THEREFORE, in consideration of the premises hereof, which are expressly incorporated herein, the mutual covenants and promises made below, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. Leased Premises.

Lessor hereby grants and demises to Lessee, and Lessee hereby leases and rents from Lessor, the Property, together with all buildings, improvements, fixtures, and rights appurtenant thereto, upon and subject to the terms, conditions, covenants and provisions hereof; any building restrictions, regulations and zoning ordinances of the Town of Bedford; any easements; and any other matters of title which a search of the public records would disclose and any state of facts that an accurate survey would show.

2. Term; Extension; Early Termination.

The term of this lease shall be for a period of six (6) months, beginning upon receipt of the Notice of Exercise of Option to Lease by the Lessor from the Lessee, and ending at noon on first day of the seventh month thereafter, without notice from either party to the other.

The term of this lease may be extended by the Lessor if the Lessee is diligently pursuing due diligence items, as defined in the Performance Agreement between Lessor, Lessee, and the Economic Development Authority for the Town of Bedford, for one (1) additional six (6) month

term at the discretion of the Lessor. All time periods set forth herein shall be extended six (6) months if such extension is granted, mutatis mutandis.

The Lessee may terminate this Lease early by invoking Section 20 of this Lease as set forth therein.

3. Rent.

The rent shall be \$1 per month, to be paid by Lessee to Lessor not later than the last day of each month without notice or demand.

4. Rent to be Net to Lessor; Maintenance.

It is the intention of the parties that the rent payable hereunder shall be net to Lessor, and that all costs, expenses and obligations of every kind and nature whatsoever directly relating to the Leased premises, including, but not limited to, utilities, taxes, insurance, and maintenance shall be the responsibility of Lessee.

5. Use of Leased Premises.

The Lessee may make any lawful use of the premises in accordance with the Performance Agreement.

6. Improvements, Repairs, Additions & Replacements.

A. Lessee shall, at all times during the term of this lease, and at its own cost and expense, keep and maintain in repair and good condition (ordinary wear and tear excepted), all buildings and improvements at any time erected on the Leased Premises, and shall use all reasonable precaution to prevent waste, damage, or injury.

B. Lessee may, at its own cost and expense, at any time make such alterations, changes, replacements, improvements, and additions in and to the Leased Premises and the buildings and improvements originally constructed thereon, including the modification or renovation of any such building(s) and improvement(s) and/or structure(s), in accordance with the Performance Agreement. Provided, however, that the Lessee shall not demolish any structure of a permanent character without the express written and lawful consent of the Lessor.

C. Lessee covenants and agrees continuously during the term of the lease either to be preparing for, constructing or reconstructing, or actually using the property for (a) a hotel to be constructed on the Old Yellow portion of the leased premises solely for the operations of a first-class commercial-type hotel and to provide all activities and services in connection therewith as are reasonably comparable to those provided in first-class commercial hotels of similar type and size in the Roanoke-Lynchburg area; and (b) a multi-family residential apartment building to be built in the brick Middle School Building solely as a residential apartment building to be operated and maintained in a manner reasonably appropriate and in keeping with the character of adjoining neighborhoods.

D. On the last day, or sooner termination of the term of this lease, Lessee shall quit and surrender the Leased Premises, and the buildings and permanent improvements then thereon, to Lessor. Lessee, on or before such date, may remove all its personal property, movable trade fixtures and equipment. All property not so removed shall be deemed abandoned and shall become the property of Lessor. On the last day, or sooner termination, possession to all buildings and permanent improvements on the Leased Premises shall revert to Lessor. This subsection shall be void if the Lessee option set forth in Section 20 of this Lease vests.

7. Requirements of Public Authority.

Except as expressly set forth in the Performance Agreement, during the term of this lease, Lessee shall, at its own cost and expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directives, rules and regulations of federal, state, county and city governments and of any, and all other governmental authorities affecting the Leased Premises or any part thereof, whether the same are in force at the commencement of the term of this lease or whether the same are in the future passed, enacted or directed, and Lessee shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims and demands, including reasonable counsel fees, that may in any manner arise out of or be imposed because of the failure of Lessee to comply with the covenants of this section.

8. Covenant Against Liens.

If, because of any act or omission of Lessee, any mechanic's lien or other lien, charge or order for the payment of money shall be filed against Lessor or any portion of the Leased Premises, Lessee shall, at its own cost and expense, cause the same to be discharged of record or bonded within thirty (30) days after written notice from Lessor to Lessee of the filing thereof; and Lessee shall indemnify and save harmless Lessor against and from all costs, liabilities, suits, penalties, claims and demands, including reasonable counsel fees, resulting therefrom. Additionally, no person shall be entitled to any lien directly or indirectly derived through or under Lessee, or through or under any act or omission of Lessee, superior in rank or dignity to the fee interest of Lessor upon the Leased Premises or upon any insurance policies, except as otherwise specifically provided for in this lease and nothing in this lease other than that specifically provided for herein shall be construed in any way so as to contradict this provision.

9. Right of Entry.

Lessor, or Lessor's agents and designees, shall have the right, but not the obligation, to enter upon the Leased Premises, or any part thereof, at all reasonable times to inspect and examine the same. Lessor may exhibit the Leased Premises or any part thereof to prospective purchasers and prospective tenants.

10. Insurance.

A. Lessee shall provide at its expense, and keep in force during the term of this lease, comprehensive general liability insurance with a good and solvent insurance company licensed to do business in the Commonwealth of Virginia, selected by Lessee, in a single limit of at least

One Million Dollars (\$1,000,000.00) for bodily injury, personal injury and death and Three Hundred Thousand Dollars (\$300,000.00) with respect to damages to property. Such policy or policies shall include Lessor and, if required, any mortgagee authorized under this lease, as an additional insured.

B. At all times during the term of this lease, Lessee shall, at its own expense, keep all improvements located on the Leased Premises insured against loss or damage by fire, with customary extended coverage, with a good and solvent insurance company licensed to do business in the Commonwealth of Virginia, in an amount not less than the full insurable replacement value of all such improvements with no deduction for obsolescence. The insurance policy shall name Lessor and Lessee and, if required, any mortgagee authorized under this lease, as an additional insured.

C. Lessee shall, during the term of this lease, pay all premiums for insurance coverage required by this section.

11. Destruction & Damage.

The parties hereto agree that damage to or destruction in whole or in part of any building or improvements on the Leased Premises by fire or any other casualty shall not work as termination of this lease, or authorize Lessee to quit or surrender the possession of the Leased Premises or any part thereof, and shall not release Lessee in any way from its liability to pay Lessor the rent herein provided for or from any of the agreements, covenants or conditions of this lease. Lessee covenants and agrees to repair any such damage or reconstruct the buildings or improvements destroyed as promptly as is practicable, and that all funds received from any insurance policy under Section 10 will be spent on reconstruction. In furtherance of this, Lessor agrees to endorse any checks made to the order of Lessor or to the joint order of Lessor and Lessee in connection with such insurance proceeds and to deliver any such checks to Lessee. The value and usefulness of the buildings or improvements repaired or reconstructed shall be equal to the value and usefulness of those buildings and improvements damaged or destroyed on the date immediately prior to such damage or destruction.

12. Condemnation.

A. If the whole of the Leased Premises, or any material part thereof, or all means of access to the Lease Premises, shall be condemned, or sold under threat of condemnation, this lease shall terminate and the Lessee shall have no claim against the Lessor, or to any portion of the award in condemnation for the value of the unexpired term of this lease. This paragraph shall not limit the Lessee's right to compensation from the condemning authority for the value of any property taken other than Lessee's leasehold interest.

B. In the event of a temporary or permanent dedication under threat of condemnation or for the purposes of site development, or if takings of *de minimis* portions of the property for right-of-way expansion, utility relocations, or the like occur, this lease shall not terminate.

13. Subordination.

The Lessor agrees to execute any documents necessary to subordinate its interest in the Leased Premises to any liens or mortgages hereinafter made by the Lessee for improvements constructed on the Leased Premises. All of the secured parties shall execute a Non-Disturbance agreement, providing that such secured party will recognize this lease, and will not disturb the Lessee's quiet possession of the Premises so long as the Lessee is not in default in the performance of any other provisions of this lease.

14. Assignment & Sublease.

Except as set forth in the Performance Agreement, Lessee may assign or sublet the Leased Premises for the hotel, apartment, office space, gymnasium space, and auditorium space purposes set forth in the Performance Agreement, but otherwise may not sublease the Leased Premises without the written consent of the Lessor, which will not be unreasonably withheld.

15. Default.

A. In the event of default: (i) in the payment of any installment of rent as hereinabove provided; (ii) or in the event of breach of any other covenants or agreements herein contained on the part of Lessee; or (iii) in the event of the occurrence of a Performance Default as hereinafter defined, Lessor, after first giving written notice to Lessee of the alleged default or breach (specifying the default or breach and demanding that it be remedied), and, after the failure of Lessee to remedy the specified default or breach within ten (10) days after receipt of said notice in the case of non-payment of rent or within thirty (30) days or any longer period reasonably necessary to remedy any other specified default or breach after receipt of said notice, shall have the right to reenter the Leased Premises and require Lessee to surrender and vacate possession of the Leased Premises, to restrain for rent, and to re-rent the Leased Premises, without notice to Lessee, for the account of Lessee for the unexpired portion of the term of this lease, or Lessor may, at Lessor's option, immediately terminate this lease. In the event that Lessor shall terminate this lease, recover possession of, or re-rent the Leased Premises, or take any other action under the foregoing provisions, such action on the part of Lessor shall not deprive Lessor of any other action or remedy provided by law against Lessee for possession, for rent or for damages.

a. A Performance Default shall occur if: (1) The Lessee fails to receive historic preservation certification Part 1 and 2 (conditional) and commence construction and renovation activity not later than noon on the first day of the twelfth (12th) month from commencement of the Term of this Lease, unless this Lease is earlier terminated, as evidenced by issuance of a building permit and substantial actual construction activity, or (2) construction activity ceases on the Property for six (6) or more consecutive months after having initially commenced.

b. In any suit brought by the Lessor to enforce any provision of this lease, the Lessor shall have the right to recover all costs incurred in connection with such suit, including reasonable attorney's fees.

c. Upon the filing of the Lessee of any voluntary petition in bankruptcy or for reorganization, arrangement, or other adjustment of creditors' rights, or for appointment of a

receiver or trustee of the Lessee's property on the grounds of insolvency or bankruptcy, or the making of a general assignment for the benefit of creditors, or the filing by the Lessee of any petition or answer under any bankruptcy or insolvency statute, state or federal, except to seek dismissal thereof which is diligently pursued by the Lessee, the Lessor may immediately terminate this Lease and enter the Property.

16. Waiver.

Failure of Lessor or Lessee to complain of any act or omission on the part of the other party no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of their rights hereunder. No waiver by Lessor or Lessee at any time, express or implied, of any breach of any provision of this lease shall be deemed a waiver of a breach of any other provision of this lease or consent to any subsequent breach of the same or any other provision. No acceptance by Lessor of any partial payment shall constitute an accord or satisfaction but shall only be deemed a part payment on account.

17. Services by Lessor.

Except as set forth in the Performance Agreement, Lessor shall not be required to furnish any service or facility to the Leased Premises or the building and improvements now existing or hereafter erected thereon, including but not limited to heat, water, light and power, and shall not be liable to Lessee or otherwise for any failure of water supply or electric current, or of any service by any utility, or any property damage caused by or resulting from steam, gas, electricity, water or rain which may flow or leak from any part of the Leased Premises or the building and improvements now existing or hereafter erected thereon, or from any pipes, appliances or plumbing works of the same, or from the street or sub-surface, or from any other place, nor from interference with land or easements, however caused, except if due to the negligence or affirmative acts of Lessor. Lessor shall not be required to make any repairs or alterations in or to the Leased Premises or the buildings and improvements now existing or hereafter erected thereon.

18. Notices.

Every notice, approval, consent or other communication authorized or required by this lease shall not be effective unless same shall be in writing and sent postage prepaid by United States registered or certified mail, return receipt requested, directed to:

Lessor at:

TOWN OF BEDFORD, VIRGINIA
215 East Main Street
Bedford, Virginia 24523
Attn: Barrett F. Warner, Town Manager

With a copy to:

GUYNN, WADDELL, CARROLL & LOCKABY, P.C.
415 South College Avenue
Salem, Virginia 24153
Attn: Michael W.S. Lockaby, Esq.

Lessee at:

WAUKESHAW DEVELOPMENT, INC.
245 East Bank Street
Petersburg, Virginia 23803
Attn: Dave McCormack

or such other address as either party may designate by notice, given from time to time in accordance with this section. All such notices shall be deemed to be given upon deposit in the United States mail as hereinabove provided. The rent payable by Lessee hereunder shall be paid to Lessor at the same place where a notice to Lessor is herein required to be directed.

19. Quiet Enjoyment & Covenant of Title.

Lessor covenants that it has full right and power to execute this Lease and to grant the Premises demised herein, and that Lessee, upon payment of the rents herein reserved, and performing the terms, conditions, and covenants herein contained, shall peacefully and quietly have, hold, and enjoy the Leased Premises during the full term of this Lease, and any extension hereof, from all persons claiming through Lessor.

20. Vesting Option.

- (a) If, not later than the end of the Term of this Lease as defined in Section 2 of this Lease, the Company gives written notice of its desire to purchase the Premises, the Lessor shall convey the Premises to Lessee as soon thereafter as the necessary documents may be prepared and closing scheduled as set forth in this section.
- (b) The price to be paid upon settlement by Lessee to Lessor to purchase the property is \$10.00.
- (c) At closing, Lessor shall deliver to Lessee a deed of Special Warranty conveying good, marketable, and insurable fee simple title to the Lessee, free of all liens, encumbrances, defects, and subject only to those covenants, restrictions, and easements of record or which would be disclosed by a current field survey or careful inspection of the Property. If a defect is found which the Lessor may cure within a reasonable time, the Lessor shall, at its own expense, promptly take such action as is necessary to cure the defect. If said defect cannot be cured within a reasonable time, Lessee shall have the option of rescinding its exercise of this option.

21. Governing Law.

This lease shall be governed, interpreted, construed and regulated by the laws of the Commonwealth of Virginia. Pursuant to the provisions of [Va. Code Ann. § 55-217](#), the provisions of Chapter 13 of Title 55 of the Code of Virginia shall NOT govern this lease. Any action or suit relating to this Lease shall be brought in the Circuit Court or the General District Court for Bedford County, Virginia, and in no other.

22. Partial Invalidity.

If any term, covenant, condition or provision of this lease shall be invalid or unenforceable, the remainder of this lease shall not be affected, and each term, covenant, condition and provision of this lease shall be valid and be enforceable to the fullest extent permitted by law.

23. Interpretation.

Wherever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. The section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof. This lease may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. The terms “Lessor” and “Lessee” wherever used herein shall mean only the owner at the time of Lessor’s or Lessee’s interest herein, and upon any sale or assignment of the interest of either Lessor or Lessee herein, their respective successors in interest and/or assigns shall, during the term of their ownership of their respective estates described herein, be deemed to be Lessor or Lessee, as the case may be.

The Parties are each sophisticated, knowledge persons about the subject matter of this Lease who negotiated this Lease and had opportunity to consult with counsel. Accordingly, it shall be construed as jointly drafted and construed against neither party as the drafter.

24. Entire Agreement.

No oral statement or prior written matter shall have any force or effect. All parties agree that they are not relying on any representations or agreements other than those contained in this lease. This agreement shall not be modified or cancelled except by a writing signed by all parties.

Notwithstanding this, the provisions of the Performance Agreement are to be construed as collateral to this Lease, and shall survive and not merge into it. In construing this Lease, the provisions of this Lease and the Performance Agreement shall be construed to be parts of the same agreement governing the comprehensive transaction, and such documents shall be read together so as to effectuate the manifest intent of the Parties.

25. Binding Effect.

Except as herein otherwise expressly provided, the covenants, conditions and agreements contained in this lease shall bind and inure to the benefit of Lessor and Lessee and their respective heirs, successors, administrators and assigns.

LESSOR:
TOWN OF BEDFORD, VIRGINIA:

Steve C. Rush, Mayor

COUNTY OF BEDFORD,
COMMONWEALTH OF VIRGINIA, to wit:

The foregoing instrument was acknowledged before me this _____, 2019, by Steve C. Rush, Mayor, on behalf of the Town of Bedford, Virginia.

My commission expires: _____

Notary registration number: _____

Notary Public

LESSEE:
WAUKESHAW DEVELOPMENT, INC.:

J. David McCormack, President

CITY/COUNTY OF _____,
COMMONWEALTH OF VIRGINIA, to wit:

The foregoing instrument was acknowledged before me this _____, 2019, by J. David McCormack, President, on behalf of Waukeshaw Development, Inc.

My commission expires: _____

Notary registration number: _____

Notary Public

Exhibit D
PROMISSORY NOTE

\$400,000.00 _____, 2019

FOR VALUE RECEIVED, **WAUKESHAW DEVELOPMENT, INC.** (the "Borrower") promises to pay to the order of **ECONOMIC DEVELOPMENT AUTHORITY OF THE TOWN OF BEDFORD, VIRGINIA** (the "Lender"), without offset, at 215 East Main Street, Bedford, Virginia 24523, or such other location as the holder of this Note may in writing designate, the principal sum equal to the aggregate amount of principal advances made from time to time under this Note, and which may be shown on the attached Certificate of Principal Advances, but not to exceed the sum of \$400,000.00, without interest except as provided in Section 2 below, on _____, 202__ (the "Maturity Date"), unless sooner paid in accordance with Section 3 below.

1. Definitions. As used in this Note, "Loan Documents" means collectively this Note, the Performance Agreement for Old Bedford Middle School Property dated _____, 2019, between Lender and Waukeshaw Development, Inc. ("Waukeshaw") (the "Performance Agreement"), and the Deed of Trust dated the date of this Note (the "Deed of Trust") from Borrower to a trustee for the benefit of Lender, all as, if at all, amended, supplemented, or modified from time to time. This Note is the note described in Section 2.d of the Performance Agreement and is subject to being discounted, forgiven, and credited in accordance with the terms of Section 9 of the Performance Agreement.

2. Interest. This Note shall bear interest on outstanding principal at an annualized rate of 0.00% percent. After the occurrence of an Event of Default, interest on the outstanding principal of this Note shall accrue at a per annum rate equal to 6.00% from the date of such occurrence.

3. Mandatory Prepayment. If the property encumbered by the Deed of Trust is sold by the Borrower in advance of the Maturity Date, all outstanding principal of this Note shall be due and payable on the date of the closing of the sale, unless otherwise forgiven in accordance with Section 9 of the Performance Agreement.

4. Optional Prepayments. At the Borrower's option prepayments may be made in whole or in part at any time without penalty or premium. All prepayments of principal shall be applied in the inverse order of maturity, or in such other order as Lender shall determine in its sole discretion.

5. Events of Default. For purposes of this Note and any other Loan Document, "Event of Default" means any one or more of the following:

(a) The Borrower fails to make any installment or other payment described in this Note as and when due and such failure continues for five days after written notice of such failure has been given to the Borrower by the Lender;

(b) The Borrower breaches or fails to perform any term, covenant, warranty, or agreement contained any Loan Document and such breach or failure is not capable of being cured;

(c) The Borrower breaches or fails to perform any other term, covenant, warranty, or agreement contained in any Loan Document, and such breach or failure shall continue for thirty (30) days after written notice of it has been given to the Borrower by the Lender;

(d) Any representation or warranty of the Borrower in any Loan Document or in any certificate delivered to Lender thereunder proves to have been untrue in any material respect at the time it was made;

(e) The Borrower defaults in, fails to pay at maturity, or otherwise defaults in respect of, any indebtedness properly due and owing to the Lender in any amount (except indebtedness under this Note), or to any other Person in excess of \$10,000, or fails to observe or perform any material term, covenant or agreement contained in any other agreement by which it is bound evidencing or securing indebtedness, borrowed monies or advances in excess of \$10,000 from any other Person, and does not cure such failure within any applicable period of grace, as would, or would have permitted the holder or holders thereof or of any obligations issued thereunder to accelerate the maturity thereof;

(f) The Borrower (i) voluntarily commences any proceeding or files any petition seeking relief under Title 11 of the United States Code or any other federal, state or foreign bankruptcy, insolvency, or similar law, (ii) consents to the institution of, or fails to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) applies for or consents to the appointment of a receiver, trustee, custodian, sequestrator, or similar official for it or for a substantial part of its property, (iv) files an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) makes a general assignment for the benefit of creditors, (vi) becomes unable, admits in writing its inability, or fails generally, to pay its debts as they become due, or (vii) takes corporate or other action for the purpose of effecting any of the foregoing;

(g) An involuntary proceeding is commenced or an involuntary petition is filed in a court of competent jurisdiction seeking (i) relief in respect of the Borrower or of a substantial part of its property under Title 11 of the United States Code or any other federal, state, or foreign bankruptcy, insolvency or similar law, (ii) the appointment of a receiver, trustee, custodian, sequestrator, or similar official for the Borrower or for a substantial part of its property, or (iii) the winding-up or liquidation of the Borrower and such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall continue unstayed and in effect for 30 days; and

(h) Any of the liens, security interests, pledges and assignments securing this Note in favor of the Lender are declared invalid or otherwise significantly impaired by a court of competent jurisdiction.

6. Remedies. Upon the happening of any Event of Default (i) this Note shall, at the sole option of the Lender, become immediately due and payable without notice to or demand on the Borrower and (ii) the Lender may exercise such rights, powers, and remedies available to it under each of the Loan Documents as well as all rights and remedies available to it at law or in equity.

7. Waivers. The Borrower and every guarantor and endorser, if any, of this Note (collectively, "Parties") individually and collectively hereby: expressly waives presentment, demand, protest, and notice of dishonor, and agrees that this Note may be renewed by the Lender one or more times and any extension or extensions of the time of payment of this Note may be made before, at, or after Maturity for periods in excess of the original term of this Note by agreement with the Borrower without notice to and without releasing the liability of any other Party; agrees that the Lender may adjust the interest rate payable on this Note or any renewal thereof by agreement with the Borrower without notice to and without releasing the liability of any other Party; waives the benefit of all homestead and similar exemptions as to this debt; waives any right which it may have to require the Lender to proceed against any person or any property securing this Note and agrees that its liability hereunder shall not be affected or impaired by any failure, neglect or omission of the Lender to exercise any remedies of set-off or otherwise that it may have or by any determination that any security interest or lien taken by the Lender to secure this Note is invalid or unperfected.

8. Costs. The Borrower agrees to pay all reasonable expenses incurred in collecting this Note or in preserving or disposing of any property securing it, including reasonable attorney's fees, if after default this Note is placed in the hands of an attorney for collection, or if the Lender finds it desirable to secure the services or advice of an attorney with regard to collection or the preservation or disposition of any property securing this Note. The attorney's fees provided for herein are intended to take into account post-judgment collection efforts on the part of the Lender's attorneys.

9. Assignment. The Lender may not assign this Note without the prior written consent of the Borrower, which consent the Borrower will not unreasonably delay or withhold.

10. Miscellaneous.

(a) If the Borrower fails to pay any installment of principal or interest, or otherwise fails to repay this Note within seven (7) days of its due date, the Borrower agrees to pay the Lender on demand a late charge of five percent (5.00%) of the overdue payment. The Lender may, at its option, apply any late payments (either full or partial) in the following manner: first to interest, then to principal, and finally to any late charges.

(b) Any failure or delay by the Lender to exercise any right hereunder shall not be construed as a waiver of the right to exercise the same or any other rights at any time.

(c) The term “Lender” used in this Note shall include any future permitted holder of this Note.

(d) This Note shall be governed and construed in accordance with the laws of the Commonwealth of Virginia. Whenever possible each provision of this Note shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Note shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note.

(e) This Note shall apply to and bind the Borrower its successors and assigns and shall inure to the benefit of the Lender, its permitted successors and assigns.

IN WITNESS WHEREOF, the Borrower has signed this Note as of the date and year first above written.

WAUKESHAW DEVELOPMENT, INC.

By: _____
Name: J. David McCormack
Title: President

Exhibit F

Prepared by:	Return to:
Michael W.S. Lockaby	Theodore J. Craddock, Esq.
VSF No. 74136	Trustee for Lender
Guynn, Waddell, Carroll & Lockaby, P.C.	Caskie & Frost
415 South College Avenue	2306 Atherholt Road
Salem, Virginia 24153	Lynchburg, Virginia 24501

**DEED OF TRUST AND SECURITY AGREEMENT
(INCLUDING FUTURE ADVANCES)**

*This record, in addition to covering other property: [] covers timber to be cut; [] covers as-extracted collateral; [x] is filed in the real property records as a fixture filing and covers goods that are or are to become fixtures. The real property to which the foregoing is related is described on **Exhibit 1** attached hereto and incorporated herein by this reference. The "Secured Party" is the Economic Development Authority of the Town of Bedford, Virginia, and the "Debtor" is _____. The record owner is _____. This document serves as a fixture filing under the Virginia Uniform Commercial Code (Va. Code Section 8.9A-502).*

THIS CREDIT LINE DEED OF TRUST AND SECURITY AGREEMENT ("Deed of Trust"), entered into as of _____, 2019 (the "Effective Date"), by **Waukeshaw Development, Inc.**, a Virginia corporation (whether one or more, "Grantor"), with a mailing address of 245 E Bank St, Petersburg, Virginia 23803, to **Theodore J. Craddock**, as trustee, a resident of Virginia and having a business address of 2306 Atherholt Road, Lynchburg, Virginia 24501 ("Trustee"), for the benefit of the **Economic Development Authority of the Town of Bedford, Virginia** ("Lender"), with a mailing address of 215 East Main Street, Bedford, Virginia 24523, which address is the place to which all notices and communications should be sent to Lender regarding this Deed of Trust except as otherwise provided below.

Capitalized terms used in this Deed of Trust without being defined in this Deed of Trust, if defined in the Performance Agreement (as defined below), shall have the meanings given to such terms in the Performance Agreement.

THIS IS A CREDIT LINE DEED OF TRUST. Solely for the purposes of Section 55-58.2 of the Code of Virginia of 1950, as amended (the "Virginia Code"), the address to which communications may be mailed or delivered to the Lender is:

**Economic Development Authority of the Town of Bedford, Virginia
215 East Main Street
Bedford, Virginia 24523**

The maximum aggregate amount of principal to be secured by this Deed of Trust at any one time is \$400,000.00.

Recitals

A. Grantor and Lender have entered into a Performance Agreement dated _____, 2019, as the same may be amended, modified, renewed and/or restated from time to time, being herein called the "Performance Agreement," and as described in, and subject to the terms of the Performance Agreement, Lender is extending credit to Grantor in a maximum aggregate principal amount of \$400,000.00, and to evidence same Grantor has executed and delivered to Lender one or more promissory notes (individually and collectively, the "Promissory Note").

B. Grantor desires to secure, among other indebtedness and obligations as provided herein, each and all of the following (the "Obligations"): (1) all indebtedness, liabilities, and obligations of Grantor to Lender of any nature whatsoever (whether now existing or hereafter arising or incurred) evidenced by the Promissory Note, and including any renewals, extensions, restatements, and/or modifications thereof; (2) the performance of the covenants and agreements contained herein; (3) all indebtedness, liabilities, and obligations of Grantor to Lender of any nature whatsoever (whether now existing or hereafter arising or incurred) evidenced by or arising under the Performance Agreement, and any renewals, extensions, restatements, and/or modifications thereof, and (4) any and all other Obligations (as such term is defined in the Performance Agreement) now owing or which may hereafter be owing by Grantor to Lender.

C. This Deed of Trust is given wholly or partly to secure future obligations and future advances. No written instrument or notation shall be required to evidence or secure any future advances and obligations hereunder. Nothing contained herein shall obligate Lender to make any advances to or extend credit to or for the benefit of any person obligated on all or any of the Obligations, and any such advances and extensions shall be under the terms and conditions contained in the Performance Agreement and related Loan Documents.

Witnesseth

NOW, THEREFORE, in trust to secure the prompt payment and performance of the Obligations, any sums expended by Lender pursuant to this Deed of Trust and costs of collection (including reasonable attorney's fees) and the other indebtedness and obligations as aforesaid, and in further consideration of the sum of Ten Dollars (\$10) paid to Grantor by Trustee, receipt of which is hereby acknowledged, Grantor grants and conveys unto Trustee: (1) the parcel or parcels of land described on **Exhibit A** attached hereto and incorporated herein by reference; (2) the rights and benefits appurtenant to such parcel or parcels of land; and (3) all buildings and other improvements (including, without limitation, Improvements) now located thereon and thereunder and those which in the future may be or may come to be located thereon and thereunder (collectively, the "Property"), together with all rights of Grantor under any purchase contracts now or hereafter arising with respect to the sale of all or any part of the Property, all

proceeds now or hereafter arising from the sale, lease or other transfer of the Property, and all equipment, fixtures, standing timber (to include timber to be cut, but this inclusion does not permit cutting of timber unless Lender agrees to such cutting in advance thereof), crops grown, growing and to be grown on the Property (to include crops that are produced on trees, vines and bushes, and aquatic goods) and other farm products (to include livestock, born and unborn, supplies and products of crops and livestock), oil, gas, and other minerals and as-extracted collateral (but inclusion of as-extracted collateral does not permit extraction unless Lender agrees to such extraction in advance thereof) and all of the property described on **Exhibit B** attached hereto and incorporated herein by this reference, now or hereafter owned by Grantor and that in which the Grantor has any rights and interests, both now existing and located in, on, over, and under the Property or related to the Property and that which may be hereafter acquired and located as aforesaid or otherwise related to the Property, whether used in connection with the ownership, possession, operation, and maintenance of the Property, or otherwise (collectively, the “Collateral” and the Collateral includes any and all of the proceeds and products thereof, including insurance and condemnation proceeds, accessions and additions thereto, and replacements and substitutions therefor).

Grantor covenants with Trustee and Lender that Grantor is seized of the Property in fee, and has the right to convey the Property as provided herein; that title to the Property is marketable and free and clear of all encumbrances except for the exceptions approved in writing by Lender (collectively, the “Permitted Exceptions”); that Trustee shall have quiet possession of Property free from all encumbrances other than Permitted Exceptions; that Grantor will execute such further assurances of the Property as may be requisite; that Grantor has done no act to encumber the Property; and that Grantor will forever warrant and defend the title to the Property unto Trustee, his heirs, personal representatives, and assigns against the claims and demands of all persons whomsoever, except with respect to the Permitted Exceptions.

Grantor represents, warrants, covenants, and agrees with Trustee and Lender as set forth above and in the Sections set forth below:

Section 1. Future Advances. All terms and conditions under which future advances may be made, if any, are set forth in the Performance Agreement and other Loan Documents. Lender shall make, and be obligated to make, future advances only in accordance with the terms and conditions of the Performance Agreement and other Loan Documents.

Section 2. Representations and Warranties Relating to Grantor, Property, and Collateral. Grantor maintains its chief executive office at Grantor’s address set forth herein and will notify Lender in writing of any change in such office within ten (10) days of such change. Grantor represents and warrants that: (i) Grantor is the record owner of the Property; (ii) Grantor’s chief executive office is located in the State of Virginia; (iii) Grantor's state of organization is the State of Virginia; (iv) Grantor's exact legal name is as set forth on Page 1 of this Deed of Trust; and (iii) Grantor is the owner of the Collateral subject to no liens, charges, or encumbrances other than the lien hereof or otherwise in favor of Lender.

Section 3. Payment of Amounts Due under the Obligations. Grantor shall pay when due all amounts owing by it, and perform all other obligations required to be performed from time to time by it, under each and all of this Deed of Trust, the Notes, the Performance Agreement, and other Loan Documents.

Section 4. Payment of Taxes, Assessments, and other Amounts; Maintenance of Insurance.

4.1 Grantor will pay not later than the last date the same may be paid without penalty, interest, or other similar charge, all real and personal property taxes, assessments, levies, charges, fines, and impositions of every nature whatsoever imposed, levied, or assessed or to be imposed, levied, or assessed upon or against the Property or the Collateral which are now liens thereon and any which may hereafter become liens thereon, in accordance with the terms of the Performance Agreement; provided, however, that Grantor shall have the right to contest in good faith and by appropriate lawful proceedings any such taxes, assessments, fees, dues, charges, fine or impositions if (i) the execution or other enforcement of any lien or charge upon the Property or Collateral is and continues to be effectively stayed or bonded in a manner satisfactory to Lender, and (ii) such appropriate lawful proceedings and such liens or charges do not materially impair the operation of the business located at the Property.

4.2. Grantor shall keep all Improvements on such land, now or hereafter erected, insured in accordance with the terms of the Performance Agreement.

Section 5. Maintenance of the Property. Grantor covenants and agrees that Grantor will not commit or permit any waste to the Property and the Collateral, and will keep the Property and Collateral in good order, repair, and condition and redevelop and improve it in the manner provided in the Performance Agreement. Lender shall have the right to inspect the Property and Collateral, together with the books and records maintained and kept in connection therewith, as provided in the Performance Agreement.

Section 6. Financial Statements. Grantor covenants and agrees that it will from time to time furnish or cause to be furnished to Lender, without cost to Lender, such financial and operating statements and reports, in form and certified in a manner satisfactory to Lender, as may be required under the Performance Agreement.

Section 7. Assignment of Rents, Leases and Profits; Management of Property; Appointment of Receiver. As further security for the payment of the Obligations and the other indebtedness and obligations secured by this Deed of Trust, subject to any rights and license afforded Grantor in the separate Assignment of Leases and Rents entered into by Grantor and Lender of even date herewith with respect to the Property and recorded in the same official records as this Deed of Trust (such Assignment of Leases and Rents, as the same may be amended and/or modified from time to time, the "Assignment of Leases and Rents"), Grantor assigns to Trustee and Lender all of Grantor's right, title, and interest in, to and under each and every lease, sublease, rental agreement, tenant contract, and rental contract, whether written or oral, which may now exist or hereafter be made, in which Grantor is lessor, sublessor, or holds a similar designation, including any and all extensions, renewals, and modifications thereof (collectively, the "Leases") and

guaranties of the performance or obligations of any lessees or sublessees, which cover, affect, or relate to all or any part of the Property and Collateral, together with all of Grantor's rights, title, and interest in and to all rents, issues, and profits from the Leases and from the Property and/or the Collateral, all of which are a part of and included as a subset within the terms "Property" and "Collateral" (the rents, profits, etc., are collectively, the "Rents and Profits"); and Lender shall have the absolute and unconditional right, upon the occurrence of an Event of Default hereunder, or the occurrence of an event which, with the giving of notice or a lapse of time, or both, would become an Event of Default hereunder, either by entering upon and taking possession of either or both the Property and the Collateral, or otherwise, to rent or continue renting the same, and to otherwise manage and operate the Property and the Collateral in such manner as it deems necessary or appropriate, to collect the Rents and Profits, and, to apply such collections against: (i) all costs and expenses, including reasonable attorneys' fees actually incurred, incurred in connection with the operation of the Property and Collateral, the performance of Grantor's obligations under the Leases and the collection of the rents thereunder; (ii) all the costs and expenses, including reasonable attorney's fees actually incurred in the collection of any or all of the Obligations, including all costs, expenses, and reasonable attorneys' fees actually incurred in seeking to realize on or to protect or preserve Lender's interest in any other collateral securing any or all of the Obligations; and/or (iii) any or all unpaid principal and interest on the Obligation, in such order of application as is determined by Lender, unless a specific order of application is mandated under applicable law. Also, Lender shall have the absolute and unconditional right to apply for and to obtain the appointment of a receiver or similar official for all or a portion of the Property and the Collateral, to, among other things, manage and operate the Property and the Collateral, or any part thereof or interest therein, and to collect and apply the Rents and Profits as provided above. In the event of such application, Grantor hereby consents to the appointment of such receiver or similar official and agrees that such receiver or similar official may be appointed without notice to Grantor (unless notice is mandated under applicable law and then with only such minimum notice as may be mandated under applicable law), without regard to the adequacy of any security for the indebtedness secured hereby and without regard to the solvency of Grantor or any other person who may be liable for the payment of the Obligations or any other indebtedness or obligations secured hereunder unless thresholds for adequacy of security or solvency are mandated by applicable law and then with only the minimum thresholds so mandated. All expenses related to the appointment of a receiver or other similar official hereunder shall be the responsibility of Grantor, but if paid by Lender, Grantor hereby agrees to pay to Lender, immediately and without demand, all such expenses, together with interest thereon as provided in the Performance Agreement. In the event of any conflict between the provisions of this Section 7 and the Assignment of Leases and Rents, the Assignment of Leases and Rents shall control to the extent such provisions in the Assignment of Leases and Rents are permissible under applicable law.

Section 8. Condemnation. In the event of a Condemnation with respect to the Property, Grantor shall give immediate written notice to Lender and Lender shall have the right to receive and collect all damages awarded by reason of such taking, and the right to such damages hereby is assigned to Lender who shall have the discretion to apply the amount so received, or any part thereof, to the Obligations secured hereby in such order of application as is determined by Lender, or to any alteration, repair, or restoration of the Property by Grantor subject to such terms

and procedures reasonably required by Lender. In the event of a Total Condemnation, the Grantor shall pay such amounts in addition to the condemnation award as required in Section _____ of the Performance Agreement.

Section 9. Sale or Transfer of Property; Due on Sale; Junior Liens. Except as expressly permitted under the Development Agreement, Grantor covenants and agrees that the sale, lease, demise, further encumbrance (including, without limitation, by way of mortgage, deed of trust, security deed, deed to secure debt, declaration of trust, assignment, pledge or security agreement), transfer, or other disposition by Grantor, either directly or indirectly, voluntarily or involuntarily, of all or any part of the Property or the Collateral, or any interest, right, or estate in either or both, without Lender's prior written consent, shall be an Event of Default under this Deed of Trust and shall entitle Lender to exercise, at its option, any and all rights and remedies provided to Lender under this Deed of Trust upon the occurrence of an Event of Default including, without limitation, declaring the Obligations immediately due and payable.

Section 10. Security Agreement; Harmonization of Conflicts. Grantor hereby grants to Lender a security interest in all fixtures and articles of personal property now owned or hereafter acquired by the Grantor that are now or hereafter located on the Land including, but not limited to, those items described on **Exhibit B** attached hereto and incorporated herein by reference and any of the Collateral and Property constituting personal property, for the purpose of securing the payment of the Obligations, with interest thereon, and extensions, renewals, modifications and amendments thereof, or substitutions and replacements therefor, in whole or in part, the payment of all other sums, with interest thereon, in accordance with the Performance Agreement or hereunder to protect the security of this Deed of Trust, or advanced to protect the rights of Lender hereunder or under the Loan Documents, and to secure the performance of the covenants and agreements contained herein and in the Loan Documents. This Deed of Trust constitutes a "security agreement" with respect to the Collateral and the Property constituting personal property as that term is now or hereafter used in the Uniform Commercial Code as enacted in the Commonwealth of Virginia, and Lender shall have all of the rights and remedies provided to a secured party now or hereafter under the Uniform Commercial Code as enacted in the Commonwealth of Virginia, including, without limitation, the right to proceed against the Collateral and the Property constituting personal property in accordance with the provisions of the Uniform Commercial Code relating to default and enforcement of a security interest by a secured party, or to instruct the Trustee to proceed as to the Collateral and the Property, including, without limitation, that which constitutes personal property, in accordance with laws applicable to foreclosure of real estate interests in the Commonwealth of Virginia, as provided herein. The Security Agreement and the security interests created therein shall be, in addition to and not in substitution of this Deed of Trust and the liens and security interests created hereby and this Deed of Trust shall be in addition to and not in substitution of the Security Agreement and the security interests created thereby. To the extent possible, this Deed of Trust and the Security Agreement, as well as all other evidences and records of any and all of the Obligations and agreements of other persons who may be obligated on any of the Obligations, shall be applied and enforced in harmony with and in conjunction with each other. To the extent conflicts exist between this Deed of Trust and the Security Agreement, such conflicts shall be resolved in favor of Lender for the purpose of achieving the full realization of Lender's rights and remedies

and liens and security interest as aforesaid. Granter hereby authorizes Lender, at Lender's option, to file from time to time, without the execution by Granter or further consent or approval of Granter, such financing statements and amendments, continuations, and addendums thereto as Lender may deem appropriate to perfect, preserve, maintain, or continue the perfection of the security interest granted Lender by this Deed of Trust.

Section 11. Environmental Provisions.

11.1 As used in this Deed of Trust: (i) "Hazardous Wastes" means all waste materials subject to regulation under the Comprehensive Environmental Response, Compensation, and Liability Act as modified by the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act, or applicable state law and any other applicable federal, state or local laws and their regulations now in force or hereafter enacted relating to hazardous waste disposal; and (ii) "Toxic Substances" means and includes any materials which are now or hereafter subject to regulation under the Toxic Substances Control Act, applicable state law, or any other applicable federal, state, or local laws now in force or hereafter enacted relating to toxic substances. "Toxic Substances" includes, but is not limited to, asbestos, polychlorinated biphenyls (PCB's), petroleum products, and lead-based paints to the extent any of those materials is in a quantity, use, or application that would make the Grantor a responsible party under any Environmental Law. All such laws relating to hazardous waste disposal and toxic substances are collectively referred to herein as "Environmental Laws."

11.2 The Grantor represents, warrants and covenants as follows:

(i) The Grantor has no knowledge of any conditions that are likely to lead to the imposition of any lien on all or a part of the Property under the Environmental Laws. The Grantor's familiarity with the Property includes among other factors, (i) the relationship of the purchase price to the value, of the Property if uncontaminated when originally purchased by Grantor, (ii) commonly known or reasonably ascertainable information about the Property, and (iii) the obviousness of the presence or likely presence of contamination at the Property.

(ii) The Grantor has no knowledge of any pending or threatened litigation, orders, rulings, notices, permits, or investigations regarding Hazardous Wastes and Toxic Substances on the Property.

(iii) The Grantor will comply in all material respects with the requirements of all Environmental Laws and shall promptly notify the Lender in the event of the discovery of Hazardous Wastes or Toxic Substances at the Property that could result in material liability to the Grantor or the creation of any lien on all or a part of the Property. Further, Grantor will promptly forward to the Lender copies of all orders, notices, permits, applications or other communications and reports in connection with any discharge, spillage, use or the discovery of Hazardous Wastes and Toxic Substances that could result in material liability to the Grantor or the creation of any lien on all or a part of the

Property or any other matters relating to the Environmental Laws as they may affect the Property.

(iv) If at any time the Lender has reasonable cause to believe there are Hazardous Wastes or Toxic Substances upon the Property that could result in material liability to the Grantor or the creation of any lien on all or a part of the Property, the presence of which occurs after the recordation of this Deed of Trust, the Lender may obtain, at Grantor's cost, an environmental site assessment or environmental audit report from a firm acceptable to the Lender, to assess with a reasonable degree of certainty (A) the presence of any Hazardous Wastes or Toxic Substances and (B) the cost in connection with the abatement, cleanup or removal of such.

(v) In the event of the presence of any Hazardous Waste or Toxic Substance upon the Property which presence occurs subsequent to the recordation of this Deed of Trust and which presence may result in material liability to the Grantor or the creation of any lien on all or a part of the Property, whether or not the same originates or emanates from the Property, or if Grantor shall fail to comply with any of the requirements of the Environmental Laws, the Lender may at its election, but without the obligation to do so (but only after the Grantor has failed or refused to do so on the Lender's request), (A) give such notices, (B) cause such work to be performed at the Property or (C) take any and all other actions as the Lender shall deem necessary or advisable in order to abate, remove and clean up the Hazardous Waste or Toxic Substance or otherwise cure the Grantor's non-compliance. All of the representations, warranties and covenants of this Section shall survive the termination, satisfaction or release of this Deed of Trust.

(vi) Any amount disbursed by the Lender pursuant to the provisions of this Section shall be added to, and deemed a part of, the indebtedness secured hereby, shall be secured in the same manner as the Obligations are secured, and shall, together with the interest thereon, be payable by Grantor on demand.

Section 12. Events of Default: Remedies upon Default.

12.1 Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default" hereunder: (1) the occurrence of an Event of Default (as therein defined) under the Promissory Note; or (2) the actual or threatened demolition, injury, or waste to the Property, the Collateral, or any part of either or both, and same shall, in Lender's reasonable good faith judgment, have a material and adverse effect on the value or utility of the Property and such condition or circumstance is not remedied by Grantor within thirty (30) days after Grantor has knowledge of such condition or circumstance.

12.2 Rights and Remedies. Upon the occurrence of an Event of Default under Section 12.1 or any other event defined in this Deed of Trust as an "Event of Default," Lender and Trustee shall have the rights and remedies set forth in Sections 12.2.1 through 12.2.4, in addition to their other rights and remedies set forth in this Deed of Trust.

12.2.1 Accelerate Obligations. Lender shall have the right, at its option, to declare any or all of the Obligations, as well as any or all of the other indebtedness and obligations secured hereby that are not already due hereunder, to be immediately due and payable without demand or any notice (unless notice is required under any of the Obligations or by law, then such notice as may be required under the Obligations or by law), whereupon the same shall become immediately due and payable, regardless of the maturity date thereof.

12.2.2 Protection of Security. Lender, without any obligation on its part to determine the validity or necessity thereof, may do and cause to be done any one or more of the following: (1) pay the sums for which Grantor is obligated; (2) perform or cause to be performed the obligations of Grantor; or (3) take such other actions as Lender deems necessary to maintain, protect, repair, restore, and preserve the Property and the Collateral, and the lien created by this Deed of Trust, and, in connection therewith, Lender may advance, pay, or expend such sums as may be proper or necessary for the maintenance, protection, repair, restoration, and preservation of the Property and the Collateral, to maintain insurance (including, without limitation, title insurance), to provide security guards and systems to protect the Property and the Collateral and intervene in any condemnation, foreclosure and other proceedings or disputes affecting the Property or the Collateral. Grantor hereby agrees to pay to Lender, immediately and without demand, all such sums so advanced, paid or expended, together with interest thereon from the date of each payment at the Default Rate. All sums so advanced, paid or expended by Lender, and the interest thereon, shall be added to and be secured by the lien of this Deed of Trust. Any amounts advanced, paid or expended shall be at Lender's sole option and shall not constitute a waiver of any Event of Default or right arising from the occurrence of an Event of Default. Nothing herein obligates Lender to pay any amount or take any actions described in this Section 12.2.2.

12.2.3 Foreclosure. Lender shall have the right, at its option, to exercise the rights and remedies set forth below:

(a) Upon the occurrence of an Event of Default under Section 12.1 or any other event defined in this Deed of Trust as an "Event of Default," Lender may invoke the power of sale and any other remedies permitted by Virginia law or provided in this Instrument or in any other Loan Document. Grantor acknowledges that Lender may exercise the power of sale granted by this Instrument without prior judicial hearing to the extent allowed by Virginia law. On the application of Lender, Trustee is hereby authorized and empowered to expose at one or more sales and sell the Property or any part thereof at public action, in such manner, at such time and place, upon such terms and conditions, and upon such public notice as the Trustee may deem best for the interest of all concerned consisting of advertisement in a newspaper of general circulation in the county or city in which the Property or any part thereof is located for at least once a week for two successive weeks or for such other period as applicable law may require, and, upon compliance by the purchaser with the terms of sale and applicable law, convey the Property in fee simple to and at the cost of the purchaser, who shall not be liable to see to the application of the purchase money. Lender shall have the right to bid at any sale

thereunder through a credit bid against the Obligations and other indebtedness and obligations secured hereby, or otherwise. The Trustee may require the successful bidder at any sale to deposit immediately with Trustee cash or certified funds in an amount not to exceed ten percent (10%) of the bid before the bid is received. If Collateral is sold hereunder, it need not be at the place of sale. The published notice of public sale, however, shall state the time and place where the Collateral may be inspected prior to sale. In the event a proceeding to exercise the power of sale contained herein is begun but not completed, Grantor shall pay all expenses incurred by Trustee and a partial commission computed as follows: one and twenty-five hundredths percent (1.25%) of the secured debt existing (including expenses and partial commission provided herein) prior to Trustee's issuance of a notice of sale in accordance with Section 55-59.1 of the Code of Virginia and two and fifty hundredths percent (2.50%) of the secured debt existing (including expenses and partial commission provided herein) after the issuance of such notice and prior to sale. Such expenses and partial commission may be paid by Lender on behalf of Grantor but, in any event, shall be secured by this Deed of Trust. The foregoing shall in no way be construed to limit the powers of sale or restrict the discretion Trustee may have under the provisions applicable law.

(b) Each legal, equitable or contractual right, power and remedy of Lender or Trustee now or hereafter provided herein or by law or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power and remedy. The exercise or beginning of the exercise of any one or more of such rights, powers and remedies shall not preclude the simultaneous or later exercise of any or all such other rights, powers and remedies and without limiting the foregoing, Trustee and Lender, as appropriate, may sell the Property and Collateral separately' or together, as a whole or in parts or parcels, at one or more sales conducted at different times and places. Unless a different order of application is mandated under applicable law, proceeds derived from any sale of the Property as provided above shall be applied: FIRST, to pay all proper costs and charges, including but not limited to recording fees of whatever kind and/or court costs, abstracts and title reports, advertising expenses, auctioneer's allowance, the expenses, if any, required to correct any irregularity in the title, premium for Trustees' bond, Commissioner of Account's and/or other auditors' fees, attorneys' fees (including Lender's in house counsel), and all other expenses of sale incurred in and about the protection and execution of this Deed of Trust, and all moneys advanced for taxes, assessments, insurance, and with interest thereon at the rate provided in the Obligations, and to retain as reasonable compensation a Trustee commission of five percent (5%) on the amount of the sale or sales; SECOND, to the discharge of all Taxes and assessments, if any, as provided by Virginia law; THIRD, to pay interest, principal, costs or late charges included in the Obligations, as the Lender, in its sole discretion, may determine hereunder, it being understood and agreed that, upon such sale before maturity of the Obligations, the balance thereof shall be immediately due and payable; FOURTH, to pay liens of record against the Property according to their priority of lien and to the extent that funds remaining in the hands of the Trustees are available; and LAST, to pay the remainder of the proceeds, if any, to Grantor, its personal representatives, successors or assigns upon

the delivery and surrender to the purchaser of possession of the Property, less costs and expenses of obtaining possession.

(c) In any foreclosure sale or sales, the Lender shall have the right to sell or cause to be sold either or both the Property and the Collateral, or parts thereof or interests therein, subject to any liens, security interests and other encumbrances and rights which are subordinate to the lien and security interest hereof, including without limitation, any leases which may be subordinate hereto; and any such sale or sales shall not release Grantor or any other person obligated on the Obligations or the other indebtedness and obligations secured hereby, and shall not provide to them any claim or defense in any action or proceeding brought hereunder by Lender or otherwise brought by Lender to collect full payment of the indebtedness and other obligations secured hereby.

(d) If the Grantor: (i) fails to receive historic preservation certification Part 1 and 2 (conditional) and commence construction and renovation activity within twenty-four (24) months of closing on purchase of the Property, as evidenced by issuance of a building permit and substantial actual construction activity, or (ii) construction activity ceases on the Property for six (6) or more consecutive months after having initially commenced, the Grantor shall be in default of this Agreement, and the Lender may direct the Trustee foreclose immediately; accelerate the Note in accordance with Section 12.1.1; and convey the Property to the Town of Bedford, Virginia, a municipal corporation of the Commonwealth of Virginia, for \$10.

12.2.4 Discontinuance of Proceedings; Position of Parties Restored. If Lender shall have proceeded to enforce any right or remedy under this Deed of Trust by foreclosure, entry, or otherwise and such proceedings shall have been discontinued or abandoned for any reason, or such proceedings shall have resulted in a final determination adverse to Lender, then and in every such case Grantor and Lender shall be restored to their former positions and rights hereunder, and all rights, powers, and remedies of Lender shall continue as if no such proceedings had occurred or had been taken.

Section 13. Miscellaneous.

13.1 Incorporation of Exhibits. All exhibits, supplements, schedules, addenda, and other attachments to this Deed of Trust are by this reference incorporated herein and made a part hereof as if fully set forth in the body of this Deed of Trust. The recitals set forth in this Deed of Trust are also a part of this Deed of Trust.

13.2 Maintenance of Records by Lender. Lender is authorized to maintain, store, and otherwise retain evidences of the Obligations, this Deed of Trust, any separate security agreements and other agreements executed or delivered or to be executed or delivered by Grantor or others on Grantor's behalf to Trustee or Lender in their original, inscribed tangible form or a record thereof in an electronic medium or other non-tangible medium which permits such record to be retrieved in a perceivable form.

13.3 Accuracy of Information Regarding Grantor. Grantor represents to Lender the information contained in this Deed of Trust and other information provided to Lender by or on behalf of Grantor is true, accurate, and correct and Grantor agrees to promptly inform Lender in writing of any changes therein or any inaccuracies thereto, such notices to be addressed to Lender and mailed, postage prepaid, to Lender's address set forth herein.

13.4 No Deductions for Taxes or Withholdings: Documentary Taxes. All payments made by Grantor under this Deed of Trust shall be made by Grantor free and clear of and without deduction for any and all present and future taxes, levies, charges, deductions and withholdings, and if any present or future applicable law requires such deduction for any tax, levy or charge on this Deed of Trust or Lender's interest hereunder which is required to be paid by Lender (with the exception of income tax required to be paid by Lender), the same shall be an Event of Default and Lender may exercise, at its option, any and all rights and remedies provided to Lender hereunder upon the occurrence of an Event of Default. In addition, to the extent not prohibited by applicable law and notwithstanding who is liable for payment of the taxes or fees, Grantor shall pay upon demand any stamp tax, documentary tax, intangible tax and other taxes, levies, and charges of any jurisdiction with respect to the execution, delivery, registration, performance and enforcement of this Deed of Trust.

13.5 Marshalling of Assets. Grantor hereby waives, to the extent permitted by law, the benefit of all homestead, appraisal, valuation, stay, extension, reinstatement, and redemption laws now in force and any hereafter arising and in force and all rights of marshalling in the event of any sale hereunder of the Property, the Collateral or any part or any interest in either or both. Further, Grantor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Deed of Trust on behalf of Grantor, and on behalf of each and every person acquiring any interest in or title to the Property or the Collateral subsequent to the date of this Deed of Trust and on behalf of all other persons to the extent permitted by law.

13.6 Waiver of Statutory Rights. Grantor waives any right to require Lender to bring any action against any other person or to require that resort be had to any security or to any balances of any deposit or other accounts on the books of Lender in favor of any other person; and, without limiting the foregoing, but in furtherance thereof, Grantor waives any rights Grantor otherwise might have or have had under any laws that require or may require Lender to recover against some other person, or to realize upon any security which Lender holds for the Obligations. Grantor also waives any and all right of subrogation, contribution, reimbursement and indemnity whatsoever or any right of recourse to or with respect to the assets or property of any person that is or may be security for the Obligations.

13.7 Jury; Venue; Jurisdiction. This Deed of Trust shall be deemed to have been executed and delivered in the Commonwealth of Virginia, regardless of where the signatories may be located at the time of execution and shall be governed by and construed in accordance with the substantive laws of such jurisdiction, excluding, however, the conflict of law and choice of law provisions thereof. Grantor, to the extent permitted by law, waives any right to a trial by jury in any action arising from or related to this Deed of Trust.

13.8 Cumulative Rights, etc. The rights, powers, and remedies of Lender under this Deed of Trust shall be in addition to all rights, powers and remedies given to Lender at law and in equity, and in any other agreement, all of which rights, powers and remedies shall be cumulative and may be exercised by Lender from time to time and at any number of times successively, concurrently and alternatively without impairing Lender's rights under this Deed of Trust.

13.9 No Waiver; No Course of Dealing; No Invalidity. Lender, at any time or times, may grant extensions of time for payment or other indulgences or accommodations to any person obligated on any of the Obligations, or permit the renewal, amendment, or modification thereof or substitution or replacement therefor, or permit the substitution, exchange or release of any property securing any of the Obligations and may add or release any person primarily or secondarily liable on any of the Obligations, all without releasing Grantor from any of its liabilities and obligations under this Deed of Trust and without Lender waiving any of its rights and remedies under this Deed of Trust, or otherwise. No delay or forbearance by Lender in exercising any or all of its rights and remedies hereunder or rights and remedies otherwise afforded by law or in equity shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any Event of Default as set forth herein or in the event of any subsequent Event of Default hereunder. Also, no act or inaction of Lender under this Deed of Trust shall be deemed to constitute or establish a "course of performance or dealing" that would require Lender to so act or refrain from acting in any particular manner at a later time under similar or dissimilar circumstances. Wherever possible, each provision of this Deed of Trust shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Deed of Trust shall be prohibited or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Deed of Trust.

13.10 No Oral Change. Subject to the exercise by Lender of its rights and remedies as set forth in this Deed of Trust and without limiting any of such rights and remedies, this Deed of Trust, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Grantor or Lender, but only by an agreement in writing, signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

13.11 Power of Attorney; Financing Statements. Grantor does hereby irrevocably constitute and appoint Lender its true and lawful attorney with full power of substitution, for it and in its name, place and stead, to execute, deliver or file such agreements, documents, notices, financing statements and records as Lender, in its sole discretion, deems necessary or advisable to effect the terms and conditions of this Deed of Trust and to otherwise protect the security of the liens and security interests created by this Deed of Trust; and, to the extent Lender deems necessary or appropriate, to make public in financing statements or other public filings (unless prohibited by applicable law) such information regarding Grantor as Lender deems necessary or appropriate, including, without limitation, federal tax identification numbers, social security numbers and other identifying information. The foregoing appointment is and the same shall be coupled with an interest in favor of Lender.

13.12 Payment of Expenses. Without limiting any other provision of this Deed of Trust relating to Grantor's payment of costs and expenses incurred by Lender and those incurred on behalf of Lender, but in addition thereto, Grantor shall pay to Lender, on demand, any and all costs and expenses, including, without limitation, reasonable legal expenses and reasonable attorneys' fees, reasonable fees of legal assistants and reasonable fees and expenses of other professionals and service providers, incurred or paid by Lender and those incurred or paid on behalf of Lender in doing any one or more of protecting its interest in the Property and the Collateral, collecting any amount payable hereunder or secured hereby and enforcing its rights hereunder with respect to the Property and the Collateral (including, without limitation, commencing any foreclosure action or prosecuting or defending any legal or equitable proceeding), together with interest thereon at the Default Rate from the date paid or incurred by or on behalf of Lender until such costs and expenses are paid by Grantor. All sums so paid or expended by Lender, and the interest thereon, shall be added to and be secured by the lien of this Deed of Trust.

13.13 Relationship of Parties; Successors and Assigns. The relationship of Lender to Grantor is that of a creditor to an obligor or debtor; and in furtherance thereof and in explanation thereof, Lender has no fiduciary, trust, guardian, representative, partnership, joint venturer, or other similar relationship to or with Grantor and no such relationship shall be drawn or implied from this Deed of Trust or any of Lender's actions or inactions hereunder or with respect hereto - and, Lender has no obligation to Grantor or any other person relative to administration of the Obligations secured by this Deed of Trust or the Property or Collateral, or any part or parts thereof or interests therein. The covenants, terms and conditions herein contained shall bind, and the benefits and powers shall inure to, the respective heirs, executors, administrators, successors and assigns of the parties hereto, as well as any persons who become bound to this Deed of Trust as a debtor, but nothing herein contained shall alter or negate the provisions of Section 9. If two or more persons have joined as Grantor, each of the persons shall be jointly and severally obligated to perform the obligations herein contained. The term "Lender" shall include any payee of the Obligations or other indebtedness or obligations hereby secured and any transferee or assignee thereof, whether by operation of law or otherwise, and Lender may transfer, assign or negotiate all or any of the Obligations or other indebtedness or obligations secured by this Deed of Trust from time to time without consent of Grantor and without notice to Grantor and any transferee or assignee of or time without the consent of Grantor and without notice to Grantor and any transferee or assignee of Lender or any transferee or assignee of another may do the same without Grantor's consent and without notice to Grantor. Grantor waives and will not assert against any transferee or assignee of Lender any claims, defenses, set-offs or rights of recoupment which Grantor could assert against Lender, except defenses which Grantor cannot waive.

13.14 Notices. All notices, certificates, requests for information and other communications hereunder shall be given in accordance with the terms of the Development Agreement. Grantor, Trustee and, except as otherwise provided by Virginia Code Section 55-58.2, the Lender may, by written notice given hereunder, designate a different address where

communications should be sent and Lender may direct, by notice to Trustee or Granter, for communications to be sent electronically or in some other non-tangible medium.

13.15 Use and Application of Terms. To the end of achieving the full realization by Lender of its rights and remedies under this Deed of Trust, including payment in full of the Obligations, in using and applying the various terms, provisions and conditions in this Deed of Trust, the following shall apply: (1) the terms "hereby", "hereof", "herein", "hereunder", and any similar words, refer to this Deed of Trust; (2) words in the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular numbered meaning include the plural number, and vice versa; (3) words importing persons include firms, companies, associations, general partnerships, limited partnerships, limited liability partnerships, limited liability limited partnerships, limited liability companies, trusts, business trusts, corporations and other legal organizations, including public and quasi-public bodies, as well as individuals; (4) the use of the terms "including" or "included in", or the use of examples generally, are not intended to be limiting, but shall mean, without limitation, the examples provided and others that are not listed, whether similar or dissimilar; (5) the phrase "costs and expenses", or variations thereof, shall include, without limitation, reasonable attorneys' fees and fees of legal assistants, and reasonable fees of accountants, engineers, surveyors, appraisers and other professionals or experts -and all references to attorneys' fees or fees of legal assistants, or fees of accountants, engineers, surveyors, appraisers or other professionals or experts shall mean reasonable fees; (6) as the context requires, the word "and" may have a joint meaning or a several meaning and the word "or" may have an inclusive meaning or an exclusive meaning; (7) all terms used in this Deed of Trust that are not defined in this Deed of Trust or in the Development Agreement, but are defined in the Uniform Commercial Code in effect in the Commonwealth of Virginia, shall have the meaning ascribed to such terms from time to time in such Uniform Commercial Code; (8) any reference contained in this Deed of Trust to specific statutes or laws shall include any successor statutes or laws, as the case may be; (9) headings and captions used in this Deed of Trust are for convenience only, and shall not be used to interpret, construe, define, limit or expand the terms and conditions of this Deed of Trust; (10) this Deed of Trust shall not be applied, interpreted and construed more strictly against a person because that person or that person's attorney drafted this Deed of Trust; and (11) "Deed of Trust" means this Deed of Trust and Security Agreement, together with any and all extensions, renewals, amendments, modifications, restatements, substitutions and replacements hereof or herefor.

13.16 Cancellation of Deed of Trust Lien. If at any time during the period of this Deed of Trust there is no indebtedness outstanding under any of the Loan Documents, no obligation of Lender to make any further or additional advances to any person under any of the Loan Documents, and all Obligations and other debts and obligation secured by this Deed of Trust have been paid and satisfied in full, Lender will, upon written request of Granter and at Grantor's costs and expense (including, without limitation, reasonable attorneys' fees) if permitted by applicable law, cause the Trustee to execute and deliver to Grantor a reconveyance or release of the lien of this Deed of Trust.

13.17 Substitution of Trustee. Lender shall at any time have the irrevocable right to remove Trustee herein named without notice or cause and to appoint its/his successor by an

instrument in writing, duly acknowledged, in such form as to entitle such written instrument to be recorded in Virginia. In the event of the death, cessation of business, termination of existence or resignation of Trustee herein named, Lender shall have the right to appoint his successor by such written instrument. Any Trustee so appointed shall be vested with the title to the Property or the Collateral and shall possess all the powers, duties and obligations herein conferred on Trustee in the same manner and to the same extent as though he were named herein as Trustee. If more than one Trustee or successor Trustee is appointed, then any Trustee or successor Trustee may act as provided in Section 55-60 of the Code of Virginia.

13.18 Sealed Instrument. This Deed of Trust is executed by Grantor under seal and it is intended that this Deed of Trust is and shall constitute and have the effect of a sealed instrument according to law.

(Signatures Begin on the Next Page)

The undersigned has executed and delivered this Deed of Trust under seal as of the date first above written to be effective as of the Effective Date.

GRANTOR:

Waukeshaw Development, Inc.

By: _____

Name: J. David McCormack

Title: President

STATE OF _____

CITY/COUNTY OF _____

The foregoing document was acknowledged before me by J. David McCormack, President of Waukeshaw Development, Inc., a Virginia corporation, on behalf of such entity, this ____ day of _____, ____.

Notary Public

Registration Number

My Commission Expires: _____

EXHIBIT A TO DEED OF TRUST

TRACT A:

All that certain tract or parcel of land lying and being in the Town of Bedford, Virginia, on the north side of Longwood Avenue and of metes and bounds, courses and distances as follows:

BEGINNING at an iron pipe in Guy's Line, thence with Hayes' line S. 70° 44' 157.6 feet to an iron pipe, thence S. 20° W. 376.4 feet to a point in the north edge of the concrete sidewalk on the north side of Peaks Street, thence along the edge of said street and sidewalk S. 55° 06' E. 206.5 feet, thence on an irregular curve of said walk to the left, located by a base line N. 66° 54' E. (at 7 feet the edge of the walk is right 3.8 feet; at 16 feet, is right 6.2 feet; at 26 feet is right 4.8 feet) in all 34.5 feet thence along the edge of Longwood Avenue and the edge of said concrete sidewalk N. 32° 54' E. 51.1 feet, thence N. 62° 42' E. 194.4 feet to an iron pipe, thence N. 73° 35' W. 35 feet to an iron pipe, thence with his and others' line N. 2° 10' W. 584.2 feet to an iron pipe, thence N. 87° 24' W. 345.5 feet to an iron pipe, thence with Guy's Line S. 11° 55' W. 476.3 feet to the point of BEGINNING; and containing 8.37 acres, more or less.

And being comprised of the following lots or parcels:

PARCEL 1

The residue of a tract formerly containing 0.85 acre, more or less, conveyed to the Town of Bedford by E.W. Connell by Deed dated September 27, 1941, of record in the Clerk's Office of the Circuit Court for Bedford County, Virginia, in Deed Book 195, page 540; after deducting therefrom a conveyance off to Sydnor W. Hayes by the Town of Bedford of a strip of said tract to close an alley, by Deed dated September 13, 1949, and of record in the aforesaid Clerk's Office in Deed Book 228, page 18, together with the easements appurtenant thereto.

PARCEL 2

A tract of 6.09 acres, more or less, conveyed to the School Board of the Municipal District of the County of Bedford, by Junia A. Graves, unmarried, and F.O. Thomas, et ux., by Deed dated April 1, 1912, of record in the Clerk's Office of the Circuit Court for Bedford County, Virginia, in Deed Book 106, page 42; and subject to a certain easement dated December 12, 1949, from the Municipal School Board of the Town of Bedford, Virginia, to W.W. Childress and Mary P. Childress, of record in the aforesaid Clerk's Office in Deed Book 229, page 178.

PARCEL 3

A tract of 2.29 acres, more or less, conveyed to the School Board of the Municipal District of the County of Bedford, by C.E. Harris, et al., Trustees of St. John's Protestant Episcopal Church, Bedford, Virginia, by Deed dated July 1, 1920, of record in the aforesaid Clerk's Office in Deed Book 130, page 412.

PARCEL 4

A tract containing 5,417 square feet, more or less, conveyed to the Municipal School Board of the Town of Bedford, by Hanford R. Johnson by Deed dated

November 14, 1939, and of record in the aforesaid Clerk's Office in Deed Book 189, page 30.

AND BEING IN TOTAL that same property conveyed by the County School Board of Bedford County, Virginia, to the City of Bedford, Virginia (now the Town of Bedford, Virginia), by Deed dated June 27, 1985, and of record in the aforesaid Clerk's Office at Deed Book 591, page 171.

TRACT B:

All those certain lots or parcels of land, together with the privileges and appurtenances thereunto belonging, fronting on the west side of Westview Avenue (formerly Belmont Avenue) in the City of Bedford, Virginia, and being Lot 1 fronting 86.1 feet on Westview Avenue and Lots 2, 3, and 4 each fronting 75 feet on Westview Avenue as shown on a certain Plat of Survey entitled, "Plat of the F.O. Thomas Lots situated on the West Side of Belmont Avenue in the Town of Bedford, Virginia," dated August 6, 1936, made by James L. Patterson, C.L.S., and of record in the Clerk's Office of the Circuit Court of Bedford County, Virginia, in Plat Book 3, page 122. And being the same identical lots which were acquired by the County School Board of Bedford County, Virginia, as follows:

LOT 1

Lot 1 from John N. Thomas, et ux., et al., by Deed dated July 3, 1967, and of record in the aforesaid Clerk's Office in Deed Book 341, page 655.

LOT 2

Lot 3 from Cosey Updike Davey, widow, by Deed dated July 25, 1969, and of record in the aforesaid Clerk's Office in Deed Book 356, page 328.

LOTS 3 & 4

Lots 3 and 4 from C.C. Moore, et ux., by Deed dated July 26, 1969, and of record in the aforesaid Clerk's Office in Deed Book 356, page 330.

AND BEING IN TOTAL that same property conveyed by the County School Board of Bedford County, Virginia, to the City of Bedford, Virginia (now the Town of Bedford, Virginia), by Deed dated March 1987, and of record in the aforesaid Clerk's Office at Deed Book 804, page 107.

EXHIBIT B TO DEED OF TRUST

(Description of Additional Personal Property)

All furniture, furnishings, apparatus, machinery, equipment, motors, elevators, fittings, radiators, ranges, refrigerators, awnings, shades, screens, blinds, carpeting, office equipment, engines, boilers, incinerators, building materials, and other furnishings and all plumbing, heating, lighting, gas, water, air, cooking, laundry, ventilating, refrigerating, incinerating, fire prevention and extinguishing apparatus, security and access control apparatus, air conditioning and sprinkler equipment, telephone systems, televisions and television systems, computer systems and fixtures and appurtenances thereto, water tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, pictures, antennas, trees and plants and all appliances and goods of every nature whatsoever and all renewals or replacements thereof or articles in substitution thereof, whether or not the same are or shall be attached to the Property in any manner, and all products and proceeds therefrom, and any-1311d all awards or payments, including interest thereon, and the right to receive the same, as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade of any street, or (c) any other injury to, taking of, or decrease in the value of, the Property.

Exhibit G

Prepared by:

Michael W.S. Lockaby (VSB No. 74136)

Guynn, Waddell, Carroll & Lockaby P.C.

415 South College Avenue

Salem, Virginia 24153

Tax Map No.: _

Title Ins.: _

Consideration: \$10 (tax assessment \$)

Exempt from recordation taxes and fees pursuant to Sections 58.1-811(A)(3) and (C)(4) and 17.1-266 of the Code of Virginia, 1950, as amended.

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is dated as of this _____ day of _____, 20___, by and between the TOWN OF BEDFORD, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (“**Grantor**”) and WAUKESHAW DEVELOPMENT, INC., a Virginia corporation (“**Grantee**”).

IN CONSIDERATION of the sum of Ten Dollars (\$10.00), cash in hand paid by Grantee unto Grantor, the receipt and sufficiency of which are acknowledged, the Grantor grants and conveys, with Special Warranty of title, unto the Grantee all that certain parcel of land being situate in the Town of Bedford, Virginia, and more particularly described as follows (the “**Property**”), together with all improvements, fixtures, and easements and rights appurtenant thereto:

TRACT A:

All that certain tract or parcel of land lying and being in the Town of Bedford, Virginia, on the north side of Longwood Avenue and of metes and bounds, courses and distances as follows:

BEGINNING at an iron pipe in Guy’s Line, thence with Hayes’ line S. 70° 44’ 157.6 feet to an iron pipe, thence S. 20° W. 376.4 feet to a point in the north edge of the concrete sidewalk on the north side of Peaks Street, thence along the edge of said street and sidewalk S. 55° 06’ E. 206.5 feet, thence on an irregular curve of said walk to the left, located by a base line N. 66° 54’ E. (at 7 feet the edge of the walk is right 3.8 feet; at 16 feet, is right 6.2 feet; at 26 feet is right 4.8 feet) in all 34.5 feet thence along the edge of Longwood Avenue and the edge of said concrete sidewalk N. 32° 54’ E. 51.1 feet, thence N. 62° 42’ E. 194.4 feet to an iron pipe, thence N. 73° 35’ W. 35 feet to an iron pipe, thence with his and others’ line N. 2° 10’ W. 584.2 feet to an iron pipe, thence N. 87° 24’ W. 345.5 feet to an iron pipe, thence with Guy’s Line S. 11° 55’ W. 476.3 feet to the point of BEGINNING; and containing 8.37 acres, more or less.

And being comprised of the following lots or parcels:

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A tract of 6.09 acres, more or less, conveyed to the School Board of the Municipal District of the County of Bedford, by Junia A. Graves, unmarried, and F.O. Thomas, et ux., by Deed dated April 1, 1912, of record in the Clerk's Office of the Circuit Court for Bedford County, Virginia, in Deed Book 106, page 42; and subject to a certain easement dated December 12, 1949, from the Municipal School Board of the Town of Bedford, Virginia, to W.W. Childress and Mary P. Childress, of record in the aforesaid Clerk's Office in Deed Book 229, page 178.

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A tract of 2.29 acres, more or less, conveyed to the School Board of the Municipal District of the County of Bedford, by C.E. Harris, et al., Trustees of St. John's Protestant Episcopal Church, Bedford, Virginia, by Deed dated July 1, 1920, of record in the aforesaid Clerk's Office in Deed Book 130, page 412.

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AND BEING IN TOTAL that same property conveyed by the County School Board of Bedford County, Virginia, to the City of Bedford, Virginia (now the Town of Bedford, Virginia), by Deed dated June 27, 1985, and of record in the aforesaid Clerk's Office at Deed Book 591, page 171.

TRACT B:

All those certain lots or parcels of land, together with the privileges and appurtenances thereunto belonging, fronting on the west side of Westview Avenue (formerly Belmont Avenue) in the City of Bedford, Virginia, and being Lot 1 fronting 86.1 feet on Westview Avenue and Lots 2, 3, and 4 each fronting 75 feet on Westview Avenue as shown on a certain Plat of Survey entitled, "Plat of the F.O. Thomas Lots situated on the West Side of Belmont Avenue in the Town of Bedford, Virginia," dated August 6, 1936, made by James L. Patterson, C.L.S., and of record in the Clerk's Office of the Circuit Court of Bedford County, Virginia, in Plat Book 3, page 122. And being the same identical lots which were acquired by the County School Board of Bedford County, Virginia, as follows:

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LOTS 3 & 4

Lots 3 and 4 from C.C. Moore, et ux., by Deed dated July 26, 1969, and of record in the aforesaid Clerk's Office in Deed Book 356, page 330.

AND BEING IN TOTAL that same property conveyed by the County School Board of Bedford County, Virginia, to the City of Bedford, Virginia (now the Town of Bedford, Virginia), by Deed dated March 1987, and of record in the aforesaid Clerk's Office at Deed Book 804, page 107.

THIS CONVEYANCE is made subject to all easements, restrictions, and conditions of record or which would be revealed by a current field survey.

THIS DEED HAS BEEN PREPARED WITHOUT BENEFIT OF A FULL TITLE REPORT AND NO REPRESENTATION AS TO THE STATE OF TITLE IS MADE BY THE ATTORNEY PREPARING THIS DEED.

GRANTOR:
TOWN OF BEDFORD, VIRGINIA:

Steve C. Rush, Mayor

COUNTY OF BEDFORD,
COMMONWEALTH OF VIRGINIA, to wit:

The foregoing instrument was acknowledged before me this _____, 2019, by Mayor Steve C. Rush on behalf of the Town of Bedford, Virginia.

My commission expires: _____

Notary registration number: _____

Notary Public

Signatures Continue on Next Page

GRANTEE:

WAUKESHAW DEVELOPMENT, INC.:

J. David McCormack, President

CITY/COUNTY OF _____,

COMMONWEALTH OF VIRGINIA, to wit:

The foregoing instrument was acknowledged before me this _____, 2019, by J. David McCormack, President, on behalf of Waukeshaw Development, Inc.

My commission expires: _____

Notary registration number: _____

Notary Public

Mr. Michael Lockaby would like to make a few comments. I received quite a few comments on this from Vice Mayor Black who I spoke with for about 40 minutes before the meeting. Mr. Berry and Mr. Craddock the attorney for the Economic Development Authority also provided me with comments. As a result from these comments there were 3 typographical errors and 2 substant things they picked up on. The first is that Section 2.D on page 3 of the Performance Agreement. Mr. Berry and I spoke with Mr. McCormack before the meeting. The Promissory Note would be signed at the same time as the lease and would become an unsecured note until the time that the sale of the property closed at which time the deed of trust would secure that note. We will be making appropriate changes to that paragraph as well as the note and deed of trust in order for us to accommodate that change. Subsection 3 A on page 4 in the second and third lines it says 90 days after exercise of its Option to accommodate the proposed development that should be instead Option to purchase the property. Subsection B the existing athletic field will be reconfigured by moving the specified area of play westward (i.e., away from Westview Avenue) and inserting parking to the smallest extent allowed by code and providing the most minimal impact in terms of drainage, erosion, noise, and odor concerns if you would like the field reconfigured or if you would like to discuss with Mr. McCormack options for that tonight is your opportunity to do so and I would encourage you to do so or at least set perimeters for discussion of how that site plan is actually going to be laid out when you come to the zoning so the community expectations are set. Section 5, page 5 that would be commence construction and renovation activity within 12 months rather than 24 months. The exhibits E and F were mislabeled in the back as F and G and that was merely hitting the wrong key so they will changed to E and F rather than F and G.

On a motion by Councilman Hailey, seconded by Councilman Schley, to approve the Performance Agreement with Waukeshaw Development to initiate redevelopment of the former

Bedford Middle School Property, discussion ensued as follows:

What type of reconfiguration can be done on the field?

Mr. Dave McCormack wanted to make clarifications about the parking lot. The intent is we are trying to meet code and this is merely an overflow lot to be used as infrequently as possible. The issue of gravel can easily be solved with pavers and sensitive treatments of the property. The idea is not to have our apartment tenants using this property full time or have this highly trafficked in any way. I feel as strongly as the residents of Westview Ave do about this. I know there are going to be times when we have a conflict of parking, for instance if the symphony is in Town but it is the evening when people are using the hotel that could be a very infrequent case where we would be using that overflow space. We are not going to direct our tenants to park there. We can control that as we do in lots of other apartment communities, we can tow in that lot after certain hours. We want to control that space as tightly as possible, I can't stand when we have uncontrolled spaces where we have trash and litter and people staying up all hours. I do not want that, I don't want that as a liability on me and I know the residents of that street don't want it either. I have been hearing everything everyone is saying and we are working hard to make sure we do get a really good outcome down there. I'm open to suggestion, I think this idea about not moving the field one way or the other I'm okay with that I just want to make sure the Town is to because on the flip side of this there is a lot of sensitivity along that narrow drive on the left side of the school and I heard the neighbour at the last public hearing demanding that they would absolutely give no leeway on their property line. Mr. Jon Bond interjected that it is still being used as such. It is assessable and useable. I want you to know we are only suggesting that overflow parking lot because of the ordinance of the City requiring that number of spaces. The gym is incredible and highly useable. I am open to suggestions.

Is going from 74 apartments to 50 apartments going to make it easier to not have as big of an overflow parking?

Mr. Dave McCormack said yes we will shrink it accordingly. We just want to meet the code and the letter of the ordinance. I will have to go back and do the math on number of parking spots for 50 apartments. I think in Bedford we are 2 to 1 on the apartments and then we need to think of the commercial space.

Rezoning and site plans must be approved. Mr. Dave McCormack wants adequate time to work on.

Cafeteria is falling in and not in good condition and is there a need for this building?

Mr. Dave McCormack feels that it looks worse than it is and will redo all the mechanical stuff. The shell of the building is in good shape and when we do a historic application the Department of Historic Resources and The Department of the Interior really look at this like a campus so if we take a building down you could actually destabilize the entire tax credit eligibility of the site. Mayor Rush said the site plan is just one of the steps. We have a lot to do and the site plan will address this issue.

Can you expand parking in the front of the building?

Mr. Dave McCormack said we are continuing that semicircle out front. If you look at an aerial we are actually chewing into that green space a little bit but one of my take aways from a very early conversation about that building was that greenspace was sacred to everybody. I strive hard not to get into that space.

Are open to further modifications of this agreement, this is not a take it or leave it?

Mr. Dave McCormack said we have done a lot of work to negotiate that thing. I think the changes Mike Lockaby is talking about with the exception of that 12/24 month question. I really think we really want to get to the point where we have a couple of contingencies that works for everyone to sign it.

Page 21 of the lease, vesting option 20 it says if not later than the end of the term as defined in Section 2 the lease is 6 months so in that period it says you can demand to buy the property within 6 months and you own it. Let's say 3 years down the road it is not built how would we get our land back.

Mr. Michael Lockaby responded the lease is presumptively 6 months you can exercise your option to purchase before 6 months is up, you can also if you are carrying on due diligence you can send those to Town Council and ask for another 6 month extension to continue doing that. That is discretionary on Council's part, it says in the agreement that the Council will grant it if you have ongoing due diligence activity. After the closing for your purchase of the property there is an outstanding deed of trust the agreement which is not in the deed of trust but the agreement provides you will start construction within 12 months which means having a building permit and having started something. If you pull a building permit and started doing mechanicals in one of the buildings you probably have met that requirement. During that 36 months from the closing on the property you have to complete your construction. If you don't complete your construction within that 36 months the Economic Development Authority can foreclose. However, as you know, that note is subordinate to the construction loan so if you are ¾ of the way done we are not going to want to take the property subject to the 10 million dollar construction loan. If you sit around and do nothing for a couple of years then we could start talking to you about how we are going to get the property back, if you are making progress you are going to finish.

Project would not be started without financials in place, that would be foolish. We do plan to use some grant money for construction of this project.

Timeline of project, rezoning and tax credits. Would rezoning start during the due diligence period.

Mr. Dave McCormack said yes.

Estimate of due diligence costs.

Monument preservation to be added to final documents.

Parking solutions.

Options for people living on Westview Ave.

Councilman Wandrei asked Mr. Warner regarding the advertisement and publication notice. I noticed you referred to this as concerning ground lease and performance agreement. What about the other documents. Were they published and if so is there anything in the public notice that says they were published on the Town website. The reason I mention that is in one of the documents I think it would answer a lot of questions concerning rezoning the property and I feel would be beneficial to these people that showed up here tonight.

Mr. Warner responded we used that to bring attention to the entire package developed by Mr. Lockaby. They were published on the Town website. I don't think the documents were specifically referenced in the public hearing notice.

It is not a ground lease as say we recognize there are buildings on the property.

Changing the name of ground lease if confusing.

Utilities, maintenance and due diligence.

Who is responsible for utilities.

Closing of the property. Deed is transferred and the Deed of Trust is given.

Performance agreement is not part of closing that is part of due diligence period.

Doing work to see if feasible for intended us. Permitted to do only such work on the property as may be required or advised by the building official. That is spelled out in the agreement.

When conveying the property will the conditions set forth in performance agreement survive.

They do and are tied into the Deed of Trust.

Deed of Trust specifically defines the performance agreement as one of the loan documents.

Mr. Lockaby to provide a non-merger provision.

Performance agreement to be in deed.

Memorandum of the performance agreement to be recorded in the land records.

Council needs to see all documents.

Market rate.

Terms of performance agreement obligations end when the Deed of Trust terminates.

If project goes belly up what can we do to protect the Town.

If property bought under foreclosure and the Town buys it back in whoever buys it in the foreclosure sale will be obligated to perform the conditions set forth in the performance agreement.

Final documents should be available to Town citizens.

Have EDA review documents and schedule a joint meeting.

On a motion by Vice Mayor Black, seconded by Councilman Wandrei, the above motion was tabled. Roll call vote follows:

Councilman Schley	aye
Councilman Shoen	aye
Councilman Wandrei	aye
Vice Mayor Black	aye
Councilman Hailey	aye
Councilman Johannessen	aye
Mayor Rush	aye

**RESOLUTION OF THE TOWN COUNCIL OF BEDFORD
IN SUPPORT OF APPLYING FOR A USDA GRANT FOR ESTABLISHING A
REVOLVING LOAN FUND IN THE TOWN OF BEDFORD, VIRGINIA AND
AUTHORIZING STAFF TO SIGN REQUIRED USDA FORMS**

WHEREAS, the purpose of the Town of Bedford EDA is to promote industry and develop trade in the Town through powers granted by the Code of Virginia; and

WHEREAS, one of the resources for providing funding to carry out this purpose is available through the United States Department of Agriculture (USDA) with a Rural Business Development Grant to establish a revolving loan fund; and

WHEREAS, a revolving loan fund program established with USDA assistance in the amount of \$75,000 for fiscal year 2020 would encourage the retention of existing jobs and stimulate the creation of new jobs that will facilitate growth in the local economy; and

WHEREAS, the EDA directors will serve as the selection committee for loan issuance to existing and new businesses within the Town of Bedford, having passed a resolution in support of the application at a regular meeting on March 20, 2019; and

WHEREAS, the USDA application requires that Town Council authorize submittal of an application as well as authorize appropriate staff to sign USDA documents related to the project; and

NOW THEREFORE, BE IT RESOLVED that the Bedford Town Council supports an application seeking grant funding from the USDA to further the purpose of economic growth and vitality in the Town; and

BE IT FURTHER RESOLVED that the Economic Development Coordinator is authorized to sign USDA Rural Development forms and documents related to the grant.

On a motion by Councilman Hailey, seconded by Vice Mayor Black, there being no discussion, Council approved a Resolution of the Town Council of Bedford in support of applying for a USDA Grant for establishing a revolving loan fund in the Town of Bedford, Virginia and authorizing staff to sign required USDA forms. Roll call vote follows:

Councilman Shoen	aye
Councilman Wandrei	aye
Vice Mayor Black	aye
Councilman Hailey	aye
Councilman Johannessen	aye
Councilman Schley	aye
Mayor Rush	aye

ADJOURNMENT:

Mayor Rush adjourned the meeting at 8:30 p.m.