October 19, 2015

The Hon. Phil Mendelson
Chairman, Council of the District of Columbia
The John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Based on documents signed by District officials between 2007 and 2015 – spanning the Fenty, Gray, and Bowser administrations – the District has had a plan to develop and revitalize the McMillan Reservoir Slow Sand Filtration Site (McMillan Site). Although in its early stages that plan included a competitive process that resulted in the selection of Vision McMillan Partners, LLC (VMP) as the land development team, it ultimately resulted in a greatly expanded role and exclusive rights for VMP, all without the benefit of a competitive process.

As explained in a letter from the Office of the Deputy Mayor for Economic Development (DMPED) to the Office of the District of Columbia Auditor (ODCA), dated October 2, 2015, (hereinafter, October 2, 2015, letter), in July 2006, “the National Capital Revitalization Corporation (NCRC) issued a solicitation for a land development partner for the McMillan Site.” (p.1). NCRC was to be the master developer and through a competitive process, in July 2007, chose VMP to be the land development team. In late 2007, DMPED “determined that VMP should undertake the land development and vertical development and serve as master developer for the McMillan Site.” (October 2, 2015, letter, p. 2). No explanation was provided in the October 2, 2015, letter or in the accompanying documents as to how DMPED “determined” that VMP should take on a more extensive role in the project. In fact, the Letter of Commitment, dated December 10, 2007, between VMP, the District government by and through DMPED, and the McMillan Advisory Group (“MAG”) states:

In the Solicitation, NCRC planned to be the Master Developer for the Project. The Project is now controlled by the District and as a matter of business policy, the District will not play the Master Developer role. The District and VMP both agree that VMP is a highly-qualified development team and has the experience to lead the Project as Master Developer. More specifically, the key revisions to VMP’s role are as follows:
1) Assuming accountability for project completion per the agreed upon development plans – from inception to vertical completion.

2) Assuming the full burden to provide the private financing necessary for the project.

3) Having the opportunity to develop certain vertical parcels in VMP’s areas of expertise.

Subsequently, in late 2009, DMPED re-evaluated the plan and “DMPED and VMP agreed that the District would undertake the land development and VMP would have the opportunity to negotiate to purchase the development pads within Phase 1 of the McMillan Site.” (October 2, 2015, letter, p. 2). This resulted in a series of Exclusive Rights Agreements in which DMPED initially “granted VMP the exclusive right to negotiate for the purchase of development pads within Phase 1 of the McMillan Site” and, on June 4, 2014, resulted in expanded exclusive rights to include the development pads within Phases 2 and 3. (October 2, 2015, letter, p. 2).

Although the documents provided to me indicate that the District of Columbia Office of the Attorney General reviewed and approved for legal sufficiency many of the pertinent documents, including the Exclusive Rights Agreement dated April 23, 2010, and the six subsequent amendments to the Exclusive Rights Agreement that were executed between April 13, 2011, and July 28, 2015, this office has concerns about the expansion of VMP’s role and exclusive rights without following a competitive process. The importance of competition in government process has been highlighted repeatedly by reports of the Government Accountability Office (GAO) and other national, state, and local oversight entities. For example, in a 2014 report to the U.S. Congress, the GAO wrote:

> Competition in contracting is a critical tool for achieving the best return on investment for taxpayers and can help save the taxpayer money, improve contractor performance, and promote accountability for results. While federal statute and acquisition regulations generally require that contracts be awarded on the basis of full and open competition, they also allow agencies to award noncompetitive contracts in certain circumstances. For example, when the agency’s need for good and services is of an unusual and compelling urgency that precludes full and open competition, agencies may be permitted to award noncompetitive contracts where a delay in award would result in serious financial or other injury to the government.2 (p. 1)

GAO further notes that even in such instances where urgency is claimed, an agency should nonetheless secure additional proposals (p.1).

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1 A pad site is a free-standing parcel of commercial real estate located outside a retail center.
Just as it is common knowledge in the construction industry that government practice is to re-bid a project if there is a material change to the scope of work, certainly, the change to VMP’s role and giving it exclusive rights are materials changes that warrant a new competitive process.

I share this information with you in light of the upcoming hearing on the McMillan site. I also share this information with Inspector General Daniel Lucas in case he sees merit in his own additional review and with Attorney General Karl Racine given that his office performed the legal sufficiency review mentioned above. Enclosed with the electronic versions of this letter (as indicated below) are the DMPED letter dated October 2, 2015, and enclosed materials, which I received electronically.

Please let me know if you have any questions on these matters and I appreciate the opportunity to share these concerns.

Sincerely yours,

Kathleen Patterson
District of Columbia Auditor

Enclosures: As indicated.

cc: Councilmember Kenyan McDuffie (without enclosures)
    Karl Racine, Attorney General (with enclosures)
    Daniel Lucas, Inspector General (with enclosures)
October 2, 2015

Kathleen Patterson  
District of Columbia Auditor  
717 14th Street, N.W., Suite 900  
Washington, D.C. 20005

Dear Ms. Patterson,

This letter responds to your inquiry dated July 10, 2015 related to the McMillan Reservoir Slow Sand Filtration Site ("McMillan Site"). Your letter included two questions related to (1) the expenditure of D.C. funds on pre-development costs and (2) the designation of Vision McMillan Partners ("VMP") as the exclusive developer.

Background

The McMillan Site operated as a slow sand water filtration facility until 1986, when it was decommissioned following the Army Corp of Engineers installation of a modern chemical filtration process plant at the Reservoir site on the west side of First Street. The federal government designated the property surplus and, in 1987, the District of Columbia government purchased the McMillan Site from the federal government for $9.3 million.

Since 1987, the McMillan Site has remained vacant. As a former industrial site, the property lacks the necessary infrastructure to support any commercial or public uses and there are many hazards on the property caused by deterioration of the twenty filtration cells, each approximately one acre in size, that were constructed a century ago using unreinforced concrete.

Between 1987 and 2006, there were numerous unsuccessful efforts to partner with the development community to revitalize the McMillan Site. In July of 2006, the National Capital Revitalization Corporation ("NCRC") issued a solicitation for a land development partner for the McMillan Site. As reflected in the solicitation, NCRC intended to serve as the master developer for the McMillan Site by undertaking the land development with a development partner to be selected pursuant to the solicitation process. Five development teams responded to the solicitation. Through this competitive process, Vision McMillan Partners, LLC ("VMP") was selected as the land development team in July of 2007. Later that year, the McMillan Community Advisory Group ("MAG") was created to be a representative group of civic associations, ANC commissioners, residents, and the McMillan Park Committee, which would help the development of the McMillan Site.

Designation of Vision McMillan Partners as the exclusive developer of the McMillan Site

Your letter requested background information for the rationale for the change from the original process outlined in the NCRC solicitation.
After NCRC’s dissolution, DMPED re-evaluated the development strategy NCRC had adopted. As a result of its evaluation, DMPED determined that VMP should undertake the land development and vertical development and serve as master developer for the McMillan Site. In furtherance of the same, in December of 2007 DMPED, the MAG, and VMP executed a Community Letter of Commitment outlining “Key revisions to VMP’s role” as both the master planner and vertical developer, which is enclosed. DMPED and VMP also executed a summary term sheet. OAG participated in the negotiations, drafting and review of the 2007 term sheet, but did not provide a legal sufficiency memorandum because the term sheet, by its terms, was not a binding document. As a result of further negotiations between DMPED and VMP, DMPED and VMP executed the Amended Summary Term Sheet dated February 12, 2009. As with the previous term sheet, OAG participated in the negotiations, drafting and review of the 2009 term sheet, but did not provide a legal sufficiency memorandum because the amended term sheet, by its terms, was not a binding document.

In late 2009, DMPED again re-evaluated the development and disposition strategy for the McMillan Site. As a result of DMPED’s re-evaluation, DMPED and VMP agreed that the District would undertake the land development and VMP would have the opportunity to negotiate to purchase the development pads within Phase 1 of the McMillan Site. In furtherance of the same, on April 23, 2010, DMPED and VMP executed an Exclusive Rights Agreement (“ERA”) whereby DMPED granted VMP the exclusive right to negotiate for the purchase of development pads within Phase 1 of the McMillan Site. The term of the ERA has been extended multiple times. On June 4, 2014, as part of an ERA extension, the scope of the exclusive right to negotiate was expanded to include the development pads within Phases 2 and 3. OAG provided legal sufficiency certification of the ERA, and each of its amendments, directly within the documents. The ERA and its amendments are enclosed with this letter.

Expenditure of D.C. funds on pre-development costs associated with the McMillan Site development

Your letter requested all amendments to the Amended Summary Term Sheet dated February 12, 2009. Technically, the 2009 term sheet was never amended and the parties mutually agreed to proceed under a different structure. Notwithstanding the lack of formal amendment, I have enclosed the following documents, which further define the terms of the proposed disposition of the development pads to VMP:

- Summary Response to Acquisition Proposals, dated December 23, 2010;
- 2012 Term Sheet, dated March 15, 2012;
- Term Sheet, Disposition of the McMillan Sand Filtration Site, Commercial (Healthcare) Parcels, dated October 2, 2014;
- Term Sheet, Disposition of the McMillan Sand Filtration Site, Commercial (Multi-family) Parcels, dated October 2, 2014; and
- Term Sheet, Disposition of the McMillan Sand Filtration Site, Townhouse Parcels, dated October 2, 2014.

Your letter also requests the documentation on the change(s) that authorized the use of D.C. funds for pre-development, with any and all legal sufficiency memoranda providing the basis for the change in funding source and use of District funds. District funds are being used to pay for services provided under the Development Management Services Agreement (“DMA”) between DMPED and VMP, which is dated December 23, 2010, and was subsequently amended. OAG provided legal sufficiency certification of the original DMA directly in the document and through memoranda for each option year.
exercised by the District, all of which are enclosed. The funding certifications, which certified the availability of funds, for the DMA and its extensions are also enclosed.

Thank you for the opportunity to respond to your inquiry. If you have further inquiries, do not hesitate to contact my office.

Regards,

[Signature]

Brian T. Kenner  
Deputy Mayor for Planning and Economic Development

Encl.

Cc: Susan Longstreet, General Counsel
LETTER OF COMMITMENT

This Letter of Commitment ("LOC") is entered into between (1) Vision McMillan Partners ("VMP") and (2) the Government of the District of Columbia Government, acting by and through the Office of the Deputy Mayor for Planning and Economic Development (the "District") and (3) the McMillan Advisory Group ("MAG"), as constituted by the National Capital Revitalization Corporation ("NCRC") and continued by the District.

PRELIMINARY STATEMENT

All the above parties will work diligently and cooperatively with the objective of producing a consensus based development project on the McMillan Sand Filtration Site which balances the equities of economics with public benefit, preservation and community amenities. VMP and the District are negotiating a Summary Term Sheet that would allow VMP to change its role from Land Developer to Master Developer of the McMillan Redevelopment Project (the "Project"). VMP and the District will finalize the Summary Term Sheet in December 2007. The Summary Term Sheet will serve as the basis for a fully-detailed Land Disposition Agreement to be approved by the Council of the District of Columbia ("Council") and executed by the District and VMP in 2008. The proposed change in role is necessary due to the roles and responsibilities set forth for NCRC and its Land Development Partner in the Phase I - Land Development: Solicitation for Land Development Partner (the "Solicitation").

In the Solicitation, NCRC planned to be the Master Developer for the Project. The Project is now controlled by the District, and as a matter of business policy, the District will not play the Master Developer role. The District and VMP both agree that VMP is a highly-qualified development team and has the experience to lead the Project as Master Developer. More specifically, the key revisions to VMP’s role are as follows:

1) Assuming accountability for project completion per the agreed upon development plans – from inception to vertical completion.

2) Assuming the full burden to provide the private financing necessary for the project.

3) Having the opportunity to develop certain vertical parcels in VMP’s areas of expertise.

The District and VMP would appreciate the concurrence of MAG and the broader community to become the master developer. The MAG issued a qualified endorsement of VMP as the Land Development Partner of NCRC. And, after careful deliberation, the MAG also would concur with the selection of VMP as the Master Developer for the Project provided VMP and the District agree to the terms set forth below.
TERMS OF CONCURRENCE

A. To develop in conjunction with MAG a formal and structured process for meeting and dialoging with MAG and the broader community from inception to vertical completion of the site; To develop in conjunction with MAG, ANC 5C, ANC 1B, Ward 5, Ward 1 City Council representation, and a representative for the Chairperson of the City Council’s Committee on Economic Development, a detailed community amenities package, which may include open space, historic preservation, mixed-income housing, job creation, neighborhood serving retail options, infrastructure upgrading, broad based LSDBE participation support for local community organizations, and other similar objectives; To afford MAG and the aforementioned groups the opportunity to review and comment on the PUD and/or Master Plan before submission to regulatory agencies; To afford MAG and the aforementioned groups the opportunity to review and comment on all feasibility studies on the site, including but not limited to environmental, traffic, infrastructure and engineering; The MAG reserves the right to request and conduct independent studies; To inform and coordinate with MAG and the aforementioned groups any negative impacts the development may have on the surrounding community including sewer/storm water and traffic, during and after construction, and work with the groups to develop and implement consensus based solutions to the best degree possible.

B. The MAG will develop with VMP, the District, and the elected Ward and ANC representatives a formal and structured process to ensure that the MAG membership includes all relevant stakeholders, including Civic Associations, ANC members, and other community leaders from Wards 1 and 5. All new members to the MAG must be approved by the MAG, VMP, and the District.

C. VMP, utilizing the Alexander Company’s historic development experience, and MAG will create a mechanism through which the McMillan Park Committee, a local historical organization with specific historical expertise on the McMillan Sand Filtration Site, can render advice and comment to MAG and review options in terms mitigating historical impacts.

D. VMP, the District and MAG will maintain a continual dialogue and cooperate with each other to ensure that the terms of this LOC are executed in a timely and reasonable manner.

E. The terms of this LOC will be applicable upon the concurrence of VMP as the Master Developer.

F. VMP, the District and MAG commit to using the Office of Planning’s “Summary of Recommendations for site [McMillan Filtration site] Revitalization” February, 2002, and its recommendations, along with any pertinent zoning and historic regulations for the site, as a baseline and/or blueprint for revitalization. Any future studies, economic analysis and community meeting will update these findings. Because the Summary was completed almost 6 years ago, VMP, the District, and MAG are committed to undertaking feasibility studies, economic analysis, and a community engagement process to update the recommendations, as
needed, per current market conditions, economic realities, and community desires. For example, mixed-income housing is not mentioned in the recommendations but will likely be a component of the McMillan development.

G. The terms of this LOC shall be binding upon VMP, the Master Developer, and their prospective successors and assigns.

**APPROVAL AND ACCEPTANCE**

**VISION MCMILLAN PARTNERS**

By: [Signature] Date: 12/10/07

**McMILLAN ADVISORY GROUP**

By: [Signature] Date: 12/10/07

**OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT**

By: [Signature] Date: December 10, 2007
SUMMARY TERM SHEET
McMillan Redevelopment Project
December 20, 2007

The following terms broadly outline the preliminary understanding between Vision McMillan Partners ("VMP") and the Government of the District of Columbia ("the District") regarding the redevelopment of the 25-acre McMillan Sand Filtration Site in Northwest Washington, DC (the "Property").

THE DISTRICT: The District, acting by and through the Office of the Deputy Mayor for Planning and Economic Development ("ODMPED")

VMP:  
- VMP includes the following member companies (See Exhibit A):
  1. EYA, LLC (EYA)
  2. MacFarlane Partners (MacFarlane)
  3. Urban Service Systems Corporation (USSC)
  4. Smoot Construction (Smoot)
  5. The Alexander Company (Alexander)
  6. The Jair Lynch Companies (JLC)
  7. Street Sense
- VMP will be managed by EYA or a partnership or limited liability company in which the principals of this corporation are directly, or through the ownership of a corporation, the managing general partner or managing member.


THE PROJECT: Through the coordination of a sequence of planning and construction activities, the Project is defined as the redevelopment of the land into a number of entitled, ready-to-build pad and super pad sites serviced by backbone infrastructure, including streets, utilities, lighting and common area amenities, such as active open space, community facilities and landscaping. The Project also entails the disposition of said pad sites to component builders, which may include VMP team members, for vertical development. The process and timing for disposition of said pad sites is articulated in the Vertical Development Process section of this Summary Term Sheet. Based on the guidelines established by the community stakeholders, the vertical development program will consist of integrated historic preservation elements, mixed-income housing, community-serving retail, job-creating commercial space, and education and cultural amenities.
THE ROLE OF VMP:

- VMP will serve as the land developer of the Project and will work with the District and subcontractors on all planning and land development activities.
- VMP will provide all necessary private capital, in the forms of debt and equity, for the project. VMP also will seek public financing tools appropriated by federal and local agencies, including the U.S. Department of Housing and Urban Development ("HUD"), the D.C. Department of Housing and Community Development ("DHCD"), the D.C. Housing Finance Agency ("HFA"), and the ODMPED. VMP furthermore will seek funding mechanisms, such as the Housing Production Trust Fund, Tax Increment Financing ("TIF"), and/or Payment In Lieu of Taxes ("PILOT") to finance the Project.
- VMP will work with the existing McMillan Advisory Group (MAG), surrounding neighborhood groups and certain District agencies to build consensus on a viable development program that will include the historic preservation of certain filter cells and sand storage bins and the development of open space, mixed income housing, neighborhood serving retail, cultural amenities and commercial/office space.
- VMP will manage, along with the District, all community outreach initiatives, based upon a mutually agreed upon schedule and communication process.
- VMP will provide to the District short-lists of third party consultants and sub-contractors, including Certified Business Enterprise (CBE) firms, as defined under D.C. Official Code §§ 2-217.01 (2007) et seq., such as master planners, architects, engineers, land planners, landscape architects, and land use attorneys. The District will review such lists and may offer recommendations pertaining to well-qualified consultants and sub-contractors. VMP will comply with all District equal opportunity employment and employment covenant guidelines pertaining to CBEs, First Source and apprenticeship programs, as well as appropriations and procurement, and in its contracts with its consultants and subcontractors with respect to the Project, VMP will require its consultants and subcontractors to comply with all such guidelines and programs and make best efforts to enforce those provisions of said contracts. VMP will select and hire all consultant teams and provide "letters of value" (proof of Industry Standard terms and fees) and proof of CBE participation.
- VMP will be responsible for all necessary approval processes, including but not limited to, the development plan process, the Planned Unit Development (PUD) process, the Historic Preservation Review Board (HPRB) process, with the intent of obtaining pre-construction land development and architecture approvals. VMP shall be solely responsible for paying for all costs and fees associated with obtaining the aforementioned approvals.
- VMP will apply for, obtain, and pay for all permits required for the Project.
VMP will be responsible for all land development construction activities, including but not limited to, demolition, earthwork, grading, installation of trunk utilities and spine roads and implementation of traffic improvements. The result of the land development construction activities will be a number of finished pads suitable for vertical development.

VMP and the District will work together to dispose of the finished pad sites to component developers, including Local, Small and Disadvantaged Business Enterprise (LSDBE) firms as defined by District of Columbia Department of Small and Local Business Development ("DSLBD"). VMP team members may be allowed to acquire certain pad sites without participating in competitive solicitation processes. The terms of these acquisitions shall be approved by the District and will be set forth in detail in the Land Disposition Agreement ("LDA"). By the conclusion of the Feasibility Period, VMP will propose to the District product types/pad sites that certain VMP team members wish to develop vertically.

VMP will coordinate all land development and vertical development activities and will provide project oversight from inception to vertical development completion.

THE ROLE OF THE DISTRICT:

VMP will submit to the District a “master plan” no less than ninety (90) days prior to the intended PUD submission due date. Within thirty (30) days of receipt of the master plan, the District will review and submit comments to VMP on the master plan. Provided that VMP has addressed all of the District’s comments to the District’s satisfaction 45 days prior to the PUD submission, the District will approve the master plan by a date not less than thirty (30) days prior to the intended submission due date as part of the PUD application.

The District, in concert with VMP, will establish guidelines for the disposition of the finished pad sites to members of VMP and to component developers that are not members of VMP.

The District may recommend to VMP, as appropriate, consultants and subcontractors, including CBE firms, which VMP may hire to work on the Project.

The District will cooperate with VMP in planning and construction activities involving District of Columbia government agencies, including the Office of Planning (OP), the D.C. Department of Transportation (DDOT), the Department of Consumer and Regulatory Affairs (DCRA), the Historic Preservation Review Board (HPRB), etc. in connection to the Project and will provide the approvals necessary as the owner of the Property to get permits and approvals from such agencies.
Government of the District of Columbia

Office of the Deputy Mayor for Planning and Economic Development

- The District acknowledges the likely need for public financing to complete this Project. To this end, the District will assist VMP in identifying and attaining Federal public financing tools and will actively assist VMP in identifying and securing public financing provided by the District, including TIF, Housing Production Trust Funding, Industrial Revenue Bonds, and other similar options.
- The District will assist in all community outreach activities based upon a mutually agreed upon schedule and communication process.
- The District will seek necessary council approvals under DC Official Code § 10-801 pursuant to the execution of a Land Disposition Agreement, mutually acceptable to the District and VMP.

LAND DEVELOPMENT PROCESS:

- The District and VMP agree to negotiate a mutually acceptable LDA through which the District would convey to VMP fee simple title to the Property at the time set forth under the section entitled "Settlement" in this Summary Term Sheet.
- Conveyance of the Property to VMP shall be conditioned upon receipt of District of Columbia Council (Council) approval of the LDA and all land development approvals necessary for commencement of construction. Immediately following conveyance of the Property to VMP, VMP shall initiate and complete land development construction activities, pursuant to a schedule mutually agreeable to the District and VMP, on the Property that include:
  1) extraordinary site work to prepare the site for development by either preserving or demolishing certain filtration cells,
  2) installation all major roads and trunk utilities to serve the finished pad sites for vertical development, and
  3) construction of required park areas, landscaping and other common area site features, consistent with the phasing of the vertical development.
- All land development construction activities will be completed by VMP and its consultants and sub-contractors and paid for by VMP. All sub-contractors shall be bonded and insured.

LAND DEVELOPMENT ECONOMICS:

- During the Feasibility Period (as defined herein), VMP shall submit to the District, for its review and agreement with VMP,
  1) A proforma Land Development Expenditures Budget (Budget)
  2) A proforma Extraordinary Costs Budget
- The Budget line items will include, but will not be limited to, the following costs: land acquisition, development, planning, construction, interest carry on debt, private capital carry, settlement, development and general contracting fees, and contingency costs (collectively referred to herein as Land Development Expenditures).
A sample Budget is provided in Exhibit B. The sample illustrates and estimates the proposed line items that may be included in the Budget.

- The Extraordinary Costs Budget will include extraordinary land development, infrastructure, open space, historic preservation, affordable housing, underground parking and other Public Policy Objectives. Exhibit C includes a Sample Extraordinary Costs Budget.

- VMP will conduct all development and contracting activities itself.

- The District and VMP will agree on appropriate fee percentages for the development and general contracting line items during the Feasibility Period, and such fees will be paid in proportion to other Land Development Expenditures.

- The Budget will be utilized to determine private and public financing uses for the Project and to determine the VMP 25% preferred Return on Cost.

- The pad site products, developed by VMP, may be sold to members of VMP and component developers at fair market values. Pad Sites will be placed under contract by VMP team members and 3rd party component developers prior to Settlement on the Property.

- During the Feasibility Period, VMP and the District will commission an Appraisal to be completed no less than 60 days prior to the conclusion of the Feasibility Period to determine:
  1) the market value for the Property
  2) the market value of product type set forth in the Master plan agreed upon by the District and VMP, including residential, retail, office, hotel, etc.

- The appraisal will be based on:
  1) all Land Development Expenditures necessary to complete land development on the Property,
  2) all Extraordinary Land Development Expenditures in connection to public policy objectives imposed on the Project, including affordable housing,
  3) an expected development program to be approved through the PUD process, and
  4) a fair market return to VMP.

- The District and VMP will utilize the appraisal to agree on both the appropriate value of the Property and the cost of the vertical product types proposed for the Project. The appraisal notwithstanding, VMP and the District will agree on a minimum value for the Property (and in turn, the value of the District’s land equity investment into the Project) during the Feasibility Period.

- The Budget, Extraordinary Costs Budget, and the Appraisal will provide all necessary information to create an Estimated Sources and Uses Table during the Feasibility Period. Sources will include all estimated Land Sales Proceeds (from the appraisal) and all Public Financing and Subsidies. Uses will include all Estimated Land Development Expenditures, Estimated Extraordinary Costs, the value of the Property, and the 25% VMP Return on Cost.
The District and VMP agree to balance all Sources and Uses or to affect a surplus by which Sources exceed Uses. A sample Estimated Sources and Uses Budget is enclosed as Exhibit D.

VMP commits to explore an array of Federal and other public financing options. The District commits to provide Public Financing and/or land equity to ensure that the Sources and Uses are in balance or in surplus.

Prior to the conclusion of the Feasibility Period, the District and VMP will have agreed upon an i) Estimated Sources and Uses Budget, ii) the Public Financing and Subsidies to make the Sources greater than or equal to the Uses, and iii) the vertical parcels and the base price for those parcels to be developed (per an agreed upon Master Plan) by VMP team member.

Ninety (90) days prior to Settlement, VMP would create the Revised Sources and Uses Table based on the PUD approved development program (utilizing the fair market vertical values agreed per the Appraisal or alternative values agreed upon by the District and VMP), the agreed upon District Land Value, revised Land Development Expenditures, revised Extraordinary Costs, and the 25% VMP Return on Cost revised per the revised Land Development Expenditures Budget. The Revised Sources and Uses Table will ensure that Sources remain greater than or equal to the Uses such that the Project may proceed. To the extent there is a shortfall of Sources, VMP and the District will make best efforts to secure necessary Federal, District, and other financing to allow the project to move forward. An example of the Revised Sources and Uses Table is also included in Exhibit D.

Conveyance of the Property to VMP and commencement of land development construction activities will not occur until VMP and the District concur that the Sources are greater than or equal to the Uses for the Project to ensure that the land development activities are economically feasible.

The sum of Actual Gross Land Sale Proceeds, defined as the income generated from the sale of finished pad sites, and actual public financing received will:

1) First, repay all the actual Land Development Expenditures for the entire Project that are funded by 3rd party financing, incurred or to be incurred, by VMP. The 3rd party financing will be secured by a 1st Trust on the Property.

2) Second, pay all equity and debt contributed by the District and VMP para-passu including:
   a) land equity plus preferred return (to the District)
   b) VMP debt and equity plus interest and preferred return (to VMP)
   c) land equity and VMP debt and equity both will be secured by a 2nd Trust on the Property.

3) Third, a 25% preferred return on cost (to VMP)
Government of the District of Columbia

Office of the Deputy Mayor for Planning and Economic Development

4) Finally, to the extent there are remaining proceeds, distribute 50% of such Proceeds to the District and 50% of such Proceeds to VMP.

VERTICAL DEVELOPMENT PROCESS:

- VMP will manage the disposition/sales of the finished pad sites to either VMP team members or component developers. Disposition of finished pads sites may be executed through fee-simple and ground lease transactions.
- A minimum of 20% of the approved FAR square feet of the approved master plan will be developed by LSDBE firms, which may include members of VMP.
- VMP and the District will manage competitive solicitation processes for component developers concurrent to the land development process, upon approval of a Phase 1 PUD (or similar approval) that approves the site plan, land uses, FAR, and thematic architecture for the development of the Property.
- VMP team members may be allowed to acquire certain pad sites at their fair market values without participating in competitive solicitation processes. The terms of these acquisitions will be set forth in detail in the Land Disposition Agreement. Should VMP team members acquire certain pad sites without participating in the competitive solicitation process, VMP team members, as part of the land developer entity, will be excluded from the competitive process for component developers to avoid any conflicts or perceived conflicts of interest.

VERTICAL DEVELOPMENT ECONOMICS:

- Winners of the solicitation processes will acquire finished pad sites for fair market values. The distribution of these gross land sale proceeds is described herein the section titled Land Development Economics.
- VMP team members will acquire pad sites for fair market values, to be determined in the LDA. The distribution of these gross land sale proceeds is described herein the section titled Land Development Economics.
- The District will be entitled to a percentage of the sales proceeds of the market rate, for-sale vertical improvements, (including condominiums and townhomes), developed by VMP team members, above agreed upon sales values. The specific values and percentages will be set forth in the LDA.

LOCAL, SMALL AND DISADVANTAGED BUSINESS ENTERPRISES:
Government of the District of Columbia

Office of the Deputy Mayor for Planning and Economic Development

- VMP shall enter into an agreement ("LSDBE Agreement") with the District of Columbia Department of Small and Local Business Development (DSLBD) and a First Source Agreement with the Department of Employment Services (DOES) for all services procurement activities in connection to the Project.

- **Equity and Management Participation**: VMP represents that no less than 20% of the equity capital invested into the Project will be invested by LSDBE firms in compliance with D.C. Official Code §§ D.C. Official Code §§2-217.01 (2007) *et seq.* VMP includes at least three LSDBE firms: Smoot, USSC and JLC. Smoot and USSC will contribute 15% of the equity capital structure. The equity investments of Smoot and USSC will entitle them to 15% of the equity value created by the Project, in accord with current DSLBD policy at the time of LDA execution. JLC will contribute 15% of the equity capital structure. JLC’s equity contribution will entitle it to 15% of the equity value created by the Project, in accord with current DSLBD policy at the time of LDA execution. The equity investments of Smoot, USSC and JLC will entitle each entity to proportionate levels of management participation in VMP. VMP also represents that the listed LSDBE equity investors will not have their equity and/or management interests diluted under any circumstances, except in the event of a default by any such equity investor. The District must be notified of an "LSDBE default" event in writing within thirty (30) days of VMP's determination. The District must concur in writing within thirty (30) days of notification that an "LSDBE default" event indeed has occurred before VMP may initiate any dilutive or corrective actions against the LSDBE firm(s).

**CERTIFIED BUSINESS ENTERPRISES:**

- VMP shall enter into an agreement ("CBE Agreement") with the District of Columbia Department of Small and Local Business Development (DSLBD) and a First Source Agreement with the Department of Employment Services (DOES) for all services procurement activities in connection to the Project.

- **Subcontracting**: Qualified CBE firms will be awarded contracting opportunities equivalent to the value of at least 35% of the appropriate portions of the Budget.

**AFFORDABLE AND WORKFORCE HOUSING:**

- VMP recognizes that mixed-income housing is a critical District public policy objective for the Property. The LDA shall contain affordable and workforce housing proportions (of total residential units), affordability guidelines, and income levels for the residential component of the development program.
Government of the District of Columbia

Office of the Deputy Mayor for Planning and Economic Development

- The LDA also will contemplate pad site purchase prices including the inherent costs associated with any applicable Mandatory Inclusionary Zoning Program requirements.
- VMP first will seek public financing tools, as described above, to subsidize affordable housing requirements beyond those captured in any applicable Mandatory Inclusionary Zoning Program.
- The District may contribute to the Project some or all of its entire Residual Land Value basis in the Property to subsidize affordable housing requirements beyond those captured in any applicable Mandatory Inclusionary Zoning Program and financed by said public financing tools.
- VMP will develop an “Extraordinary Costs” budget that will include an articulation of the range of costs for incremental affordable and workforce housing beyond those captured in any applicable Mandatory Inclusionary Zoning Program. Such budget will allow VMP and the District to understand the cost of such affordable and workforce housing and allow the District to determine what percentage of such housing it will require for the Project. Such budget will also be the basis for VMP’s affordable housing subsidy request.

PUBLIC POLICY OBJECTIVES:

Apart from affordable and workforce housing, other District Public Policy Objectives for the site include historic preservation, recreation spaces and parks, and cultural amenities. The Extraordinary Costs budget will also articulate the range of costs for the Public Policy Objectives. The District will approve the Extraordinary Costs budget. The District and VMP will cooperate to develop a package of Public Policy Offerings that will address the goals of the District and the community while also ensuring that the project is financially feasible and commercially viable.

PROJECT CAPITAL STRUCTURE:

- VMP shall be responsible for arranging all private debt and equity capital necessary to finance the Project through completion. VMP also will provide guarantees or other securities to insure the successful completion of the Project.
- The District will assist VMP in identifying and attaining Federal public financing tools. The District acknowledges that public financing likely will be necessary to achieve the Public Policy Objectives for the Project and will cooperate with VMP in identifying and securing public financing provided by the District.

EARNEST MONEY DEPOSIT:

- Within five (5) business days of the execution of this Summary Term Sheet, VMP shall deposit $250,000 (the “Initial Deposit”) in the form of cash with Regional Title Incorporated (a mutually acceptable
Escrow Agent for VMP and the District) or VMP may submit to the District $250,000 in the form of an irrevocable letter of credit as consideration for the District's grant of the Exclusive Rights Period (as further defined herein).

- The Initial Deposit, if made in the form of cash, will be held in an interest bearing escrow account. The Initial Deposit and all interest accrued are the property of VMP.
- If VMP terminates this Summary Term Sheet at any time during the Feasibility Period, then the Initial Deposit and all interest accrued thereon shall be refunded immediately to VMP.
- If after the Feasibility Period has expired and the District and VMP cannot execute an LDA within the agreed upon period of time (which may be extended per the Acceptance clause below), or if Council does not approve the form of the LDA agreed upon by both parties, then VMP shall have the right, in its sole discretion, to terminate this Summary Term Sheet, in which event VMP will receive a refund of the Initial Deposit and all accrued interest.

- The circumstances described above notwithstanding, if VMP does not terminate this Summary Term Sheet during the Feasibility Period, then after the conclusion of the Feasibility Period, if execution of the LDA does not occur within the agreed upon period of time and VMP is deemed solely responsible for failure to execute the LDA on terms mutually agreed upon by the District and VMP, the District will retain $100,000 of the Initial Deposit and all work product developed by VMP. (The right of the District to use such work product shall be subject to the terms set forth in the contracts with consultants preparing the same.) In the event the District's use of the work product is limited significantly by the terms of the consultants' contracts and consequently the value of the useable work product is deemed marginal by the District and VMP, the District and VMP will agree upon an additional value that the District may retain from the Initial Deposit incremental to the $100,000 described above.
- Work product is defined as the studies, plans, analyses, etc. conducted during the Feasibility Period to determine the parameters of the redevelopment opportunities offered by Project.
- If the parties fail to execute an LDA within the Exclusive Rights Period (as defined herein), the District shall be entitled to receive all work-product produced by VMP at no cost and expense to the District (The right of the District to use such work product shall be subject to the terms set forth in the contracts with consultants preparing the same.).

- Within five (5) days of the execution of the LDA, VMP shall deposit with an escrow agent an additional $750,000 ("Additional Deposit"), in the form of cash or an irrevocable letter of credit, increasing the "Total Deposit" to $1,000,000.
- The Total Deposit (plus any interest accrued) will be returned to VMP in increments of $250,000 per every 25% of FAR square feet conveyed to component developers and/or VMP team members.
Government of the District of Columbia

Office of the Deputy Mayor for Planning and Economic Development

- In the event, VMP is unable to obtain all or any of the Development Approvals or to complete the Project after obtaining all development approvals and acquiring the Property, $750,000 of Total Deposit (plus all accrued interest on the Total Deposit) will be refunded to VMP. If such inability to obtain the Development Approvals or to complete the Project is not caused in any way by the District, then the $250,000 balance of the Total Deposit and all work product will be retained by the District.

- The Total Deposit (plus accrued interest) will be refunded to VMP in the event the Council does not approve the LDA or the District does not execute the LDA on terms mutually agreed upon by VMP and the District or the District is deemed responsible for the failure of VMP to receive Development Approvals or to complete the Project.

FEASIBILITY PERIOD:

- VMP shall be granted a 150-day feasibility period that will begin upon the execution of this Summary Term Sheet and terminate 150 days thereafter ("The Feasibility Period").

- VMP shall utilize this Feasibility Period to fully evaluate the Property and hold introductory meetings with the Office of Planning, the State Historic Preservation Officer ("SHPO"), several community organizations, and other critical stakeholders.

- VMP shall indemnify the District as provided in the Section entitled "Indemnification".

- Within 10 days of the execution of this Summary Term Sheet, the District and VMP will enter into a right of entry agreement, in a form found to be legally sufficient by the Office of the Attorney General (OAG) and VMP, to provide VMP full access to the Property during the Feasibility Period ("Right of Access") to conduct all necessary site, traffic, soil, engineering and environmental studies.

- VMP shall promptly provide the District with copies of the reports regarding the Property (including, but not limited to, any environmental testing reports) obtained during the Feasibility Period.

- During the Feasibility Period, VMP will propose to the District potential concept and vertical development plans for the Property. Exhibit E represents VMP’s efforts on developing a concept master plan for the site.

- VMP and the District will utilize the Feasibility Period to:
  1) Agree on concept site plan with community stakeholders
  2) Complete the Appraisal for the Property
  3) Agree on initial budgets and sources and uses of funds for the Project
  4) Identify the types of public financing that may be used for the Project
  5) Agree on a form LDA

FEASIBILITY
EXPENDITURES: Upon execution of this Summary Term Sheet, VMP will begin feasibility studies, title searches, and similar work typically performed during the Feasibility Period at its sole cost and expense.

TITLE:

- Within five (5) days following execution of this Summary Term Sheet, the District will provide VMP with the latest owner’s title policies or commitments obtained by the District for an owner’s policy for title insurance as may have been received within the last two years, together with copies of all documents mentioned therein as exceptions to title.
- During the Feasibility Period, VMP shall provide the District notice of any title objections that it would like the District to remove from the Property prior to settlement. The District, in its sole and absolute discretion, may agree to cure the objections. If the District elects not to remove the objections or the objections are not curable, VMP may either waive the objection or terminate this agreement and receive its Initial Deposit.
- The District will convey fee simple title in the form of a Deed of Trust to VMP at settlement, free and clear of any and all liens and encumbrances not already of record or listed as exceptions to the title policies of the immediate past owner and not expressly approved by VMP during the Feasibility Period.

DEVELOPMEMENT APPROVALS:

VMP and the District agree that redevelopment of the Property will require approval of council under DC Code § 10-801 and the following Land Use Approvals:

1) Zoning Commission (via the submission and approval of 2 Phase PUD)
2) Historic Preservation Review Board (“HPRB”)

In addition, VMP must obtain the following Land Development Approvals and Permits:

1) Grading and Sediment Erosion Control Plan
2) Utility Plans
3) Final Site plan
4) Other Site plans

The Land Development Approvals are issued by DCRA, WASA, PEPCO, and other utility companies. The Land Use Approvals and Land Development Approvals will constitute the “Development Approvals”. A detailed list of all Land Development Approvals will be included in the Land Disposition Agreement. VMP reserves the right, but is under no obligation, to submit at its sole cost and expense applications for the Development Approvals prior to execution of the LDA.

BROKERAGE:

VMP and the District represent that no real estate broker has represented either party in this transaction and that no brokerage commission will be paid to any party.
INDEMNIFICATION: VMP shall indemnify and hold the District harmless from all claims by third parties for damages or expenses incurred by reason of property damage, personal injury, or Mechanics Liens arising from the VMP’s activities on the Property, except for claims arising from the negligent acts of the District’s employees and agents that are not otherwise covered by VMP’s insurance. VMP acknowledges that the District is self-insured and is legally prohibited from granting indemnifications.

ENVIRONMENTAL LIABILITY: During the Feasibility Period, VMP will conduct tests and assessments to determine if and to what extent hazardous materials are present on the Property. Additional testing may occur after the conclusion of the Feasibility Period. At all times, VMP will promptly provide the District with results of the tests and assessments in writing. If any hazardous materials are found to exist, the parties will discuss who should bear the financial responsibility for removing such hazardous materials. With respect to unknown environmental contamination, VMP will purchase environmental liability insurance if available at commercially reasonable rates.

CONFIDENTIALITY AGREEMENT: To the extent permitted by law, this Summary Term Sheet shall be considered confidential and by receipt hereof, VMP and the District hereby agree to keep its contents and all matters related thereto strictly confidential, except that the parties shall have the right to discuss the terms set forth herein with Council and their respective agents, advisors, consultants, and representatives who shall be advised of the confidential nature of this Summary Term Sheet. Summaries of terms and processes critical to the community process can be prepared and agreed upon by the District and VMP and distributed to the community.

NON-BINDING EFFECTS: This Summary Term Sheet is intended to be an expression of interest by the parties who sign and accept it and shall in no event be deemed to be or constitute a binding contract agreement or other legally enforceable obligation between said persons or entities to such matters or any commitment that the parties will reach discussed herein, except as described in the Exclusive Rights Period described below. Further, the parties agree that this Summary Term Sheet is an expression of good faith between the District and VMP to redevelop the Property and as such, VMP will be expending staff resources and capital to engage in feasibility and pre-development efforts. If no agreements are reached, the District is under no obligation to reimburse VMP or its consultants, sub-contractors or successors for any cost, expense, or efforts incurred.
ANTIDEFICIENCY ACT LIMITATIONS:

VMP acknowledges that the District is not authorized to make any obligation in advance or in the absence of lawfully available appropriations and that the District's authority to make such obligations is and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1350, 1351; (ii) D.C. Official Code Section 47-105; (iii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08, as the foregoing statutes may be amended from time to time; and (iv) Section 446 of the District of Columbia Home Rule Act.

SETTLEMENT:

The LDA will provide that settlement for the disposition of the Property from the District to VMP will take place the latter of 30 days after the receipt of the last of the Development Approvals or the date upon which the District and VMP concur that the land and vertical development of the Project is commercially viable and financially feasible. The selection, if any, of component developers will occur concurrently with the development approval process. The disposition of the pad sites to members of VMP or other component developers will take place upon the completion of each site.

ACCEPTANCE:

- VMP will have the exclusive right to negotiate an LDA with the District pursuant to the redevelopment of the McMillan Sard Filtration Site for a period of 365 days after the date of this Summary Term Sheet ("Exclusive Rights Period"). The Exclusive Rights Period may be extended by 365 days or more provided that the Parties mutually agree to extend the Exclusive Rights Period in the form of a written amendment to this Summary Term Sheet prior to expiration of the Exclusive Rights Period.
- The Summary Term Sheet can be amended at any time prior to the execution of the LDA to include additional terms and agreements not included in this document. Such amendments will be mutually agreed upon by both parties.
- The terms outlined herein shall be set forth formally and more completely in a Land Disposition Agreement to be agreed upon and entered into between VMP and the District.
- Immediately following the execution of this Summary Term Sheet, VMP and the District will instruct their respective legal counsels to initiate preparation of the Land Disposition Agreement. All parties to the LDA will participate in the review and formation to this document and will negotiate the LDA in good faith to attempt to reach mutual agreement on same as soon as possible.
- The District will submit the LDA agreed to by the Parties to Council for approval promptly following execution of the LDA. The District and VMP have 365 days from the date of execution of this Summary Term Sheet to obtain approval of the LDA from Council. In the event the
Government of the District of Columbia

Office of the Deputy Mayor for Planning and Economic Development

LDA is not approved by Council within the defined time period and the time period is not extended, the terms outlined herein will expire.

- The District and VMP will endeavor to agree on the final form of the LDA to be submitted to Council by the conclusion of the Feasibility Period. A Project Schedule will be attached as Exhibit F and will be utilized to measure progress on the Project.

ACKNOWLEDGED AND AGREED:

DISTRICT OF COLUMBIA GOVERNMENT

By: [Signature]
Name: Neil O. Albert
Title: Deputy Mayor for Planning and Economic Development
Date: 12/20/07

VISION McMILLAN PARTNERS

c/o EYA, LLC

By: [Signature]
Name: LeRoy Eakin III
Company: EYA, LLC
Title: Chairman
Date: 12/20/07

By: [Signature]
Name: Robert Youngentob
Company: EYA, LLC
Title: President
Date: 12/20/07
### EXHIBIT A

#### Vision McMillan Partners Team Composition

<table>
<thead>
<tr>
<th>#</th>
<th>Company</th>
<th>Role</th>
<th>LSDBE Firm</th>
<th>Form of Equity</th>
<th>% Equity</th>
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<tbody>
<tr>
<td>1</td>
<td>EYA, LLC</td>
<td>Managing Member, Lead Investor, Lead Developer</td>
<td></td>
<td>cash</td>
<td>56%</td>
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<tr>
<td>2</td>
<td>The Jair Lynch Companies/MacFarlane Partners (LSDBE entity)</td>
<td>Community Outreach Specialist/Equity Investor</td>
<td>LSDBE</td>
<td>cash</td>
<td>15%</td>
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<td>3</td>
<td>Smoot Construction</td>
<td>Equity Investor</td>
<td>LSDBE</td>
<td>cash</td>
<td>7.5%</td>
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<tr>
<td>4</td>
<td>Urban Services System Corporation</td>
<td>Equity Investor</td>
<td>LSDBE</td>
<td>cash</td>
<td>7.5%</td>
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<tr>
<td>5</td>
<td>The Alexander Company</td>
<td>Historic Preservation Developer</td>
<td></td>
<td>in-kind services</td>
<td>9%</td>
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<td>6</td>
<td>StreetSense</td>
<td>Mixed-Use, Retail Consultant/Developer</td>
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<td>in-kind services</td>
<td>5%</td>
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**Total:** 100%
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<thead>
<tr>
<th>Budget Items</th>
<th>$ Amount</th>
<th>Comment</th>
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<tbody>
<tr>
<td>Site Development</td>
<td>$28,009,396</td>
<td>Includes all land development construction</td>
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<tr>
<td>Field Supervision &amp; General Conditions</td>
<td>$2,800,940</td>
<td></td>
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<tr>
<td>Architecture</td>
<td>$1,750,000</td>
<td>Covers all entitlement related architecture for new buildings and historic rehabilitation</td>
</tr>
<tr>
<td>Engineering</td>
<td>$2,500,000</td>
<td>Includes utilities, environmental, geotechnical, grading, traffic, and similar</td>
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<tr>
<td>Legal</td>
<td>$1,000,000</td>
<td>Entitlement and transactional</td>
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<tr>
<td>Proffers</td>
<td>$500,000</td>
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<tr>
<td>Community Benefits</td>
<td>$1,000,000</td>
<td>Contributions to community assets i.e. community center, charter school, etc.</td>
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<tr>
<td>GC Overhead (3% of Site Development)</td>
<td>$840,282</td>
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<tr>
<td>Development Overhead (5% of Development Costs)</td>
<td>$1,920,031</td>
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<tr>
<td>Interest Payments</td>
<td>$4,435,271</td>
<td>Interest on all project debt</td>
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<tr>
<td>Contingency @ 15%</td>
<td>$5,634,050</td>
<td>Conservative given early stage of project - will become more accurate with additional study of the site</td>
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<td>Total</td>
<td>$50,389,970</td>
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<tr>
<td>Budget Items</td>
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<td>Comment</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>------------</td>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Site Development</td>
<td>$12,000,000</td>
<td>Extraordinary land development and infrastructure</td>
</tr>
<tr>
<td>Historic Preservation</td>
<td>$5,000,000</td>
<td>Preservation of cells, silos, and other features</td>
</tr>
<tr>
<td>Open Space</td>
<td>$3,000,000</td>
<td>Inclusion of significant community serving open space</td>
</tr>
<tr>
<td>Below Grade Parking for Retail</td>
<td>$6,000,000</td>
<td>Includes utilities, environmental, geotechnical, grading, traffic, and similar</td>
</tr>
<tr>
<td>Affordable Housing and Below Market Retail Space</td>
<td>$20,000,000</td>
<td>To be finalized per District requirements</td>
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<td>Total</td>
<td>$46,000,000</td>
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</tr>
</tbody>
</table>
## Exhibit D

**VMP Sample McMillan Sources and Uses**  
**January 31, 2008**

### Sources
- Parcel Sales: $75,000,000
- Public Funding (Federal and District): $40,000,000
- **Total Sources**: $115,000,000

### Uses
- Ordinary Land Development: $35,000,000
- Extraordinary Land Development (Including Historic Preservation, Demolition of Cells, Below Grade Retail Parking and Open Space): $26,000,000
- Affordable Housing: $20,000,000
- District Land Value: $15,000,000
- VMP 25% Return on Cost: $15,250,000
- **Total Uses**: $111,250,000

### Difference
- $3,750,000

### District Excess Proceeds 50% Split
- $1,875,000

### VMP Excess Proceeds 50% Split
- $1,875,000

---

## VMP Sample McMillan Sources and Uses**  
**January 31, 2010**

### Sources
- Parcel Sales: $78,000,000
- Public Funding (Federal and District): $38,000,000
- **Total Sources**: $116,000,000

### Uses
- Ordinary Land Development: $35,000,000
- Extraordinary Land Development (Including Historic Preservation, Demolition of Cells, Below Grade Retail Parking and Open Space): $25,000,000
- Affordable Housing: $22,000,000
- District Land Value: $15,000,000
- VMP 25% Return on Cost: $15,000,000
- **Total Uses**: $112,000,000

### Difference
- $4,000,000

### District Excess Proceeds 50% Split
- $2,000,000

### VMP Excess Proceeds 50% Split
- $2,000,000
### Exhibit F

**VMP Initial McMillan Project Schedule**

<table>
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<tr>
<th>Actions Item</th>
<th>Target Date</th>
<th>Revised Date</th>
<th>Completion Date</th>
<th>Comments</th>
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<tr>
<td>Execute Summary Terms Sheet with District</td>
<td>12/20/2007</td>
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<tr>
<td>Site Assessment and Feasibility Analysis (150 days)</td>
<td>5/18/2008</td>
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<tr>
<td>Executed Land Disposition Agreement</td>
<td>6/17/2008</td>
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<td></td>
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<tr>
<td>Complete Community Outreach, Charrette and Presentation of Options</td>
<td>6/17/2008</td>
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<td>PUD and HPRB Submission</td>
<td>10/15/2008</td>
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<td>Development Approvals – PUD HPRB, and other (14 months)</td>
<td>2/15/2010</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Complete and Legally Document Component Developer Selection</td>
<td>2/15/2010</td>
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<td>Land Development Permits (6 months)</td>
<td>8/15/2010</td>
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<tr>
<td>Land Conveyance and Groundbreaking</td>
<td>9/15/2010</td>
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<tr>
<td>Start Vertical Construction</td>
<td>3/15/2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complete Land Development and Historic Preservation</td>
<td>6/15/2011</td>
<td></td>
<td></td>
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AMENDED SUMMARY TERM SHEET
McMillan Redevelopment Project
February 12, 2009

The following terms outline the general terms upon which Vision McMillan Partners, a limited liability company ("VMP") and the Government of the District of Columbia (the "District") wish to proceed with negotiating a Land Disposition Agreement ("LDA") with respect to the redevelopment of the 25-acre McMillan Sand Filtration Site in Northwest Washington, DC. The parties acknowledge that VMP and the District entered into a summary term sheet dated December 20, 2007 ("Original Summary Term Sheet") with respect to the proposed development of the foregoing property and that it is the intention of the parties that this Amended Summary Term Sheet ("Amended Summary Term Sheet") shall amend and redefine the Original Summary Term such that this Amended Summary Term Sheet shall supercede in its entirety the Original Summary Term Sheet.

THE DISTRICT:
The District is acting by and through the Office of the Deputy Mayor for Planning and Economic Development ("ODMPED").

VMP:
- VMP includes the following member companies (the "VMP Development Team Members") (See Exhibit A):
  1. EYA, LLC (EYA)
  2. The Jair Lynch Companies (JLC)/MacFarlane Partners (MacFarlane)
  3. Urban Service Systems Corporation (USSC)/Smoot Construction (Smoot)
  4. The Alexander Company (Alexander)
  5. Street Sense
- VMP will be managed by EYA or a partnership or limited liability company in which the principals of this company are directly, or through the ownership of a corporation, the managing member. VMP may choose to include additional members in VMP, provided that the management of EYA in VMP shall not be modified without the consent of ODMPED.

PROPERTY:
The 25-acre McMillan Sand Filtration Site, bounded by North Capital Street NW, Channing Street NW, First Street NW, and Michigan Avenue NW in the District of Columbia (the "Property").

THE PROJECT:
Through the coordination of a sequence of planning, financing, development and construction activities, the redevelopment of the Property (the "Project") will include both the 1) land development and the 2) construction of vertical improvements on the Property by vertical component developers. The land development will result in a number of entitled, ready-to-build pad and super pad sites serviced by backbone common infrastructure, including streets, utilities, lighting and common
area amenities, such as active open space, community facilities and landscaping. The vertical component of the redevelopment entails the disposition of said pad sites to vertical component developers, which will include VMP Development Team Members and others identified by VMP, if any, for the construction of vertical improvements. The process and timing for disposition of said pad sites is articulated in the vertical component development process section of this Amended Summary Term Sheet. Based on the guidelines established by the community stakeholders, the vertical improvements to be constructed on the Property will include integrated historic preservation elements, mixed-income housing, community-serving retail, job-creating commercial space, and education and cultural amenities.

THE ROLE OF VMP:

- VMP will serve as the master developer, hereinafter defined, (the "Master Developer") of the Project and will work with ODM PED and subcontractors on all planning, land development activities, and vertical component activities (to the extent provided in this Amended Summary Term Sheet).

  **Master Developer:** means an entity selected by District for the planned development of the Project, including all of the obligations of VMP as described in the following paragraphs.

- VMP will arrange for all necessary private capital, in the forms of debt and equity, for the land development portion of the Project. VMP also will seek public financing tools appropriated by federal and local agencies, including the U.S. Department of Housing and Urban Development ("HUD"), the D.C. Department of Housing and Community Development ("DHCD"), the D.C. Housing Finance Agency ("HFA"), and ODM PED. Furthermore, VMP will seek funding mechanisms, such as the Housing Production Trust Fund, Tax Increment Financing ("TIF"), and/or Payment In Lieu of Taxes ("PILOT") to finance the Land Development component of the Project.

- VMP will work with the existing McMillan Advisory Group (MAG), in surrounding neighborhoods and certain District agencies to produce a proposed development program that will include the historic preservation of certain filter cells and sand storage bins and the development of open space, mixed income housing, neighborhood serving retail, cultural amenities and commercial/office space.

- VMP will manage, along with ODM PED, all community outreach initiatives, based upon a mutually agreed upon schedule and communication process.

- VMP will provide to ODM PED short-lists of third party consultants and sub-contractors, including Certified Business Enterprise (CBE)
firms, as defined under D.C. Official Code §§ 2-217.01 (2007) et seq., such as master planners, architects, engineers, land planners, landscape architects, and land use attorneys. VMP will comply with all District equal opportunity employment and employment covenant guidelines pertaining to CBES, First Source and apprenticeship programs, as well as appropriations and procurement, and in its contracts with its consultants and subcontractors with respect to the Project, VMP will require its consultants and subcontractors to comply with all such guidelines and programs and make best efforts to enforce those provisions of said contracts. VMP will select and hire all consultant teams and provide "letters of value" (proof of industry Standard terms and fees) and proof of CBE participation.

- VMP will be responsible for all necessary pre-land development work approval processes, including but not limited to, the development plan process, the planned unit development (PUD) process, the Historic Preservation Review Board (HPRB) process, with the intent of obtaining pre-construction land development and architecture approvals. VMP shall be solely responsible for paying for all costs and fees associated with obtaining the aforementioned approvals.

- VMP will apply for, obtain, and pay for all permits required for the land development component of the Project.

- VMP will be responsible for completing all land development work, including but not limited to, demolition, earthwork, grading, installation of trunk utilities and spine roads and implementation of traffic improvements. The result of the land development activities will be a number of finished pads suitable for the development of vertical improvements. The land development work to be performed by VMP does not include the land development work that will need to be completed on individual development parcels/pad sites which will be the responsibility of the vertical component developer for that particular development parcel/pad site.

- VMP will contract with the VMP Development Team Members and other builders identified by VMP known collectively as the "vertical component developers", including Local, Small and Disadvantaged Business Enterprise ("LSDBE") firms as defined by District of Columbia Department of Small and Local Business Development ("DSLBD"). The contracts between VMP and all vertical component developers will require that the party acquiring a portion of the Property for the construction of the vertical improvements will contribute an amount equal to the fair market value of the finished pad site(s) which it acquires into an escrow account to be used to pay for the land development work to be performed by VMP. District will convey the pad sites on which the vertical improvements are to be constructed directly to the designated vertical component developers who will be responsible for the construction of the vertical improvements on their respective pad sites following the land development work, and to the extent that all such pad sites are not conveyed by the District to the vertical component developers at the
Land Closing (as hereinafter defined) with the District, then such remaining pad sites will be conveyed by the District to VMP at the Land Closing. ODMPED will approve a concept site plan developed by VMP to be included in the LDA, which will include a detailed development program, land use mix, and summary of some or all of the vertical component developers who are not VMP Development Team Members, if in fact there are any vertical component developers who are not VMP Development Team Members. ODMPED must review and approve all construction drawings, schematics and preliminary plans, and construction of the vertical improvements will be substantially in accordance with the plans approved by ODMPED.

- VMP will coordinate the Project, including all land development activities and will provide project oversight of all vertical development activities, including reports to be provided by VMP to ODMPED with respect to the status of the vertical development activities by the vertical component developers.

- Individual VMP Development Team Members will construct the vertical improvements on those finished pad sites identified by VMP, based upon the concept site plan approved by ODMPED and the product types to be constructed by each of the VMP Development Team Members on those pad sites. To the extent that there is a change in the concept plan, product type to be developed on a pad site, or a change in the identification of the vertical component developer for such pad site, such changes shall be subject to the prior approval of ODMPED, which approval shall not be unreasonably withheld, conditioned or delayed. VMP and ODMPED will establish appropriate guarantees and reversion rights for the land development and the vertical component development in accordance with the proposal set forth in Exhibit B (in draft form pending revision and final agreement between ODMPED and VMP, to be included as an amendment hereto) attached to this Amended Summary Term Sheet. All vertical component developers, including VMP Development Team Members and all 3rd party vertical component developers who are not VMP Development Team Members, if any, will abide by the guaranty structure outlined in Exhibit B (in draft form pending revision and final agreement between ODMPED and VMP, to be included as an amendment hereto) to this Amended Summary Term Sheet.
THE ROLE OF THE DISTRICT:

- VMP will submit to ODMPED a "master plan" for the development of the Property no less than ninety (90) days prior to the intended PUD submission due date. Within sixty (60) days of receipt of the master plan, ODMPED will review the proposed master plan and submit comments to VMP on the master plan. VMP and ODMPED will work cooperatively to address all of ODMPED's comments.

- All VMP Development Team Members in addition to those identified on page 1 of this Amended Term Sheet, and all other vertical component developers who are not VMP Development Team Members and are selected by VMP to acquire pad sites will be subject to the reasonable approval of ODMPED.

- ODMPED may recommend to VMP, as appropriate, consultants and subcontractors, including CBE firms, which VMP may hire to work on the Project.

- At the time of the Land Closing with VMP, the District will directly deed development parcels to the vertical component developers who are VMP Development Team Members and those vertical component developers who are not VMP Development Team Members, if any, who have been identified by VMP and approved by ODMPED and are acquiring their respective development parcels as of the date of the Land Closing with VMP, and the District will deed the common areas directly to an owners association formed by VMP for the community. In addition, ODMPED will assist VMP in obtaining a real estate tax abatement with respect to the development parcels which will be conveyed to VMP (and not vertical component developers) at Land Closing, for the period between the date of Land Closing when VMP acquires title to the unsold parcels and the date when such unsold parcels are conveyed to third-party vertical component developers for construction of the vertical improvements thereon.

- ODMPED will cooperate with VMP in planning and construction activities involving District of Columbia government agencies, including the Office of Planning (OP), the D.C. Department of Transportation (DDOT), the Department of Consumer and Regulatory Affairs (DCRA), the Historic Preservation Review Board (HPRB), etc. in connection to the Project and will provide the approvals necessary as the owner of the Property to get permits and approvals from such agencies.

- ODMPED acknowledges the potential need for public financing to complete this Project. To this end, ODMPED may assist VMP in identifying and attaining Federal public financing tools and will assist VMP in identifying and securing public financing provided by the District, including TIF, Housing Production Trust Funding, Industrial Revenue Bonds, and other similar options.

- ODMPED will assist in all community outreach activities based upon a mutually agreed upon schedule and communication process.
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- ODMPED will seek necessary council approvals under DC Official Code § 10-801 pursuant to the execution of a land disposition agreement, mutually acceptable to ODMPED and VMP.

MASTER DEVELOPMENT PROCESS:

- ODMPED and VMP agree to negotiate a mutually acceptable LDA through which ODMPED would make the conveyances described above at the time set forth under the section entitled "Settlement" in this Amended Summary Term Sheet.
- Conveyance of the Property to the vertical component developers and VMP at closing ("Land Closing") shall be conditioned upon District of Columbia Council (Council) approval of the LDA and all land development approvals necessary for commencement of construction of the vertical improvements, proof of financial commitments by VMP to complete all development work and creation by VMP of a detailed, specific construction schedule for all land development work. Within 10 days following the Land Closing, VMP shall initiate land development work, pursuant to the schedule mutually agreed upon by ODMPED and VMP prior to the Land Closing. The land development work shall include:
  1) extraordinary site work to prepare the site for development by either preserving or demolishing certain filtration cells,
  2) installation all major roads and trunk utilities to serve the finished pad sites for vertical development, and
  3) construction of required park areas, landscaping and other common area site features, consistent with the phasing of the construction of the vertical improvements.
- All land development work will be completed by VMP and its consultants and sub-contractors and paid for by VMP. All subcontractors shall be bonded and insured.
- The LDA will include a proposed schedule for the land development work (the "Land Development Work Schedule"). The land development work is estimated to take approximately 365 days (1 year) from the Land Closing to complete.
- The LDA will include a covenant from VMP to prosecute the land development work in accordance with the provisions of the LDA and the Land Development Work Schedule.
- VMP will oversee the completion of the vertical improvements on the Property in accordance with the provisions under Vertical Development Process in this Amended Term Sheet.
LAND DEVELOPMENT ECONOMICS:

- During the Feasibility Period (as defined herein), VMP shall submit to ODMPED, for its review, a pro forma Land Development Expenditures Budget ("Budget") to be mutually agreed upon by VMP and ODMPED within thirty (30) days following the delivery of the proposed Budget to ODMPED.

- The Budget line items will include, but will not be limited to, the following costs: pre-development, planning, land development work, historic preservation, environmental remediation, interest carry on debt, private capital carry, settlement, development and general contracting fees, and contingency costs (collectively referred to herein as "Land Development Expenditures"). A sample Budget is provided in Exhibit C. The sample illustrates and estimates the proposed line items that may be included in the Budget, but is not an exhaustive list of all line items to be included in the Budget.

- ODMPED and VMP will agree on appropriate fee percentages for the development and general contracting line items during the Feasibility Period, and such fees will be paid in proportion to other Land Development Expenditures.

- The Budget will be utilized to determine private and public financing uses for the Project.

- The portions of the Property which will become the pad sites to be created by VMP's land development work will be conveyed to VMP Development Team Members and to the other vertical component developers, if any, identified prior to the Land Closing, subject to the terms of the LDA and a development agreement to be entered into between VMP and the vertical component developers (the "Development Agreement") which will require and authorize VMP to complete the land development work and require each vertical component developer to pay to VMP at the Land Closing (or later closing on the sale of those portions of the Property acquired by VMP at the Land Closing) an amount equal to the fair market value of the finished pad site (following completion of the land development work) (said funds being the "Developer Funds"), which Developer Funds shall be deposited into an escrow account to fund the costs of the land development work, in order to assure that VMP will have sufficient funds to complete the land development work. [See Exhibit B regarding the funding of any potential shortfall.]

- During the Feasibility Period and upon VMP and ODMPED agreement on the Concept Master Plan, VMP and ODMPED will commission an appraisal to be completed no less than 30 days prior to the conclusion of the Feasibility Period to determine:
  1) the market value for the Property prior to completion of any land development work ("District Land Value")
  2) the market value of product type set forth in the Concept Master Plan agreed upon by the District and VMP, including residential, retail, office, hotel, etc.
The appraisal will utilize industry standard approaches (a sample calculation of value is included in Exhibit D):

1) All land development expenditures necessary to complete the land development work on the Property, shall be included in the Budget approved by ODMPEd.

2) A mutually agreed upon Affordable Housing Program, which will include all zoning requirements and any additional Affordable and Workforce Housing ("AWH") requirements as mutually agreed by VMP and ODMPEd that exceed those AWH requirements included within the zoning requirements imposed on the Property, and the costs to meet all District public policy objectives for the Property as described under the Public Policy Objectives portion of this Amended Term Sheet.

3) An expected development program to be approved through the PUD process per the Concept Master Plan.

4) The timing of the purchase, which will be a purchase of the entire Property by VMP at one closing (taking into consideration the time value of money), with deeds at such closing from the District to the vertical component developers, VMP and the community owners association as described above, and

5) A mutually agreed preferred return on costs, which is the agreed upon fair market return to VMP for its services in completing all aspects of the land development work.

ODMPEd and VMP will utilize the appraisal to agree on both the appropriate District land value and the fair market value of each finished pad site which will be owned by the vertical component developers following the completion of the land development work (the "Finished Pad Site Fair Market Value"). Having completed an estimated sources and uses table, if VMP suggests that the Property may have minimal or no land value in its current as-is condition, if and only if ODMPEd does not provide public financing and the Property is subjected to public policy objectives including AWH, historic preservation, open space, and other similar objectives, VMP and ODMPEd shall 1) maximize public policy objectives and 2) complete the Project with minimal public subsidy. As provided below, VMP will create a Revised Sources and Uses Table based upon the PUD approved development program and a revised schedule of Land Development Expenditures and revised Budget, which will be utilized to determined the District Land Value and Finished Pad Site Fair Market Value to be utilized for closing.

If the VMP and District are unable to agree on the District Land Value of the Property, either party can terminate this Amended Summary Term Sheet and all deposits made by VMP or any of the VMP Development Team Members shall be returned to VMP or such VMP Development Team Members, whoever posted the deposits.
The Budget, Appraisal, and the agreed upon VMP Return on Cost will provide all necessary information to create an estimated sources and uses table during the Feasibility Period. Sources will include all estimated finished pad site fair market values for the finished pad sites (from the Appraisal) and all public financing and Subsidies, if any. Uses will include all Estimated Land development expenditures, the value of the Property including all public policy objectives, and the agreed upon VMP Return on Cost.

- VMP agrees to balance all sources and uses or to effect a surplus by which sources exceed uses. A sample Estimated Sources and Uses Budget is enclosed as Exhibit D.

- VMP commits to explore an array of Federal and other public financing options.

- Prior to the conclusion of the Feasibility Period, ODMPED and VMP will have agreed upon an i) Estimated Sources and Uses Budget, ii) a District Land Value for the Property to be included in the LDA (which shall be subject to adjustment as provided below), and iii) a Concept Master Plan to be included in the LDA.

- Ninety (90) days prior to the Land Closing, VMP will create the revised sources and uses table based on the PUD-approved development program (utilizing the fair market vertical values agreed per the Appraisal), the agreed upon District Land Value, revised Land Development Expenditures, and the agreed upon VMP Return on Cost revised per the revised Land Development Expenditures Budget. The revised sources and uses table will ensure that sources remain greater than or equal to the uses such that the Project may proceed. To the extent there is a shortfall of sources, VMP will make best efforts to secure necessary Federal, District, and other financing to allow the project to move forward. This revised sources and uses table will be created to ensure project viability prior to Land Closing. If the sources are not able to cover all uses, then the Land Closing will be delayed until ODMPED and VMP collectively agree on an appropriate financing approach to make the project economically feasible. VMP would take the lead on identifying such approaches.

- Conveyance of the Property by the District to the vertical component developers. VMP and the community owners association, and the commencement of the land development work will not occur until VMP and ODMPED concur that the sources are greater than or equal to the uses for the Project to ensure that there will be sufficient funds to complete the land development work.

- If there is any District Land Value, the District agrees that VMP will not pay such District Land Value at the Land Closing, but will defer payment of the District Land Value from VMP until the land development work has been completed.

- The sum of (a) the Developer Funds paid by the vertical component developers at the Land Closing or subsequent to the Land Closing at the time of acquisition of such vertical component developer's pad sites, and (b) the actual public financing received will:
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1) First, repay all the actual Land Development Expenditures for the entire Project that are funded by 3rd party financing, incurred or to be incurred, by VMP. The 3rd party financing will be secured by a 1st trust only on that portion of the Property acquired by VMP (and not by the vertical component developers or the community owners association) at the Land Closing.

2) Second, pay all equity and debt contributed by the District and VMP para passu including:
   - land equity plus preferred return, if any (to the District)
   - VMP debt and equity plus interest and preferred return (to VMP)
   - land equity and VMP debt and equity both will be secured by a 2nd trust on the Property.

3) Third, all remaining proceeds will be paid to VMP, as profit for the land development work efforts. The profit will not be paid to VMP until the land development work is substantially complete.

VERTICAL DEVELOPMENT PROCESS:

VMP will contract with the vertical component developers who will acquire the pad sites and construct the vertical improvements on the finished pad sites. Disposition of pads sites will be executed through fee-simple deeds from the District at the Land Closing to those vertical component developers with whom VMP has contracted prior to the Land Closing. With respect to those pad sites for which contracts have not been entered into prior to Land Closing, the District will convey the remaining unsold pad sites to VMP and VMP will subsequently convey them to vertical component developers. At the Land Closing, and all subsequent conveyances of pad sites to vertical component developers, until such time as all land development work is completed, each vertical component developer will fund the Developer Funds (i.e., an amount equal to the fair market value of the portions of the Property acquired by the vertical component developer) into an escrow account (the "Horizontal Land Development Escrow Account"), which amount of the Developer Funds to be paid by each vertical component developer shall be determined by appraisal and analysis.

- A minimum of 20% of the approved FAR square feet of the approved master plan will be developed by LSDBE firms, which may include members of VMP.
- VMP will select, as necessary, third-party vertical component developers, if any (i.e., vertical component developers who are not VMP Development Team Members) concurrent to the pre-development process, either before or upon approval of a Phase 1 PUD (or similar approval) that approves the site plan, land uses, FAR, and thematic architecture for the development of the Property. Such
third-party vertical component developers, if any, shall be selected by VMP, but shall be subject to reasonable approval by ODMPED.

- VMP and each vertical component developer will execute a development agreement detailing all business terms and the timing for settlement, for each of the finished pad sites created in the land development process, and the obligations of the vertical component developers with respect to the commencement and completion of the vertical improvements on such vertical component developer's pad site(s). VMP will use best efforts to execute such development agreement with all vertical component developers prior to Land Closing.

- VMP Development Team Members will be obligated to contribute the Developer Funds with respect to their respective pad site(s) acquired from the District at the Land Closing into the Horizontal Land Development Escrow Account at the Land Closing (or provide a letter of credit or other adequate assurances of the availability of such Developer Funds).

- ODMPED will approve the Concept Master Plan, which will detail those use types (as the parcels on which those use types are placed on the Concept Master Plan are subject the change) that VMP Development Team Members will develop. The estimated fair market values for pad sites to be owned by the VMP Development Team Members will be set forth in detail in the LDA.

- The construction of the vertical improvements at the Property is expected to occur in 2-3 Phases, each phase starting 18 months after commencement of the prior phase. It is a key objective of VMP and ODMPED to minimize the number of Phases to decrease the overall timeline for the Project and ensure project viability via pad site sales occurring at the earliest possible time.

- Each vertical component developer will enter into an Assignment and Assumption Agreement with the District and VMP pursuant to which the vertical component developer will agree to prosecute the construction of the vertical improvements on such vertical component developer's pad site(s) in accordance with the provisions of the LDA relating to the construction of the vertical improvements, the Development Approvals (as hereinafter defined) and the Land Development Work Schedule. Each vertical component developer shall be required to provide the guaranty to the District as described in Exhibit B to this Amended Summary Term Sheet (in draft form pending revision and final agreement between ODMPED and VMP, to be included as an amendment to this Amended Summary Term Sheet).

- VMP will coordinate the overall development of the Project, and will provide regular reports to ODMPED with respect to the construction of the vertical improvements based upon reports provided by the vertical component developers. But VMP will not be responsible for the construction of the vertical components, nor for the inspection of such vertical improvements for compliance with applicable laws,
regulations and ordinances, or permits issued by the District to the vertical component developers.

- The development agreements to be entered into between the vertical component developers and VMP shall set forth the exact physical condition in which each development parcel/pad site to be conveyed by the District or VMP will be delivered to the vertical component developer.

1) VMP and each vertical component developer will agree on the specific tasks within the land development work to be completed by VMP with respect to the vertical component developer's pad site(s) and any land development tasks that will be competed by the vertical component developer on its own pad site(s).

2) VMP expects that the typical condition of the "finished" pads delivered as a result of the land development work to be completed by VMP will include all zoning entitlements and subdivision plats, rough grading, and utilities stubbed just inside the curb adjacent to completed spine roads identified in the development agreement.

3) In instances where grades or other impediments will not allow VMP to provide a finished pad, the development agreement between VMP and the vertical component developer of that pad site would allow and require that the vertical component developer complete certain land development tasks.

GUARANTEES:

Exhibit B "VMP Guarantees to District" (in draft form pending revision and final agreement between District and VMP, to be included as an Amendment to this Term Sheet), describes the pre-development, land development, and vertical construction guarantees.

VERTICAL CONSTRUCTION ECONOMICS:

- The vertical component developers with whom VMP shall have contracted prior to the Land Closing (including VMP Development Team Members and third-party vertical component developers, if any) will acquire their unfinished pad sites at the Land Closing by direct deed from the District, subject to the terms of the LDA with VMP which will provide for the completion of the land development work by VMP. The vertical component developers will be required to pay their respective Developer Funds into the Horizontal Land Development Escrow Account at the Land Closing (or at each later closing if VMP acquires the land from the District and subsequently conveys the land at a later date to the vertical component developer). The funding of these Developer Funds is described herein the section titled Land Development Economics as well as in the Guarantees.
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- The District will be entitled to a percentage of the sales proceeds of the market rate, for-sale vertical residential improvements (including condominiums and townhomes), developed by VMP Development Team Members, above agreed upon sales values. The specific values and percentages will be set forth in the LDA.

LOCAL, SMALL AND DISADVANTAGED BUSINESS ENTERPRISES:

- Equity and Management Participation: VMP represents that no less than 20% of the equity capital invested into the Project will be invested by LSDBE firms in compliance with D.C. Official Code §§ D.C. Official Code §§ 2-217.01 (2007) et seq. VMP Development Team Members include at least three LSDBE firms: Smoot, USSC and JLC. Smoot and USSC will contribute 15% of the equity capital structure. The equity investments of Smoot and USSC will entitle them to 15% of the equity value created by the Project, in accord with current DSLBD policy at the time of LDA execution. JLC will contribute 15% of the equity capital structure. JLC’s equity contribution will entitle it to 15% of the equity value created by the Project, in accord with current DSLBD policy at the time of LDA execution. The equity investments of Smoot, USSC and JLC will entitle each entity to proportionate levels of management participation in VMP, although EYA will be the Managing Member as stated above. VMP also represents that the listed LSDBE equity investors will not have their equity and/or management interests diluted under any circumstances, except in the event of a default by any such equity investor.

CERTIFIED BUSINESS ENTERPRISES:

- CBE Agreement: VMP shall enter into an agreement ("CBE Agreement") with the District of Columbia Department of Small and Local Business Development (DSLBD) and a First Source Agreement with the Department of Employment Services (DOES) for all services procurement activities in connection to the Project.

- Subcontracting: Qualified CBE firms will be awarded contracting opportunities equivalent to the value of at least 35% of the appropriate portions of the Budget. Vertical component developers must agree with CBE and all other such agreements.

AFFORDABLE AND WORKFORCE HOUSING:

- VMP recognizes that mixed-income housing is a critical District public policy objective for the Property. The LDA shall contain AWH program guidelines for the residential components of the development, affordability guidelines, and income levels for the residential component of the development. Because a chief objective of the
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Project is to minimize Public Subsidy. ODMPED will not mandate 30% AWH, although the goal of ODMPED remains 30% AWH. Pending the Appraisal and Concept Master Plan, VMP proposes that the McMillan AWH program will include the District's proposed Inclusionary Zoning requirement of approximately 10% Affordable and Workforce Housing and up to 100 additional AWH units for seniors, who currently make up a sizeable portion of the existing community around the Property.

- The District will contribute to the Project some or all of its entire District Land Value, to an extent there is any positive District Land Value, in the Property to subsidize AWH.
- If agreed upon by ODMPED and VMP, and if necessary to sustain agreed upon AWH requirements, VMP may seek public financing tools, as described above, to subsidize AWH beyond those captured in any applicable Mandatory Inclusionary Zoning Program.

PUBLIC POLICY OBJECTIVES:

Apart from AWH, other District public policy objectives for the site include historic preservation, recreation spaces and parks, and cultural amenities. ODMPED and VMP will cooperate to develop a package of offerings to meet the public policy objectives and that will address the goals of the District and the community while also ensuring that the project is financially feasible and commercially viable, and the costs of such offerings will be included in the Land Development Expenditures Budget.

PROJECT CAPITAL STRUCTURE:

- VMP shall be responsible for arranging all private debt and equity capital necessary to finance the Project through completion. VMP also will provide guarantees or other securities to insure the successful completion of the Project as outlined in Exhibit B (in draft form pending revision and final agreement between District and VMP, to be included as an amendment to this Term Sheet) to this Amended Summary Term Sheet.
- ODMPED may assist VMP in identifying and attaining Federal public financing tools. ODMPED acknowledges that public financing likely may be necessary to achieve the public policy objectives for the development and ODMPED will cooperate with VMP in identifying and securing public financing. The preceding notwithstanding, ODMPED and VMP agree that one of the key objectives of the Project is to minimize public subsidy and financing.

EARNEST MONEY DEPOSIT:

- Pursuant to the Original Summary Term Sheet, VMP posted $250,000 in the form of an irrevocable letter of credit (the "Initial Deposit") as consideration for the District's grant of the Exclusive Rights Period (as defined hereinafter). Such Initial Deposit shall become the Initial
Deposit under this Amended Summary Term Sheet. The Initial Deposit was posted with Regional Title Incorporated, as agent for First American Title Insurance Company, and Regional Title Incorporated shall enter into an escrow agreement in a form mutually agreed upon by VMP, ODMPEd and said escrow agent with respect to the escrow, holding and disbursement of all deposit funds under this Amended Summary Term Sheet, and when executed, the LDA.

- To the extent that the Initial Deposit or any Additional Deposit (as hereinafter defined) funds posted are in the form of a letter of credit, VMP shall have the right, at any time at VMP's sole option, to replace such letter of credit (or a portion of the letter of credit) with cash, in which event the cash shall be deposited by the escrow agent into an interest-bearing account and all interest accrued on the funds shall belong to VMP.

- If VMP terminates the Exclusive Rights Period at any time during the Feasibility Period, then the Initial Deposit shall be refunded immediately to VMP.

- If the Feasibility Period expires and the District and VMP cannot agree upon and execute an LDA within the agreed upon period of time (which may be extended per the Acceptance clause below), or if Council does not approve the terms of the disposition agreed upon by both parties, then VMP shall have the right, in its sole discretion, to terminate this Amended Summary Term Sheet, in which event VMP will receive a refund of the Initial Deposit and accrued interest, if any.

- The circumstances described above notwithstanding, if VMP does not terminate this Amended Summary Term Sheet during the Feasibility Period, then after the conclusion of the Feasibility Period, if execution of the LDA does not occur within the agreed upon period of time and VMP is determined by a court of competent jurisdiction to be solely responsible for failure to execute the LDA on terms mutually agreed upon by the District and VMP, the District will retain $100,000 of the Initial Deposit and VMP shall assign all of its rights in and to all work product developed by VMP to the date of termination to ODMPEd. (The right of the District to use such work product shall be subject to the terms set forth in the contracts with consultants preparing the same.) In the event the District's use of the work product is limited significantly by the terms of the consultants' contracts and consequently the value of the useable work product is deemed marginal by both the District and VMP, the District and VMP will mutually agree upon an additional value that the District may retain from the Initial Deposit incremental to the $100,000 described above.

- Work product is defined as the studies, plans, analyses, etc. conducted during the Feasibility Period to determine the parameters of the redevelopment opportunities offered by Project.

- If the parties fail to execute an LDA within the Exclusive Rights Period, VMP shall assign to the District all work-product produced by VMP and warranties made by the consultants to VMP free of liens, at no cost and expense to the District (but the right of the District to use
such work product shall be subject to the terms set forth in the contracts with consultants preparing the same).

- Within five (5) days of the execution of the LDA, VMP shall increase the deposit by posting with the escrow agent a new letter of credit in the amount of additional $750,000.00 ("Additional Deposit"), or amending the original letter of credit for the Initial Deposit to increase the amount of such letter of credit to $1,000,000.00 ("Total Deposit").

- VMP will have the right to withdraw up to $500,000 of the Total Deposit (or reduce the letter of credit if the deposit is in the form of a letter of credit) prior to Land Closing to pay for third-party pre-development costs associated with the Property, including, without limitation, land planning, architectural services, civil engineering services, legal, accounting and other pre-development costs, but not including the preliminary feasibility studies and tests which were conducted during the Feasibility Period.

- The remainder of the Total Deposit will be returned to VMP in increments of $250,000 per every 25% of FAR square feet conveyed to the vertical component developers.

- In the event, VMP is unable to obtain all or any of the Development Approvals or to complete the Project after obtaining all Development Approvals and acquiring the Property, $750,000 of Total Deposit (and interest accrued on the Total Deposit, if any) will be refunded to VMP. If such inability to obtain the Development Approvals or to complete the Project is not caused in any way by the District, then the $250,000 balance of the Total Deposit and all work product will be retained by the District.

- The Total Deposit (plus accrued interest thereon, if any) will be refunded to VMP in the event (i) the Council does not approve the terms of the disposition as mutually agreed upon by VMP and ODMPED, or (ii) the District does not execute the LDA on terms mutually agreed upon by VMP and ODMPED, or (iii) the District is deemed responsible in a court of law for the failure of VMP to receive Development Approvals or to complete the Project.

FEASIBILITY PERIOD:

- VMP shall be granted a 180-day feasibility period that will begin upon the execution of this Amended Summary Term Sheet and terminate 180 days thereafter (the "Feasibility Period").

- VMP shall utilize this Feasibility Period to complete its tests and studies and evaluation of the Property and hold meetings with the Office of Planning, the State Historic Preservation Officer ("SHPO"), several community organizations, and other critical stakeholders.

- VMP shall indemnify the District as provided in the Section entitled "Indemnification".

- To the extent not previously entered into, within 10 days of the execution of this Amended Summary Term Sheet, the District and VMP will enter into a right of entry agreement, in a form found to be legally sufficient by the Office of the Attorney General (OAG) and VMP, to
provide VMP full access to the Property during the Feasibility Period ("Right of Access") to conduct all necessary site, traffic, soil, engineering and environmental studies. To the extent that the parties previously entered into an agreement to provide VMP the Right of Access, such agreement shall be extended to permit such Right of Access during the Exclusive Rights Period.

- VMP shall promptly provide the District with copies of the reports regarding the Property (including, but not limited to, any environmental testing reports) obtained during the Feasibility Period.

- During the Feasibility Period, VMP will propose to the District potential concept and vertical development plans for the Property. Exhibit E represents VMP's efforts on developing a Concept Master Plan for the Property.

- VMP and the District will utilize the Feasibility Period to:
  1) Agree on Concept Master Plan with community stakeholders, OP
  2) Complete the Appraisal for the Property and determine District Land Value to be included in LDA
  3) Agree on initial budgets and sources and uses of funds for the Project
  4) Identify the types of public financing that may be used for the Project

**FEASIBILITY EXPENDITURES:**

Upon execution of this Amended Summary Term Sheet, VMP will continue its feasibility studies, title searches, and similar work typically performed during the Feasibility Period at its sole cost and expense.

**TITLE:**

- During the Feasibility Period, VMP shall obtain a commitment for title insurance (the "Title Commitment") and provide ODM PED with a copy of such Title Commitment and a notice of any title exceptions that it would like the District to remove from the Property prior to the Land Closing (the "Title Objections"). The District, in its sole and absolute discretion, may agree to cure the Title Objections. If the District elects not to remove the Title Objections or the Title Objections are not curable, VMP may either waive the Title Objection or terminate the LDA and receive a refund of the Total Deposit, or that portion posted to the date of termination, and all interest accrued thereon, if any.

- The District will convey fee simple title in the form of Special Warranty Deed to VMP and to the vertical component developers with respect to their development parcels, and to the community owners association with respect to the common areas, all at the Land Closing, free and clear of any and all liens and encumbrances which the District has elected to cure, as well as all exceptions not listed in the Title Commitment as affecting the Property as of the effective date of the Title Commitment. However, such conveyances to the vertical component developers will be subject to the terms of the
LDA and the reversionary rights reserved to the District as set described in Exhibit B (in draft form pending revision and final agreement between District and VMP, to be included as an Amendment to this Term Sheet).

DEVELOPMENT APPROVALS:

VMP and the District agree that redevelopment of the Property will require approval of Council under DC Code § 10-801 and the following approvals (the “Land Use Approvals”):

1) Zoning Commission (via the submission and approval of 2 Phase PUD)
2) Historic Preservation Review Board (“HPRB”)

In addition, VMP must obtain the following additional development approvals and permits (the “Land Development Approvals”):

1) Grading and Sediment Erosion Control Plan
2) Utility Plans
3) Final Site plan
4) Final Plats
5) Other Site plans
6) Subdivision Plats or Assessment and Taxation Plats to establish separate assessment and taxation parcels for the individual development parcels and the common area parcels.

The Land Development Approvals are issued by DCRA, OTR, WASA, PEPCO, and other utility companies. The Land Use Approvals and Land Development Approvals will constitute the "Development Approvals." A detailed list of all Land Development Approvals will be included in the LDA. VMP reserves the right, but is under no obligation, to submit at its sole cost and expense applications for the Development Approvals prior to execution of the LDA.

TIMELINE:

VMP anticipates that the land development work with respect to the Property will be substantially completed approximately 1 year from the initial groundbreaking and commencement of the land development work. VMP anticipates that the vertical improvements will be completed by the vertical component developers in 2 phases. Phase 1 vertical improvements are anticipated to be substantially completed approximately 2 years from the completion of the land development work. Phase 2 vertical improvements are anticipated to be completed approximately 2 years following the completion of the Phase 1 vertical improvements. The outside completion dates for land development work and vertical improvements are articulated in Exhibit B (in draft form pending revision and final agreement between ODMPED and VMP) to this Amended Summary Term Sheet.

BROKERAGE:

VMP and the District represent that no real estate broker has represented either party in this transaction and that no brokerage commission will be paid to any party.
INDEMNIFICATION: VMP shall indemnify and hold the District harmless from all claims by third parties for damages or expenses incurred by reason of property damage, personal injury, or mechanics liens arising from the VMP’s activities on the Property, except for claims arising from the negligent acts of the District’s employees that are not otherwise covered by VMP’s insurance. VMP acknowledges that the District is self-insured and is legally prohibited from granting indemnifications.

ENVIRONMENTAL LIABILITY: During the Feasibility Period, VMP will conduct tests and assessments to determine if, and to what extent, hazardous materials are present on the Property. Additional testing may occur after the conclusion of the Feasibility Period. At all times, VMP will promptly provide the District with results of the tests and assessments in writing. With respect to unknown environmental contamination, VMP will purchase environmental liability insurance if available at commercially reasonable rates, and the cost of such insurance shall be included in the Budget. AT LAND CLOSING, THE DISTRICT WILL CONVEY THE PROPERTY TO VMP AND EACH OF THE VERTICAL COMPONENT DEVELOPERS IN ITS "AS-IS" "WHERE-IS" PHYSICAL CONDITION. THE DISTRICT WILL MAKE NO REPRESENTATION OR WARRANTY AS TO THE PHYSICAL CONDITION OF THE LAND CONSTITUTING THE PROPERTY.

CONFIDENTIALITY AGREEMENT: To the extent permitted by law, this Amended Summary Term Sheet shall be considered confidential and by receipt hereof, VMP and the District hereby agree to keep its contents and all matters related thereto strictly confidential, except that the parties shall have the right to discuss the terms set forth herein with Council and their respective agents, advisors, consultants, and representatives who shall be advised of the confidential nature hereof. Summaries of terms and processes critical to the community process can be prepared and agreed upon by the District and VMP and distributed to the community.

NON-BINDING EFFECTS: This Amended Summary Term Sheet is intended to be an expression of concepts only by the parties who sign and accept it and shall in no event be deemed to be or constitute a binding contract agreement or other legally enforceable obligation between said persons or entities to such matters or any commitment that the parties will reach discussed herein, except as described in the Exclusive Rights Period described below. If no LDA is entered into, the District is under no obligation to reimburse VMP or its consultants, sub-contractors or successors for any cost, expense, or efforts incurred.
ANTIDEFICIENCY ACT LIMITATIONS: VMP acknowledges that the District is not authorized to make any obligation in advance or in the absence of lawfully available appropriations and that the District's authority to make such obligations is and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1350, 1351; (ii) D.C. Official Code Section 47-105; (iii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08, as the foregoing statutes may be amended from time to time; and (iv) Section 446 of the District of Columbia Home Rule Act.

SETTLEMENT: The LDA will provide that settlement on the fee-simple disposition of the Property from the District to VMP, the vertical component developers and the community owners association at the Land Closing. The Land Closing will take place on the later to occur of 30 days after (i) the receipt of the last of the Development Approvals, or (ii) the date upon which the District and VMP concur that the land and vertical development of the Project is commercially viable and financially feasible. If a vertical component developer does not settle on the acquisition of a development parcel on its specified closing date per its agreement with VMP, VMP will have the sole discretion to select a new vertical component developer, subject to all conditions set forth in the LDA. Notwithstanding anything to the contrary, the District shall have no obligation to convey any Property or go to Land Closing unless and until all construction schedules, financing, plans and government approvals as required in the LDA have been finalized and established to the reasonable satisfaction of the District.

DEFAULT: The LDA shall set forth remedies of the District in the event of a default by VMP or any vertical component developer under the LDA. Such remedies shall include a right of the District, following notice and cure rights of VMP or the vertical component developer, as applicable, and the rights of lenders holding liens on the applicable portion of the Property, to declare a termination of the fee title of the defaulting party in favor of the District and termination of all rights and interests in the Property conveyed in any deed by the District to the defaulting party, and to re-enter the property as the sole owner thereof, which remedies shall be exercised in accordance with the terms set forth in Exhibit B (Guarantees) to this Amended Summary Term Sheet (in draft form pending revision and final agreement between ODMPEd and VMP to be included in an amendment to this Amended Summary Term Sheet).

ACCEPTANCE: VMP will have the exclusive right to negotiate the LDA with the District 365 days after the date of this Amended Summary Term Sheet ("Exclusive Rights Period"). The Exclusive Rights Period may be extended by 365 days or more provided that the parties mutually agree to
extend the Exclusive Rights Period in the form of a written amendment to this Amended Summary Term Sheet prior to expiration of the Exclusive Rights Period.

- The terms outlined herein indicate the intention of the parties only and the operative terms shall be set forth formally and completely in the LDA to be agreed upon and entered into between VMP and the District.

- Immediately following the execution of this Amended Summary Term Sheet, VMP and the District will instruct their respective legal counsels to initiate preparation of the LDA. All parties to the LDA will participate in the review and formation and will negotiate the LDA in good faith to attempt to reach mutual agreement on same as soon as possible.

- The District will submit the LDA agreed to by VMP and to Council for approval promptly following agreement on the LDA. ODMPED and VMP have 365 days from the date of execution of this Amended Summary Term Sheet to obtain approval of the LDA from Council. In the event the LDA is not approved by Council within the defined time period and the time period is not extended, the terms outlined herein will expire.

- The District and VMP will endeavor to agree on the final form of the LDA to be submitted to Council by the conclusion of the Feasibility Period. A Project Schedule will be attached to the LDA and will be utilized to measure progress on the Project.

- NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPTING ONLY THE "EXCLUSIVE RIGHTS PERIOD" PROVIDED ABOVE IN THIS SECTION, THIS AMENDED SUMMARY TERM SHEET IS NOT LEGALLY BINDING ON ANY PARTY HERETO AND IS ONLY FOR THE PURPOSE OF GUIDING THE NEGOTIATION OF THE LAND DISPOSITION AGREEMENT CONTEMPLATED HEREIN AND NOTHING CONTAINED HEREIN SHALL BE CONSTRUED TO BIND THE DISTRICT OF COLUMBIA TO DO OR ABSTAIN FROM ANY ACT, EXCEPT AS PROVIDED IN THE FIRST PARAGRAPH OF THIS SECTION, I.E., THE "EXCLUSIVE RIGHTS PERIOD," AND THIS AMENDED SUMMARY TERM SHEET SHALL BE OF NO LEGAL FORCE OR EFFECT.

[Signatures on following pages]
ACKNOWLEDGED AND AGREED:
DISTRICT OF COLUMBIA

By: [Signature]
Name: Neil O. Albert
Title: Deputy Mayor for Planning and Economic Development
Date: February 17, 2009

[Signatures continued on following page]
VISION McMILLAN PARTNERS
c/o EYA, LLC

By:

[Signature]

Name: LeRoy Eakin III
Company: EYA, LLC
Title: Chairman
Date: 2/17/09

By:

[Signature]

Name: Robert Youngentob
Company: EYA, LLC
Title: President
Date: 2/17/09
**Government of the District of Columbia**

**Office of the Deputy Mayor for Planning and Economic Development**

**Exhibit A**

**Vision McMillan Partners Development Team Members**

<table>
<thead>
<tr>
<th>#</th>
<th>Company</th>
<th>Role</th>
<th>LSDBE Firm</th>
<th>Form of Equity</th>
<th>% Equity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>EYA, LLC</td>
<td>Managing Member, Lead Investor, Lead Developer</td>
<td></td>
<td>cash</td>
<td>56%</td>
</tr>
<tr>
<td>2</td>
<td>The Jair Lynch Companies/MacFarlane Partners (LSDBE entity)</td>
<td>Community Outreach Specialist/Equity Investor</td>
<td>LSDBE</td>
<td>cash</td>
<td>15%</td>
</tr>
<tr>
<td>3</td>
<td>Smoot Construction</td>
<td>Equity Investor</td>
<td>LSDBE</td>
<td>cash</td>
<td>7.5%</td>
</tr>
<tr>
<td>4</td>
<td>Urban Services System Corporation</td>
<td>Equity Investor</td>
<td>LSDBE</td>
<td>cash</td>
<td>7.5%</td>
</tr>
<tr>
<td>5</td>
<td>The Alexander Company</td>
<td>Historic Preservation Developer</td>
<td></td>
<td>in-kind services</td>
<td>9%</td>
</tr>
<tr>
<td>6</td>
<td>StreetSense</td>
<td>Mixed-Use, Retail Consultant/Developer</td>
<td></td>
<td>in-kind services</td>
<td>5%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100%</td>
</tr>
</tbody>
</table>
VMP proposes to the District that VMP will: a) seek appropriate PUD and other necessary approvals to allow this Project to move forward, b) complete all necessary land development work pursuant to the terms of the LDA which are mutually agreed upon by VMP and the District, and c) implement measures to assist the District achieve its goal to have all vertical improvements completed. The comprehensive results of this proposed mix of assurances is the following:

Prior to Closing:

1. Following execution of the LDA, and prior to Land Closing, VMP will spend roughly $4 - $5 million in engineering, architectural, legal and other “predevelopment” costs to seek a PUD approval for the Project and to prepare for the Closing. The only way VMP secures a return on this spending is to complete the Project.

2. VMP agrees to assign to the District all of VMP's rights to the work product resulting from this $4 - 5 million in pre-development costs (subject to the conditions on the use of such work product as may be imposed by the consultants providing the work product to VMP).

3. In the event VMP defaults prior to Land Closing under the LDA (following appropriate notice and cure rights to be included in the LDA), the District will be free to dispose of the Property to another developer.

4. As provided in the Amended Summary Term Sheet, VMP will post a $1 million deposit upon execution of the LDA that will further guaranty VMP's performance of its obligations under the LDA.

Post-Closing Horizontal Land Development

5. At Closing, the District will be paid, in cash, the fair market value for the Property as established pursuant to the terms of the Amended Summary Term Sheet. At the request of VMP, the District will convey the development parcels directly to the applicable vertical component developers at Land Closing and the common areas of the community to a community owners association.
6. At Land Closing under the LDA, VMP will have entered into a contract with a general contractor to complete 100% of the land development work that will include removal and/or construction of appropriate water storage facilities, all major roads and trunk utilities for the redevelopment, and all parks and preservation areas. The LDA will specify the work to be included in the land development work. The land development work does not include the land development work that will need to be completed on individual development parcels/pad sites, which will be the responsibility of the vertical component developer for that particular development parcel/pad site.

7. At Land Closing, VMP will guarantee to the District that all of the land development work will be completed within 5 years from the date of Land Closing on the conveyance of the Property, subject to force majeure delays. This guaranty will be in the following format:

   a. VMP will agree to make no distributions for profit to any VMP Development Team Member until the land development work is substantially complete.

   b. In addition, certain VMP Development Team Members, specifically Jair Lynch Development Partners, LLC and Eakin-Youngentob Associates, Inc (and potentially other VMP Development Team Members to be designated by VMP) will provide an “entity level” guaranty of completion, which guaranties should be treated by the District as “Reputational Guaranties.”

8. At Land Closing under the LDA, the District will convey the development parcels within the Property to the vertical component developers with whom VMP has contracted to convey individual development parcels, including VMP Development Team Members and independent third-party purchasers identified by VMP. Each such vertical component developer to which one or more development parcels is conveyed shall be obligated to pay its respective share of the Horizontal Land Development Work Required Funds (as hereinafter defined) into the Land Development Escrow Account (as hereinafter defined) at Land Closing.

9. In order to assure the District that the land development work will be promptly completed, VMP will assure that funds in an amount equal to 110% of the costs of all land development work remaining to be completed at any point in time (not including projected profit), or 100% of budgeted costs (including profit) for all land development work remaining to be completed at any point in time (such amount required to complete the land development work being referred to as the "Land Development Work Required Funds"), will be deposited into an escrow account at Closing (the "Land Development Escrow Account") or otherwise be available to complete the land development work. To accomplish this, VMP will require that each vertical component developer pay on the date of Land Closing under the LDA (and the simultaneous conveyance of development parcels to the vertical component developers), an amount equal to the fair market value of the development parcel(s) being conveyed to the vertical
Government of the District of Columbia

Office of the Deputy Mayor for Planning and Economic Development

component developer (the "Developer Funds"), which Developer Funds shall be
deposited into the Land Development Escrow Account. To the extent that the aggregate
amount of the Developer Funds deposited by each vertical component developer into the
Land Development Work Escrow Account at Land Closing does not equal the Land
Development Work Required Funds, then VMP shall fund (through cash or a letter of
credit) the difference between (a) the Land Development Work Required Funds and
(b) the total amount of the Developer Funds deposited by all vertical component
developers into the Land Development Escrow Account at Land Closing under the LDA
(such difference being referred to as the "Potential Shortfall"). The funds in the Land
Development Escrow Account will guarantee that should VMP be unable to complete the
land development work, that there will be sufficient funds in the Land Development
Work Escrow Account at all times to allow for the completion of the then remaining land
development work.

10. To the extent that a Potential Shortfall exists, then VMP will seek new debt financing in
an amount necessary to meet the Potential Shortfall so as to assure that there will be
sufficient Land Development Work Required Funds available at Closing under the LDA.
The debt financing shall be secured only by deeds of trust granted by VMP on those
parcels within the Property which are owned by VMP and have not been conveyed to
vertical component developers and such financing shall be in an amount less than 50% of
the fair market value of those VMP-owned parcels. To the extent that title to any of the
development parcels which are owned by VMP at the date of the Land Closing are
subsequently conveyed to vertical component developers prior to the completion of the
land development work, then the net sales proceeds from those sales shall be used first to
pay off the debt financing obtained and the remaining net sales proceeds shall be
deposited into the Land Development Escrow Account, to the extent needed to meet the
Land Development Work Required Funds.

11. Should VMP fail to complete this land development work resulting in a default in VMP's
commitment to the District and the vertical developers to complete the land development
work, and if VMP fails to cure the default after written notice and a reasonable cure
period, and if the lenders providing the financing for the land development work under
the terms of the LDA and the relevant financing documents do not exercise their rights to
step in and cure the default of VMP (which lender rights shall be provided in the LDA),
then the individual vertical component developers will have the right (following written
notice to VMP and the District) to act collectively to complete the land development
work and draw upon the Land Development Escrow Account to obtain reimbursement for
the actual costs incurred to complete the land development work. If the vertical
component developers fail to exercise the foregoing "self-help" remedy and begin
completion of the land development work within an agreed-upon period of time
following VMP's default and failure to cure, then the District may elect, at its option, to
complete the land development work and to draw upon the Land Development Escrow
Account to obtain reimbursement for the actual costs incurred to complete such land
development work.
12. Any funds remaining in the Land Development Escrow Account upon substantial completion of the land development work and payment of all costs for said land development work shall be applied to payment of the debt and equity financing which may have been obtained to assure that there were sufficient Land Development Work Required Funds to complete the land development work, and the remaining balance in the Land Development Escrow Account shall be paid as profit to VMP (or if VMP fails to complete the land development work, then to the vertical component developers or the District, whichever party substantially completes the land development work following VMP's failure to do so).

13. VMP will provide the District with copies of all financing agreements, demonstrating the rights of the lenders in monitoring VMP's performance of the land development work and the rights of the lenders to step in and cure the defaults of VMP, including, without limitation, the right to step in and complete the land development work.

14. VMP may be subject to financial penalties imposed by vertical component developers if VMP fails to complete the land development work so as to deliver pads in accordance with the terms of the purchase and sale contracts between VMP and the vertical component developers.

15. VMP may, subject to negotiations of the terms of the financing agreements with the lenders providing the Potential Shortfall financing for the Land Development Work Required Funds, be subject to financial penalties imposed by the lenders if VMP fails to complete the land development work and deliver pads in accordance with the terms of the financing agreements.

16. The terms of the financing agreements may also subject VMP to additional interest payments due to the lenders if VMP fails to complete the land development work and deliver pads in accordance with the requirements of the financing agreements.
Vertical Component Development

17. VMP will select, and the District shall approve, which approval shall not be unreasonably withheld, all vertical component developers who are not VMP Development Team Members, if any. The parties acknowledge that it is in the best interest of the parties to convey at Land Closing under the LDA with the District as many of the development parcels as may be necessary to provide the Land Development Work Required Funds for the Land Development Escrow Account.

18. Each vertical component developer ownership entity approved by the District will provide an entity level Reputational Guaranty to the District and to VMP to assure substantial completion of all vertical improvements on its development parcel no later than the later of (i) 5 years following substantial completion of the land development work, or (ii) seven (7) years following such vertical component developer’s acquisition of fee simple title to the parcel (the “Vertical Construction Guaranty”).

19. In the event that all improvements on a development parcel which has been conveyed to a vertical component developer are not completed in accordance with the foregoing Vertical Construction Guaranty, then:

a. VMP shall use commercially reasonable efforts to work with the secured lender providing financing to the vertical component developer and the District to complete construction and/or obtain a replacement vertical component developer to complete the construction of the vertical improvements. Over a 6 month period following such default by the vertical component developer, VMP will use commercially reasonable efforts to evaluate the development parcel and the status of the improvements with the lender to assume ownership and/or development completion responsibility (and the funding from the lender to complete such construction of the improvements) or facilitate through VMP or a 3rd Party firm the development and sale of the development parcel to a reputable alternative vertical component developer who would be given an additional 3 year period to complete the vertical improvements. VMP would assume the costs to facilitate this 6 month effort.

b. Vertical component developers will warrant that secured debt from private sources (not including HUD, FHA, Public Financing) shall not exceed 80% of the fair market value, per appraisal, of the development parcel and proposed improvements. (As example, if a vertical component developer of a medical office building cannot complete its $100 million office building, then the District can take title to the property for $1, receiving the equity invested in this building up to that point or up to $20 million in this example.) The foregoing limitation on debt financing encumbering a development parcel shall be included in each deed to a vertical component developer.
20. At Land Closing under the LDA, VMP will provide an entity level Reputational Guaranty to the District with respect to all vacant and unsold parcels not under a Vertical Construction Guaranty obligating VMP to either:

a. Execute a disposition of that parcel, within five (5) years after the Closing by the District and VMP under the LDA, to a vertical component developer who will provide a new Vertical Construction Guaranty as described in paragraph 18 above, or

b. If the disposition does not occur within said 5 year period and VMP is in default under the LDA, the District will have the option to take title to that development parcel (provided that all lender rights have been exhausted under the terms of the LDA and the Assignment and Assumption between the vertical component developer, VMP and the District).

21. Each vertical component developer will provide the District with copies of all financing agreements, demonstrating the rights of the lender in monitoring the vertical component developer's performance and the lender's right to step in and cure the defaults of the vertical component developer, including, without limitation, to the right to step in and complete the construction of the vertical improvements in the unlikely event of non-performance by the vertical component developer.

22. Each vertical component developer will be required to build out the vertical improvements on its pad site consistent with all covenants in the deeds to its land, and in accordance with all PUD-approved uses, design guidelines, affordable housing, etc. requirements imposed on such development parcel.

23. Each vertical component developer will provide the District with a copy of the construction contract for the construction of the vertical improvements, which construction contract shall include either a GMP or construction completion bond guarantying completion of the general contractor’s scope of work.
### Exhibit C

**VMP McMillan Land Development Expenditures Budget**

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<thead>
<tr>
<th>Costs</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$30,012,149.84</td>
</tr>
<tr>
<td>Total Site Costs</td>
<td>30,012,150</td>
</tr>
<tr>
<td>Field Super &amp; Gen Cond (% of Site Costs)</td>
<td>2,496,752</td>
</tr>
<tr>
<td>Admin, Insur, &amp; Finance (% of Site Costs)</td>
<td>1,248,376</td>
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<tr>
<td>Architecture</td>
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<tr>
<td>Engineering</td>
<td>2,750,000</td>
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<tr>
<td>Permits &amp; Fees</td>
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<tr>
<td>Legal</td>
<td>1,500,000</td>
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<tr>
<td>Proffers</td>
<td>500,000</td>
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<tr>
<td>Community Benefits</td>
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<tr>
<td>GC Overhead (% of Site Costs)</td>
<td>3% 936,282</td>
</tr>
<tr>
<td><strong>Total Development Costs</strong></td>
<td>42,393,559</td>
</tr>
<tr>
<td>Dev Overhead (% of Dev Costs)</td>
<td>5% 2,204,540</td>
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<tr>
<td>Contingency (% of *)</td>
<td>15% 6,473,179</td>
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<tr>
<td><strong>Total Site Development Costs</strong></td>
<td>51,071,278</td>
</tr>
<tr>
<td>Interest - A&amp;D Loan (6.75%)</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Interest/Pref - W/F Equity Loan (7.75%)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Costs</strong></td>
<td>$ 52,071,278</td>
</tr>
</tbody>
</table>
### Exhibit D

**VMP McMillan Estimated Sources and Uses and Residual Land Value**

<table>
<thead>
<tr>
<th>Unit Type</th>
<th># of Units</th>
<th>Area (SF)</th>
<th>Average Base Sales Price</th>
<th>Total Revenue</th>
<th>Workforce Housing Reduction (10%)</th>
<th>Net Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Phase 1 - Vertical Developers Close at Closing w/City and Start of LD:</strong></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Hotel/Retail</td>
<td>105,000</td>
<td>38</td>
<td>$3,990,000</td>
<td>$3,990,000</td>
<td>-</td>
<td>$3,990,000</td>
</tr>
<tr>
<td>Stick Condo</td>
<td>87</td>
<td>$40,000</td>
<td>$3,480,000</td>
<td>$348,000</td>
<td>$3,132,000</td>
<td></td>
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<tr>
<td>Stick Rental</td>
<td>300</td>
<td>$30,000</td>
<td>$9,000,000</td>
<td>$900,000</td>
<td>$8,100,000</td>
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<tr>
<td>Retail/Grocer</td>
<td>80,000</td>
<td>(40)</td>
<td>(3,200,000)</td>
<td>$3,200,000</td>
<td>-</td>
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<tr>
<td>Office</td>
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<td>40</td>
<td>$6,000,000</td>
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<td>$6,000,000</td>
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<tr>
<td>Skilled Nursing</td>
<td>200</td>
<td>$20,000</td>
<td>$4,000,000</td>
<td>$4,000,000</td>
<td>-</td>
<td>$4,000,000</td>
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<tr>
<td>Retail</td>
<td>22,000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Affordable Sen Stick</td>
<td>100</td>
<td>$1,000</td>
<td>$100,000</td>
<td>$100,000</td>
<td>-</td>
<td>$100,000</td>
</tr>
<tr>
<td>Town</td>
<td>100</td>
<td>$100,000</td>
<td>$10,000,000</td>
<td>$750,000</td>
<td>$9,250,000</td>
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<tr>
<td>Office</td>
<td>150,000</td>
<td>38</td>
<td>$5,700,000</td>
<td>$5,700,000</td>
<td>-</td>
<td>$5,700,000</td>
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<tr>
<td>Stick Rental</td>
<td>175</td>
<td>$35,000</td>
<td>$6,125,000</td>
<td>$612,500</td>
<td>$5,512,500</td>
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<tr>
<td>Town</td>
<td>120</td>
<td>$110,000</td>
<td>$13,200,000</td>
<td>$990,000</td>
<td>$12,210,000</td>
<td></td>
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<tr>
<td><strong>Total</strong></td>
<td>1,082</td>
<td>507,000</td>
<td>$58,395,000</td>
<td>$3,600,500</td>
<td>$54,794,500</td>
<td></td>
</tr>
</tbody>
</table>

**Gross Vertical Value**

| 1,082 | 507,000 | -      | 58,395,000 | 3,600,500 | 54,794,500 |

**Workforce Housing Percentage**

10%
## Sources
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Vertical Pad Sales</td>
<td>$ 54,794,500</td>
</tr>
<tr>
<td><strong>Total Sources</strong></td>
<td><strong>$ 54,794,500</strong></td>
</tr>
</tbody>
</table>

## Uses
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Development Cost</td>
<td>$ 52,071,278</td>
</tr>
<tr>
<td>VMP Profit</td>
<td>$ 2,723,222</td>
</tr>
<tr>
<td><strong>Total Uses</strong></td>
<td><strong>$ 54,794,500</strong></td>
</tr>
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## Residual Land Value
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Vertical Pad Sales</td>
<td>$ 54,794,500</td>
</tr>
<tr>
<td>Land Development Cost</td>
<td>$ (52,071,278)</td>
</tr>
<tr>
<td>5% Return on Cost (Profit)</td>
<td>$ (5,207,128)</td>
</tr>
<tr>
<td><strong>Residual Land Value Estimate</strong></td>
<td><strong>$ (2,483,906)</strong></td>
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</tbody>
</table>
SUMMARY RESPONSE TO ACQUISITION PROPOSALS
McMillan Sand Filtration Site Redevelopment
December 23, 2010

The Government of the District of Columbia (the "District") offers this Summary Response to Acquisition Proposals (the "Response") to Vision McMillan Partners ("VMP") and Members of VMP (defined below) to outline the current understanding among the District, VMP, and Members of VMP, collectively referred to as the "Parties" herein. Members of VMP include EYA, LLC ("EYA"), Jair Lynch Development Partners ("JLDP"), and Trammell Crow Company ("TCC").

This Response helps establish the framework upon which the District will negotiate the disposal of certain parcels of land at McMillan (defined below) to members of VMP (the "Property", as further described in Paragraph 1 below). Accordingly, in accordance with the Exclusive Rights Agreement executed by the Parties on April 23, 2010 ("ERA"), the Parties intend to immediately proceed to negotiating a Land Disposition and Development Agreement ("LDA") with respect to the redevelopment of the 25-acre McMillan Sand Filtration Site ("McMillan") in Northwest Washington, D.C., using the concepts outlined below as a framework for such LDA.

Notwithstanding anything to the contrary contained herein, the Parties hereby acknowledge and agree that the terms and conditions contained within the ERA shall continue in full force and effect, as the same applies to the negotiation of the disposition and development of the Property. In the event of any conflict between the terms of the ERA and this Response, as it pertains to the Property, the terms of the ERA shall prevail.

1. PROPERTY:


1.2. The District owns McMillan, together with all appurtenances and improvements located thereon. The Property is situated on North Capital Street and known for tax and assessment purposes as Lot 0800 in Square 3128.

2. PROJECT

2.1. The redevelopment of the Property (the "Project") will include a) land development and b) vertical development.

2.2. LAND DEVELOPMENT.

2.2.1. Through land development, the District will create a number of entitled, ready-to-build pad sites serviced by backbone common infrastructure, (i.e., public streets, utilities, lighting) and common area amenities (i.e., the park, historic preservation, and cultural resources).

2.2.2. The District will deliver parcels of the Property in finished pad conditions, generally defined as including (but not be limited to) demolition, environmental remediation, earthwork, utility work, rough grading per Purchaser (defined below)
specifications, common infrastructure, and all external public streets (a “Finished Pad”). The result of the District’s land development activities will be Finished Pads suitable for the immediate development of the vertical improvements contemplated in the ERA.

2.2.3. Other land development activities that will be completed include (but are not limited to) off-site traffic improvements, wet and dry utilities stubbed to the pad site after all off-site upgrades are completed, common historic preservation, park space, and landscaping.

2.3. LAND DEVELOPMENT FINANCE.

2.3.1. The District may utilize a number of public and private sources to finance land development and infrastructure necessary to deliver Finished Pads to Members of VMP.

2.3.2. Concurrent with the LDA negotiation process, the District will formulate a financing strategy and work to secure sources of capital that will support the completion of land development and infrastructure construction.

2.4. VERTICAL DEVELOPMENT.

2.4.1. Pursuant solely to the terms of the LDA and any subsequent LDA (both to be negotiated), the District intends dispose of certain portions of Property to individual VMP members who will deliver the Developer Uses (as defined in the ERA).

2.4.2. The District may solicit other component developers that will participate in vertical development of other Finished Pads not disposed to and developed by VMP members. VMP may propose to the District, for its approval, other vertical component developers that VMP would like to add as members to its development team.

2.5. VERTICAL DEVELOPMENT PROGRAM. The District and VMP will pursue the Phase 1 vertical development program outlined in Section 2.1 of the ERA.

2.6. PURCHASE PRICE METHODOLOGY.

2.6.1. Members of VMP submitted Acquisition Proposals (as defined in the ERA) to the District (as required under the ERA) that set forth methodologies to arrive at purchase prices for certain portions of the Property.

2.6.2. The District reviewed the Acquisition Proposals and engaged Members of VMP in a number of discussions about the certain purchase price methodologies.

2.6.3. The purchase price methodologies as described in Appendices 1-3 are both appropriate and acceptable to the District.

2.7. SITE PLAN. This entire Paragraph 2 is subject to District’s review and approval of a final site plan for the Property, in its sole and absolute discretion.

3. EARNEST MONEY DEPOSITS

3.1. Initial Deposit:
3.1.1. Each Member of VMP Member will submit to the District an earnest money deposit equal to 5% of the purchase price for each VMP Parcel (the “Initial Deposit”).

3.1.2. Initial Deposits will be placed in an escrow account, selected by the District, at execution of an LDA.

3.1.3. Initial Deposits will be fully refundable to Members of VMP until the District and the respective Member of VMP receive all final, un-appealable entitlements for the VMP Parcel in question.

3.2. Additional Deposit:

3.2.1. Upon the District’s commencement of land development, each Member of VMP will provide an additional deposit equal to 15% of the purchase price for each VMP Parcel (the “Additional Deposit”).

3.2.2. Additional Deposits will be placed in the same escrow account described in Section 3.1.2. above and held through the completion of land development.

4. FEASIBILITY PERIOD

4.1. The District has provided to VMP certain environmental and geotechnical reports and studies, zoning information, and historic information (the “Feasibility Studies”) related to the Property.

4.2. The District shall commission the completion of additional Feasibility Studies prior to the commencement of the Feasibility Period (defined below), and shall provide them to VMP.

4.3. VMP shall have ninety (90) days from the execution of any LDA (the “Effective Date”) in which to further investigate and review the Property that is subject to such LDA (the “Feasibility Period”). During this Feasibility Period, the District will permit VMP to enter upon the Property at all reasonable times for the purpose of inspections, surveying, testing and environmental studies. During the Feasibility Period, VMP will indemnify the District from any claims, damages, or expenses incurred by Seller by reason of property damage, personal injury, or mechanics liens arising from Purchaser’s activities upon the Property.

5. TITLE

5.1. The District will convey Finished Pads to Members of VMP by special warranty deed, free and clear of all exceptions and special assessments and taxes related to the Finished Pads which may have accrued prior to the date of Settlement.

6. PROJECT APPROVALS

6.1. The District, as the property owner, will be responsible for all land development approvals, including land development permits, DC Zoning Commission approval for a Planned Unit Development (PUD), and approval from the Historic Preservation Review Board, and any other required local or federal approvals in order to commence land development and to convey the VMP parcels to individual VMP members for the Developer Uses outlined in the ERA.
6.2. Members of VMP will secure all necessary building permits with respect to the construction of buildings on the VMP Parcels.

7. CLOSING

7.1. Members of VMP will close on the purchase of their Finished Pads within 30 days of the satisfaction of all Conditions to Closing (defined below).

7.2. The District shall be responsible for its legal costs and shall prepare the documents of transfer.

7.3. The District may utilize payments from Members of VMP for the transfer and recodervation taxes as a source Land Development Finance.

8. CONDITIONS OF CLOSING The LDA(s) will contain usual and customary conditions which must be fulfilled prior to each individual VMP member's obligation to proceed to closing on the purchase of a VMP Parcel, including but not limited to the following:

   i. Evidence that the respective VMP Member has the necessary sources of capital to complete a vertical development project on the VMP Parcel in question
   ii. Evidence of an executed CBE Agreement related to the VMP Parcel in question
   iii. Evidence of an executed First Source Agreement related to the VMP Parcel in question
   iv. Evidence that the District has marketable title
   v. Evidence that the District has received all necessary (un-appealable) entitlements for the VMP Parcel in question
   vi. Evidence that the District has secured financing to complete the necessary land development and infrastructure for the VMP Parcels
   vii. Delivery of a Finished Pad for the VMP Parcel in question
   viii. Each individual VMP member's receipt of all necessary building permits and public approvals for the development of its Finished Pad(s)

9. TREATMENT OF FUNDS INVESTED IN PRE-DEVELOPMENT

9.1. Pursuant to the ERA, VMP's investment in certain pre-development expenses shall be treated as preferred equity capital and therefore will earn a mutually acceptable fair market return. Members of VMP will be entitled to credits toward their respective purchase prices of VMP Parcels based on their proportionate shares of the principal and the agreed upon return due to VMP.

9.2. Similarly, the District will be entitled to additions to purchase prices of Finished Pads equal to the amount of all pre-development costs and expenses, incurred by the District that are attributable to vertical development projects (such as Stage 2 PUD architecture and engineering expenses), and the same mutually acceptable fair market return described above.

9.3. In any LDA, the Parties will agree on an acceptable fair market return and note this return in writing. The Parties also will attach a schedule to any LDA that describes the timing of expenses incurred by the Parties and estimations of the returns earned by the Parties.
10. CONFIDENTIALITY This Response shall be considered confidential and the Parties (their agents, advisors, and representatives) shall keep its contents and all matters related thereto strictly confidential.

11. NON-BINDING EFFECTS This Response is intended to be an expression of an understanding between the Parties and shall in no event be deemed to be or constitute a binding or otherwise legally enforceable obligation between said Parties.

12. ANTIDEFICIENCY ACT LIMITATIONS VMP acknowledges that the District is not authorized to make any obligation in advance or in the absence of lawfully available appropriations and that the District’s authority to make such obligations is and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1350, 1351; (ii) D.C. Official Code Section 47-105; (iii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08, as the foregoing statutes may be amended from time to time; and (iv) Section 446 of the District of Columbia Home Rule Act.

13. SETTLEMENT The LDA will provide that settlement on the fee-simple disposition of Finished Pads from the District to VMP will occur at Closing. If an expected developer does not settle on the acquisition of a Finished Pad on its specified closing date per the LDA, the District in its sole discretion may select to either postpone all Closing or select or cause to select another developer, subject to all conditions set forth in the LDA.

14. DEFAULT: The LDA shall set forth remedies for the District and VMP in the event of a default by the District or VMP under the LDA.

15. ACCEPTANCE: The terms and provisions set forth in this Response, together with other terms and provisions relating to this transaction, shall be set forth more completely in the LDA(s) to be agreed upon and entered into by the District and VMP.
As of the date hereof, the Parties agree that this Response sets forth the framework for continuing LDA negotiations in accordance with the ERA:

The District:

DISTRICT OF COLUMBIA,

By: [Signature]
Name: Neil O. Albert
Title: City Administrator

The Developer:

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: McMillan Associates, LLC, its managing member

By: [Signature]
Name: LeRoy Eakin III
Title: Chairman, EYA, LLC
As of the date hereof, the Parties agree that this Response sets forth the framework for continuing LDA negotiations in accordance with the ERA:

The District:

DISTRICT OF COLUMBIA,

By: ____________________________
Name: Neil O. Albert
Title: City Administrator

The Developer:

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: McMillan Associates, LLC, its managing member

By: ____________________________
Name: LeRoy Eakin III
Title: Chairman, EYA, LLC
Appendix-1
EYA Proposal

1. PHASE 1 DEVELOPMENT PROPOSAL

1.1. Use: Urban Townhomes

1.2. Number of Units: approximately 140 urban townhomes

1.3. Unit Sizes: They will range in size from 1,500 – 2,500 square feet and range in width from 14 feet to 24 feet.

1.4. Workforce Units: 12% of the units (17 units) will be targeted to workforce families, earning between 80% - 120% of the Area Median Income (AMI). The average Purchase Price for these units will be approximately $325,000.

1.4.1. Purchase Price Methodology. The pro-forma in the EYA McMillan Phase I Acquisition Proposal suggests a $0 land value (and no subsidy or land value reduction) is required for EYA to break even on the workforce housing portion of the project. As such, EYA proposes both no land value paid to the District and no subsidy requirement for the proposed workforce housing units be paid to EYA or deducted from the Market Rate Housing Purchase Price.

1.5. Market Units: The resulting mix is approximately 123 market rate townhomes and 17 workforce townhomes. 1-2 parking spaces for each of the townhomes will be included in a garage within the townhomes.

1.5.1. Purchase Price Methodology.

1.5.1.1. The District and EYA agree to value the EYA parcels on a per townhome lot basis. The Total Purchase Price per unit will be the Base Price per Unit Type at Closing (as detailed below) plus 25% of the positive difference between the Actual Base Sales Price and the Initial Base Sales Price per Unit, if any. This methodology is illustrated further in the Section 1.8 below.

1.5.1.2. The Base Purchase Price will be paid to the District at Closing. The Base Price shall not include any pricing from purchaser selected options.

1.5.1.3. The Additional Base Purchase Price will be paid to the District quarterly following EYA’s closings with home purchasers. The Additional Base Purchase Price also shall not include any pricing from purchaser selected options.

1.6. Land Area: The proposal will include approximately 300,000 square feet, including garage parking inside each unit.

1.7. Program Subject to Change: Development Proposal for Phase 1 is subject to change based on 1) the Final PUD Approved site plan and 2) the Land Development phasing.

Purchase Price Methodology Tables: The following table details the Total Base Land Price calculation at Closing to the District based on 123 market rate units and 17 workforce units of the type specified below. The actual Total Base Purchase Price will be set by the number of units of each home type approved in PUD times the the Base Price per Unit Type at Closing.

<table>
<thead>
<tr>
<th>Market Rate Unit Types</th>
<th>Initial Base Sales Price per Unit</th>
<th>Purchase Price Percentage</th>
<th>Base Price per Unit Type at District at Closing</th>
<th># of Units</th>
<th>Total Base Land Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home Type</td>
<td>Initial Base Sales Price per Unit</td>
<td>Purchase Price Percentage</td>
<td># of Units</td>
<td>Actual Base Purchase Price</td>
<td>Difference</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-----------------------------------</td>
<td>---------------------------</td>
<td>------------</td>
<td>---------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Market Townhomes (14x36) A</td>
<td>$460,000</td>
<td>15%</td>
<td>34</td>
<td>$560,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>Market Townhomes (16x36) B</td>
<td>$510,000</td>
<td>15%</td>
<td>44</td>
<td>$660,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>Market Townhomes (18x36) C</td>
<td>$560,000</td>
<td>15%</td>
<td>45</td>
<td>$660,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>Workforce</td>
<td>$0</td>
<td>0</td>
<td>17</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>140</td>
<td></td>
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</tr>
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</table>

2. PHASE 2 DEVELOPMENT PROPOSAL
2.1. Use: Urban Townhomes
2.2. Number of Units: approximately 60 urban townhomes
2.3. Unit Sizes: They will range in size from 1,500 – 2,500 square feet and range in width from 14 feet to 24 feet.
2.4. Workforce Units: 12% of the units (7 units) will be targeted to workforce families, earning between 80% - 120% of the Area Median Income (AMI). The average Purchase Price for these units will be approximately $325,000.
2.4.1. Purchase Price Methodology. The pro-forma in the EYA McMillan Phase I Acquisition Proposal suggests a $0 land value (and no subsidy or land value reduction) is required for EYA to break even on the workforce housing portion of the project. As such, EYA proposes both no land value paid to the District and no subsidy requirement for the proposed workforce housing units be paid to EYA or deducted from the Market Rate Housing Purchase Price.
2.5. **Market Units**: The resulting mix is approximately 53 market rate townhomes and 7 workforce townhomes. 1-2 parking spaces for each of the townhomes will be included in a garage within the townhomes.

2.5.1. **Purchase Price Methodology**.

2.5.1.1. The District and EYA agree to value the EYA parcels on a per townhome lot basis. The Total Purchase Price per unit will be the Base Price per Unit Type at Closing (as detailed below) plus 25% of the positive difference between the Actual Base Sales Price and the Initial Base Sales Price per Unit, if any. This methodology is illustrated further in the Section 1.8 below.

2.5.1.2. The Base Purchase Price will be paid to the District at Closing. The Base Price shall not include any pricing from purchaser selected options.

2.5.1.3. The Additional Base Purchase Price will be paid to the District quarterly following EYA’s closings with home purchasers. The Additional Base Purchase Price also shall not include any pricing from purchaser selected options.

2.6. **Land Area**: The proposal will include approximately 140,000 square feet, including garage parking inside each unit.

2.7. **Program Subject to Change**: Development Proposal for Phase 2 is subject to change based on 1) the Final PUD Approved site plan and 2) the Land Development phasing.

**Purchase Price Methodology Tables**: The following table details the Total Base Land Price calculation at Closing to the District based on 53 market rate units and 7 workforce units of the type specified below. The actual Total Base Purchase Price will be set by the number of units of each home type approved in PUD times the Base Price per Unit Type at Closing.

<table>
<thead>
<tr>
<th>Unit Types</th>
<th>Initial Base Sales Price per Unit</th>
<th>Purchase Price Percentage</th>
<th>Base Price per Unit Type to District at Closing</th>
<th># of Units</th>
<th>Total Base Land Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit A (14x36)</td>
<td>$460,000</td>
<td>15%</td>
<td>$69,000</td>
<td>13</td>
<td>$897,000</td>
</tr>
<tr>
<td>Unit B (16x36)</td>
<td>$510,000</td>
<td>15%</td>
<td>$76,500</td>
<td>20</td>
<td>$1,530,000</td>
</tr>
<tr>
<td>Unit C (18x36)</td>
<td>$560,000</td>
<td>15%</td>
<td>$84,000</td>
<td>20</td>
<td>$1,680,000</td>
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<tr>
<td>Unit Workforce</td>
<td>$325,000</td>
<td>0%</td>
<td>$0</td>
<td>7</td>
<td>$0</td>
</tr>
<tr>
<td>Total Projected Base Purchase Price</td>
<td>$325,000</td>
<td>0%</td>
<td>$0</td>
<td>60</td>
<td>$4,107,000</td>
</tr>
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</table>

The Projected Base Purchase Price will be augmented by the Additional Purchase Price, earned by the District at the sale of each market rate townhome unit and paid to the District quarterly, if Actual Base Sales Price per Unit exceeds the Initial Base Sales Price per Unit. If each of the projected 53 market rate units sold for $100,000 more than the Initial Base Sales Price, the District would receive $100,000 * 123 * 25% = $3,075,000. The following table details the example Additional Purchase Price Calculation. Additional Purchase Price will only be paid if Actual Base Sales Price per Unit for any unit exceeds the Initial Base Sales Price per Unit for that unit.
<table>
<thead>
<tr>
<th>Home Type</th>
<th>Initial Base Sales Price per Unit</th>
<th>Purchase Price Percentage</th>
<th># of Units</th>
<th>Actual Base Purchase Price</th>
<th>Difference</th>
<th>Additional Price Per Lot to District</th>
<th>Additional Purchase Price to District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit A (14x36)</td>
<td>$460,000</td>
<td>15%</td>
<td>13</td>
<td>$560,000</td>
<td>$100,000</td>
<td>$25,000</td>
<td>$325,000</td>
</tr>
<tr>
<td>Unit B (16x36)</td>
<td>$510,000</td>
<td>15%</td>
<td>20</td>
<td>$660,000</td>
<td>$100,000</td>
<td>$25,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>Unit C (18x36)</td>
<td>$560,000</td>
<td>15%</td>
<td>20</td>
<td>$660,000</td>
<td>$100,000</td>
<td>$25,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>53</td>
<td></td>
<td></td>
<td>$1,325,000</td>
<td></td>
</tr>
</tbody>
</table>

If closing on the Phase 2 Parcels does not occur within 30 months from LDA execution, then the Initial Base Sales Price per Unit to the District at Closing will increase by 4% per year until Closing occurs. The Additional Purchase Price Percentage of 25% of the positive difference between the Actual Base Sales Price and the Initial Base Sales Price per Unit will remain in effect throughout the life of the LDA.
1. **PHASE 1 DEVELOPMENT PROPOSAL**

1.1. **Location:** Multifamily Rental Parcel

1.1.1. **Development Program:** mixed income rental community with ground floor retail

1.1.2. **Development Program:** Number of Units: Approximately 300 units of which 150 units will be marketed and focused toward graduate students and/or recent graduates.

1.1.3. **Development Program:** Ground Floor Retail: This apartment community will be programmed for some ancillary retail totaling approximately 10,000 SF.

1.1.4. **Workforce Units:** All of the apartment homes will be targeted to workforce customers with incomes ranges from 80 – 120% of AMI.

1.1.5. **Purchase Price Methodology:**

1.1.5.1. The purchase price for the Multifamily Rental Parcel will be determined by a formula which will not be calculated until six months (or less) prior to the commencement of vertical construction.

1.1.5.2. The purchase price for the Multifamily Rental Parcel will be based on the then current fair market value as determined by a Return on Cost ("ROC") calculation.

1.1.5.3. ROC for these purposes is defined as the projected Net Operating Income ("NOI") for the project divided by Total Development Costs ("TDC") for the project.

1.1.5.4. The NOI will be supported by the market study prepared for and submitted to sources of debt financing, for instance the Federal Housing Administration (FHA). The NOI analysis will be based upon relevant market data including current and recent transactions of comparable projects and product types.

1.1.5.5. The TDC will be supported by contracts and/or proposals from vendors involved in the project including the initial Guaranteed Maximum Price cost from the general contractor ("iGMP"). Complete construction documents and an iGMP are required as part of the FHA financing and will likely be part of the determination of the Fair Market Value ("FMV").

1.1.5.6. The District and JLDLP agree to assume a 6% hard cost contingency and a 6% soft cost contingency as part of TDC.

1.1.5.7. JLDLP will serve as the development manager for the project and will cap its assumed development fee at 5% as part of TDC.

1.1.5.8. The purchase price for the land will be equal to the highest possible land value which can be entered into the ROC calculation and results in the Minimum ROC. Minimum ROC is defined as follows:

\[
\text{Projected Exit Cap Rate} + \text{Acceptable Spread} = \text{Minimum ROC}
\]

1.1.5.9. The agreed upon Projected Exit Cap will be based upon historical transaction data and research compiled by real estate experts with experience in these asset classes.

1.1.5.10. The agreed upon Acceptable Spread is 200 basis points.
1.1.5.11. The formula detailed above will be memorialized in the LDA and the purchase price will be paid in cash to the District at Closing.

1.1.6. **Program Subject to Change:** Development Program is subject to change based on:
1) the Final PUD Approved site plan and 2) the Land Development phasing.
1.2. **Location**: Multifamily Rental/Condominium Parcel

1.2.1. **Development Program**: mixed income rental building with an option to become a condominium building

1.2.2. **Development Program: Number of Units**: approximately 150 units.

1.2.3. **Workforce Units**: All of the apartment homes will be targeted to workforce customers with incomes ranges from 80 – 120% of AMI. **If the Parcel is converted to condominium, then all the condominiums will be targeted to a workforce customer with incomes ranges from 80 – 120% AMI with units sizes which will not compete with the for sale townhome product.**

1.2.4. **Option to Change the Development Program**:

   1.2.4.1. JLDP may exercise, at its sole discretion, the option to convert the parcel to a condominium community ("Condominium Option") in the event the condo market has rebounded, favorable financing is available prior to the anticipated project start date, and the condominium land FMV is greater than the rental land FMV. The District, in its sole discretion, may reject the Condominium Option, if and only if, the condominium land FMV is lower than the rental land FMV.

   1.2.4.2. JLDP shall make this determination within a reasonable time period prior to commencement of vertical construction. This time period will be defined within the LDA.

   1.2.4.3. This determination will be based on JLDP’s assessment of forward-looking market conditions, including but not limited to availability of financing prior to the anticipated project start date and the difference between condominium use residual land value and apartment use residual land value, at the expected time of delivery of the project. JLDP’s assessment also will be corroborated by market data from considered experts in this asset class.

1.2.4.4. 

1.2.5. **Purchase Price Methodology (Condominium Use)**:

   1.2.5.1. In the event JLDP elects to convert the parcel to a condominium community, JLDP will present to the District an Initial Base Sales Plan, which shall include assumptions of expected sales price and expected sales pace and shall be supported by a market study prepared for sources of debt financing.

   1.2.5.2. The sales analysis will be based upon market data including absorption rates, pre-sale conditions as well as current and recent transactions of comparable projects and product types.

   1.2.5.3. The District also will be entitled to 10% of any increases to the expected sales prices of condominium units (as defined in the Initial Base Sales Plan) net of certain costs that will be defined in the LDA. These additional land value proceeds will be paid to the District in full at the settlement of each unit.

1.2.6. **Purchase Price Methodology (Multifamily Rental Use)**: Refer to Section 1.1.5 above.

1.2.7. **Program Subject to Change**: Development Program is subject to change based on 1) the Final PUD Approved site plan and 2) the Land Development phasing.
1.3. Location: Senior Rental Parcel

1.3.1. Development Program: An affordable senior rental community

1.3.2. Development Program: Number of Units: Approximately 125 units.

1.3.3. Development Program: Senior Rental Affordable Units: All units will be restricted to residents over 62 years of age and incomes lower than 60% AMI.

1.3.4. Purchase Price Methodology:

1.3.4.1. The purchase price for Senior Rental Parcel is $1.

1.3.4.2. At a point in time defined in the LDA, JLDP intends to engage the District in discussions around the viability of securing a tax abatement that will subsidize the economic feasibility of this parcel.

1.3.4.3. The District will consider the use of a tax abatement and other sources of funds to subsidize the economic feasibility of this parcel.

1.3.4.4. JLDP intends to apply for 4% or 9% Low Income Housing Tax Credits (LIHTC), issued by the District Department of Housing and Community Development (DHCD) and the District Housing Finance Agency (DCHFA) respectively.

1.3.4.5. With a 100% tax abatement, a $1 purchase price, and 4% LIHTC, JLDP estimates that it also will need approximately $5,625,000 ($45,000 per unit * 125 units) in gap financing from DHCD. The estimate of gap financing is subject to change per the use of 9% LIHTC.

1.3.5. Program Subject to Change: Development Program is subject to change based on 1) the Final PUD Approved site plan and 2) the Land Development phasing.

2. PHASE 2 DEVELOPMENT PROPOSAL

2.1. Location: Multifamily Rental/Condominium Parcel

2.1.1. Development Program: Mixed income rental building with an option to become an condominium building

2.1.2. Development Program: Number of Units: approximately 150 units.

2.1.3. Workforce Units: All of the apartment homes will be targeted to workforce customers with incomes ranges from 80 – 120% of AMI. If the Parcel is converted to condominium, then all the condominiums will be targeted to a workforce customer with incomes ranges from 80 – 120% AMI with unit sizes which will not compete with the for sale townhome product.

2.1.4. Option to Change the Development Program:

2.1.4.1. JLDP may exercise, at its sole discretion, the option to convert the parcel to a condominium community (“Condominium Option”) in the event the condo market has rebounded, favorable financing is available prior to the anticipated project start date, and the condominium land FMV is greater than the rental land FMV. The District, in its sole discretion, may reject the Condominium Option, if and only if, the condominium land FMV is lower than the rental land FMV

2.1.4.2. JLDP shall make this determination within a reasonable time period prior to commencement of vertical construction. This time period will be defined within the LDA.

2.1.4.3. This determination will be based on JLDP’s assessment of forward-looking market conditions, including but not limited to availability of
financing prior to the anticipated project start date and the difference between condominium use residual land value and apartment use residual land value, at the expected time of delivery of the project. JLDP's assessment also will be corroborated by market data from considered experts in this asset class.

2.1.5. **Purchase Price Methodology (Condominium Use):**

2.1.5.1. In the event JLDP elects to convert the parcel to a condominium community, JLDP will present to the District an Initial Base Sales Plan, which shall include assumptions of expected sales price and expected sales pace and shall be supported by a market study prepared for sources of debt financing.

2.1.5.2. The sales analysis will be based upon market data including absorption rates, pre-sale conditions as well as current and recent transactions of comparable projects and product types.

2.1.5.3. The District also will be entitled to 10% of any increases to the expected sales prices of condominium units (as defined in the Initial Base Sales Plan) net of certain costs that will be defined in the LDA. These additional land value proceeds will be paid to the District in full at the settlement of each unit.

2.1.6. **Purchase Price Methodology (Multifamily Rental Use):** Refer to Section 1.1.5 above.

2.1.7. **Program Subject to Change:** Development Program is subject to change based on 1) the Final PUD Approved site plan and 2) the Land Development phasing.
Appendix-3
TCC Proposal

1. **PHASE I DEVELOPMENT PROPOSAL:**

1.1. **Project Name:** Building A

1.1.1. **Use:** build-to-suit medical office facility, developed with high-quality planning, architecture, and design, consistent with similar TCC projects.

1.1.2. **User A:** MedStar Health, an affiliate, or similar user

1.1.3. **Size:** approximately 300,000 square feet

1.1.4. **Parking:** Parking may be provided through a combination of below-grade and above-grade parking facilities. User A has expressed a strong desire for a parking ratio of 3.0 per 1,000 square feet of facility (900 spaces) or greater.

1.1.5. **Purchase Price Methodology:**

1.1.5.1. The purchase price for Parcel A will be determined by a formula which will not be calculated until 12 months (or less) prior to the commencement of vertical construction.

1.1.5.2. The purchase price for Parcel A will be based on the then current fair market value as determined by a Return on Cost ("ROC") calculation.

1.1.5.3. ROC for these purposes is defined as the projected Net Operating Income ("NOI") for the project divided by Total Development Costs ("TDC") for the project.

1.1.5.4. The NOI will be supported by either an executed LOI/lease or market study based upon relevant market data including current and recent transactions of comparable projects and product types.

1.1.5.5. The TDC will be supported by pre-construction pricing information provided by TCC’s general contractor. Soft costs, financing costs, and other costs will be calculated based on TCC’s experience with comparable projects and product types. These costs also will be submitted by the District for its review and approval.

1.1.5.6. The purchase price for the land will be equal to the highest possible land value which can be entered into the ROC calculation and results in the Minimum ROC. Minimum ROC is defined as follows:

\[
\text{Projected Exit Cap Rate + Acceptable Spread} = \text{Minimum ROC}
\]

1.1.5.7. The agreed upon Projected Exit Cap Rate will be based upon historical transaction data and research compiled by real estate experts with experience in the medical office asset class.

1.1.5.8. The agreed upon Acceptable Spread for a build-to-suit medical office facility is 200 basis points.

1.1.5.9. The formula detailed above will be memorialized in the LDA and the purchase price will be paid in cash to the District at Closing.

1.1.6. **Program Subject to Change:** Development Proposal for Phase 1 is subject to change based on 1) the Final PUD Approved site plan and 2) the Land Development phasing.
1.2. **Project Name:** Building B

1.2.1. **Use:** build-to-suit medical office facility, developed with high-quality planning, architecture, and design, consistent with similar TCC projects.

1.2.2. **User B:** Children's Hospital, an affiliate or similar user

1.2.3. **Size:** approximately 250,000 square feet

1.2.4. **Parking:** Parking may be provided through a combination of below-grade and above-grade parking facilities. User B has expressed a strong desire for a parking ratio of 3.0 per 1,000 square feet of facility (750 spaces) or greater.

1.2.5. **Purchase Price Methodology:** Refer to Section 1.1.5 above.

1.2.6. **Program Subject to Change:** Development Proposal for Phase 1 is subject to change based on 1) the Final PUD Approved site plan and 2) the Land Development phasing.

2. **PHASE 2 DEVELOPMENT PROPOSAL:**

1.3. **Project Name:** Building C

1.3.1. **Use:** speculative medical office facility, developed with high-quality planning, architecture, and design, consistent with similar TCC projects.

1.3.2. **Size:** approximately 150,000 square feet

1.3.3. **Parking:** Parking may be provided through a combination of below-grade and above-grade parking facilities. Typical users for facilities such as these express a desire for parking ratios of 3.0 – 5.0 per 1,000 square feet of facility.

1.3.4. **Purchase Price Methodology:**

1.3.4.1. The purchase price for Parcel C will be determined by a formula which will not be calculated until 12 months (or less) prior to the commencement of vertical construction.

1.3.4.2. The purchase price for Parcel C will be based on the then current fair market value as determined by a Return on Cost ("ROC") calculation.

1.3.4.3. ROC for these purposes is defined as the projected Net Operating Income ("NOI") for the project divided by Total Development Costs ("TDC") for the project.

1.3.4.4. The NOI will be supported by either an executed LOI/lease or market study based upon relevant market data including current and recent transactions of comparable projects and product types.

1.3.4.5. The TDC will be supported by pre-construction pricing information provided by TCC's general contractor. Soft costs, financing costs, and other costs will be calculated based on TCC's experience with comparable projects and product types. These costs also will be submitted by the District for its review and approval.

1.3.4.6. The purchase price for the land will be equal to the highest possible land value which can be entered into the ROC calculation and results in the Minimum ROC. Minimum ROC is defined as follows:

\[
\text{Projected Exit Cap Rate} + \text{Acceptable Spread} = \text{Minimum ROC}
\]
1.3.4.7. The agreed upon Projected Exit Cap Rate will be based upon historical transaction data and research compiled by real estate experts with experience in the medical office asset class.

1.3.4.8. The agreed upon Acceptable Spread for a speculative medical office facility is 300 basis points.

1.3.4.9. The formula detailed above will be memorialized in the LDA and the purchase price will be paid in cash to the District at Closing.

1.3.5. **Program Subject to Change:** Development Proposal for Phase 2 is subject to change based on 1) the Final PUD Approved site plan and 2) the Land Development phasing.

2.

2.1. **Project Name:** Building D

2.1.1. **Use:** speculative medical office facility, developed with high-quality planning, architecture, and design, consistent with similar TCC projects.

2.1.2. **Size:** approximately 150,000 square feet

2.1.3. **Parking:** Parking may be provided through a combination of below-grade and above-grade parking facilities. Typical users for facilities such as these express a desire for parking ratios of 3.0 – 5.0 per 1,000 square feet of facility.

2.1.4. **Purchase Price Methodology:** Refer to Section 1.3.4 above.

2.1.5. **Program Subject to Change:** Development Proposal for Phase 2 is subject to change based on 1) the Final PUD Approved site plan and 2) the Land Development phasing.
2012 TERM SHEET
McMillan Sand Filtration Site Redevelopment
March 15, 2012

The Government of the District of Columbia (the “District”) and Vision McMillan Partners (“VMP”) and Members of VMP (defined below) hereby enter into this Term Sheet (the “Term Sheet”) to outline the current understanding among the District, VMP, and Members of VMP, collectively referred to as the “Parties” herein. Members of VMP include EYA, LLC (“EYA”), Jair Lynch Development Partners (“JLDP”), and Trammell Crow Company (“TCC”).

This Term Sheet establishes the current framework upon which the District and VMP will negotiate the disposal of certain parcels of land on the Property (hereinafter defined). In accordance with the Exclusive Rights Agreement executed by the Parties on April 23, 2010 (the “ERA”), including any extension(s) thereto, and the Summary Response to Acquisition Proposals executed by the Parties on December 23, 2010 (the “Summary Response”), the Parties intend to immediately proceed to negotiating a Land Disposition and Development Agreement (the "LDA") with respect to the redevelopment of the Property, using the concepts outlined below as a framework for the LDA.

Notwithstanding anything to the contrary contained herein, the Parties hereby acknowledge and agree that the terms and conditions contained within the ERA shall continue in full force and effect, as the same applies to the negotiation of the disposition and development of the Property. In the event of any conflict between the terms of the ERA and this Term Sheet, as it pertains to the Property, the terms of the ERA shall prevail as to the Parties’ current intent. The Parties further acknowledge that the terms and conditions included within this Term Sheet are intended to supersede and replace the terms and conditions contained in the Summary Response. In the event of any conflict between this Term Sheet and the Summary Response, the terms of this Term Sheet shall prevail as to the Parties’ current intent.

PROPERTY

The District owns the Property, together with all appurtenances and improvements located thereon and known for tax and assessment purposes as Lot 0800 in Square 3128 (“Property”).

PROJECT
The redevelopment of the Property (the "Project") based upon the development program illustrated in Exhibit A which includes both a land development and vertical development components.

LAND DEVELOPMENT
Through the land development, the District and VMP will create a fully integrated, developable site (“Land Development”), including:

- a number of entitled, subdivided and ready-to-build pad sites (the “Finished Pads”)
• backbone public infrastructure (the “Public Infrastructure”) including, but not limited to, public streets and streetscape, utilities, and lighting
• public amenities including, but not limited to, parks, preservation of portions of the historic resources currently present on the Property, and other cultural resources (the “Public Amenities”)

Finished Pad Development

For each Finished Pad, the District and VMP shall select the between one of the two following methodologies for performing the Land Development work:

OPTION A – District Performs Pad Development

The District may elect to perform the development of Finished Pads itself and, if it so elects, intends to engage VMP (or one or more of its members) to serve as development manager/consultant to oversee the Finished Pad work undertaken by the District, subject to a separate Development Management/Services Agreement to be negotiated by, and acceptable to, the Parties in their sole discretion.

The Parties acknowledge that, should VMP (or one or more of its members) and the District be unable to negotiate a Development Management/Services Agreement acceptable to both Parties, the District may choose to engage another contractor to perform the development of the Finished Pads.

Upon completion of the Land Development work necessary to complete the Public Infrastructure and the Finished Pads (the “Pre-Closing Land Development Work”), the District will convey/sell Finished Pads to VMP in accordance with the purchase price methodologies contained in Exhibit B, Exhibit C and Exhibit D, and all other terms and conditions contained herein and to be incorporated into and otherwise negotiated as part of the LDA.

Land Development will be undertaken by the District using available capital funds as well as the funds made available by VMP from the Initial Deposit (defined below) and the Additional Deposit (defined below).

OPTION B – VMP Performs Pad Development

In order to facilitate construction start on certain Finished Pad sites in fiscal year 2013, VMP (or one or more of its members) may elect to proceed to Closing prior to completion of the Pre-Closing Land Development Work and perform the portions of the Pre-Closing Land Development Work required to complete the Finished Pads. The Parties acknowledge that in order for VMP to make this election, the District must reprogram, or otherwise accelerate provision of funds from its Capital Budget (see Land Development Finance below) so as to provide $10.6MM in FY13 and $17.1MM in FY14 (or such other amounts as may be mutually agreed upon by the Parties as sufficient) for Public Infrastructure and Public Amenities, and that any and all actions and approvals required to allow for District provision of such funds on this schedule is a pre-condition to VMP’s election to proceed in accordance with this option.

Should VMP (or one or more of its members) elect to perform any of the Finished Pad work, the Parties will agree to the scope and cost of such work to be performed by VMP (or its member) for each land parcel and such cost shall be used to reduce the purchase price of the parcel in question.
The purchase price for each land parcel will be calculated in accordance with the purchase price methodologies contained in Exhibit B, Exhibit C and Exhibit D. The scope of any work to be performed by VMP (or its member) in order to bring the land parcel to a Finished Pad condition will be agreed upon by the District and VMP (or its member), and the amount of any reductions in purchase price for the parcel in question will be verified by a GMP (or similar) contract with the general contractor selected by VMP (or its member) to perform the work in question.

Public Infrastructure Development

The District will deliver the Property with all Public Infrastructure illustrated on Exhibit A including, but not limited to:

- off-site traffic improvements to be specified within the PUD (defined below)
- wet and dry utilities stubbed to each Finished Pad
- all required spine roads
- landscaping
- any other common infrastructure work on the Property necessary for the development of the Property to be specified within the PUD (defined below)

The District intends to engage VMP (or one or more of its members) to serve as development manager/consultant to oversee the Public Infrastructure work undertaken by the District, subject to a separate Development Management/Services Agreement to be negotiated by, and acceptable to, the Parties. The District acknowledges that the timely completion of the Public Infrastructure is essential to the success of the Project.

The Parties acknowledge that, should VMP (or one or more of its members) and the District be unable to negotiate a Development Management/Services Agreement acceptable to both Parties, the District may choose to engage an alternate entity to perform the Public Infrastructure work.

Public Amenities Development

The District will deliver all Public Amenities illustrated on Exhibit A including, but not limited to:

- preservation of retained portions of the historic resources currently present on the Property, as specified within the PUD (defined below)
- park space as specified within the PUD (defined below)
- community center
- any other community amenities or cultural resources integrated into the Project (as specified within the PUD (defined below))

The District intends to engage VMP (or one or more of its members) to serve as development manager/consultant to oversee the Public Amenities work undertaken by the District, subject to a separate Development Management/Services Agreement to be negotiated by, and acceptable to, the Parties. The District acknowledges that the timely completion of the Public Amenities is essential to the success of the Project and may be required as a condition of the PUD (defined below).
The Parties acknowledge that, should VMP (or one or more of its members) and the District be unable to negotiate a Development Management/Services Agreement acceptable to both Parties, the District may choose to engage an alternate entity to perform the Public Amenities work.

Both parties acknowledge that the District may choose to phase portions of the Public Amenities work and that it may not all be completed at the same time the remainder of the Finished Pad and Public Infrastructure work is completed. Notwithstanding the forgoing, the District acknowledges that the timely completion of the Public Amenities is essential to the success of VMPs development, the overall Project, and may be required as a condition of the approvals.

The District and VMP acknowledge and agree that the sequencing options and schedule for performance of Land Development work will be mutually agreed upon by the Parties as part of the LDA.

**LAND DEVELOPMENT FINANCE**

The District may utilize various sources to finance the Land Development work. As of the date of this Term Sheet, the District has allocated $51,450,000 within its Capital Budget to perform the Land Development work.

Concurrent with the LDA negotiation process, the District will update VMP regarding its financing strategy and work to secure sources of capital that will support the completion of the Land Development work.

**VERTICAL DEVELOPMENT**

Pursuant solely to the terms of the LDA to be negotiated between the Parties, the District intends to dispose of the Finished Pads to VMP (or its members) who will deliver the Developer Uses (as defined in the ERA and as illustrated on Exhibit A).

VMP may propose to the District, for its approval in its sole discretion, other vertical component developers that VMP would like to add as members to its development team; provided that, any entity that takes title to a Finished Pad or serves as the primary developer of a Finished Pad shall be controlled by VMP or one of its members, as such term is further defined in the LDA.

**VERTICAL DEVELOPMENT PROGRAM**

The District and VMP have agreed upon the vertical development program and the Site Plan included in Exhibit A. VMP is responsible for defining the vertical development program for the Finished Pads, subject to District approval. The District, in accordance with Exhibit A and with input from VMP, is responsible for the defining the vertical development program for the Public Amenities.

The District and VMP acknowledge that adjustments to the vertical development program shown on Exhibit A may be necessary in order to obtain the Project Approvals (defined below). In the event such adjustments are required, the vertical development program for the Finished Pads included in Exhibit A may be amended, subject to approval of District and VMP.

The District and VMP acknowledge that adjustments to this development program for the Public Infrastructure and Public Amenities may be necessary in order to obtain the Project Approvals (defined above). In the event such adjustments are required, the vertical development program
for the Public Amenities included in Exhibit A may be amended, subject to approval of District and VMP.

**PURCHASE PRICE METHODOLOGY**

The purchase price methodologies as contained in the Summary Response will continue to be utilized and are described in Exhibits B-D.

**EARNEST MONEY DEPOSITS**

*Initial Deposit:*

Each Member of VMP will submit to the District an initial earnest money deposit equal to the amounts outlined on Exhibit E for each respective parcel (the "Initial Deposit").

Initial Deposits will be placed in an escrow account, selected by the District, at execution of an LDA.

Initial Deposits will be fully refundable until the District and the respective member of VMP receive all final, un-appealable entitlements and permits for the Finished Pad in question.

*Additional Deposit:*

Upon the District’s commencement of Land Development on the Finished Pad sites, as such “commencement” is defined in the LDA, VMP (or one of its members) will provide an additional deposit equal to the amount outlined on Exhibit E for each respective parcel (the "Additional Deposit").

**FEASIBILITY PERIOD**

The District has provided to VMP certain environmental and geotechnical reports and studies, zoning information, and historic information (the "Feasibility Studies") related to the Property.

The District shall undertake the completion of additional Feasibility Studies, including, but not limited to, additional environmental and geotechnical studies, prior to the commencement of the Feasibility Period (defined below), and will provide copies of resulting reports to VMP. All Feasibility Studies reports provided are for informational purposes and neither VMP nor its members may rely on such Feasibility Studies. Notwithstanding the District’s undertaking of Feasibility Studies, VMP and its members shall perform all due diligence prior to Closing deemed by it to be necessary and prudent for its own use.

VMP and its members shall have ninety (90) days from the execution of any LDA (the "Effective Date") in which to further investigate and review the Property that is subject to such LDA (the "Feasibility Period"). During this Feasibility Period, the District will permit VMP to enter upon the Property at all reasonable times for the purpose of inspections, surveying, testing and environmental studies pursuant to the terms and conditions of the LDA. During the Feasibility Period, VMP and its members will indemnify the District from any claims, damages, or expenses incurred by Seller by reason of property damage, personal injury, or mechanics liens arising from Purchaser’s activities upon the Property.
TITLE
The District will convey Finished Pads to members of VMP by special warranty deed, free and clear of all exceptions (except any permitted exceptions agreed by the Parties as part of the LDA).

PROJECT APPROVALS
The District, as the property owner, will be responsible for all Land Development approvals, including Land Development permits, DC Zoning Commission approval for a Planned Unit Development ("PUD"), and approval from the Historic Preservation Review Board, and any other local or federal approvals required in order to commence Land Development and to convey parcels to VMP (or its Members) for the Developer Uses outlined in the ERA.

Members of VMP will secure all necessary building permits and all other necessary approvals with respect to the construction of buildings on the Finished Pads.

CLOSING
Members of VMP will close on the purchase of their Finished Pads within 30 days of the satisfaction of all Conditions of Closing (defined below). Closing may occur in phases, as may be negotiated as part of the LDA.

The District shall prepare the documents of conveyance and each party shall be responsible for its own legal costs.

CONDITIONS OF CLOSING
The LDA(s) will contain usual and customary conditions which must be fulfilled prior to VMP’s (or its members’) and the District’s obligation to proceed to closing on the conveyance of a Finished Pad, including but not limited to the following:

- Evidence that the respective VMP member has the necessary sources of capital to complete a vertical development project on the Finished Pad in question
- Evidence of an executed CBE Agreement related to the vertical development project on the Finished Pad in question
- Evidence of an executed First Source Agreement related to the vertical development project on the Finished Pad in question
- Evidence that the District has title for the Finished Pad in question, as required in the LDA
- Evidence that the District has received all necessary (un-appealable) entitlements for the Finished Pad in question
- Evidence that the District has secured financing to complete all Land Development work including the Public Infrastructure and the Public Amenities
- Delivery of the Finished Pad in question, or agreement between the Parties on the scope and cost of work to be performed by VMP (or its members) to bring the parcel in question to a Finished Pad condition
- VMP (or its members) having received all necessary building permits and approvals for the contemplated vertical development project on the Finished Pad in question (unless, in accordance with this Term Sheet and the LDA, VMP or its member elects to perform certain work to bring the parcel in question to a Finished Pad condition)
TREATMENT OF FUNDS INVESTED IN PRE-DEVELOPMENT

Pursuant to the ERA, VMP's investment in certain pre-development expenses [including architectural drawings, engineering analysis and other due diligence items which served as the base for the current PUD package], shall be treated as preferred equity capital and therefore will earn a mutually acceptable fair market return. Members of VMP will be entitled to credits toward their respective purchase prices of VMP parcels based on their proportionate shares of the principal and the agreed upon return due to VMP.

Similarly, the District will be entitled to additions to purchase prices of Finished Pads equal to the amount of all pre-development costs and expenses, incurred by the District that are attributable to vertical development projects including, but not limited to, the Stage 2 PUD architecture and engineering expenses, and the same mutually acceptable fair market return described above.

In the LDA, the Parties will agree on an acceptable fair market return in writing. The Parties also will attach a schedule to the LDA that describes the timing of expenses incurred by the Parties and estimations of the returns earned by the Parties.

CONFIDENTIALITY

This Term Sheet shall be considered confidential and the Parties (their agents, advisors, and representatives) shall keep its contents and all matters related thereto strictly confidential, except to the extent that disclosure may be required by law.

NON-BINDING EFFECTS

This Term Sheet is intended to be an expression of an understanding between the Parties and shall in no event be deemed to be or constitute a binding or otherwise legally enforceable obligation between said Parties.

ANTIDEFICIENCY ACT LIMITATIONS

VMP acknowledges that the District is not authorized to make any obligation in advance or in the absence of lawfully available appropriations and that the District's authority to make such obligations is and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1350, 1351; (ii) D.C. Official Code Section 47-105; (iii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08, as the foregoing statutes may be amended from time to time; and (iv) Section 446 of the District of Columbia Home Rule Act.

SETTLEMENT

The LDA will provide that settlement on the fee-simple disposition of Finished Pads from the District to VMP will occur at Closing. If VMP (or its Member) does not settle on the acquisition of a Finished Pad on its specified closing date per the LDA, the District in its sole discretion may select to either postpone the closing or terminate the LDA, keep the Initial Deposit and/or Additional Deposit and select another developer for the Finished Pad in question, subject to all conditions set forth in the LDA.
DEFAULT
The LDA shall set forth remedies for the District and VMP in the event of a default by the District or VMP under the LDA. In any event, the District shall not be liable to VMP or its Members for any monetary damages.

ACCEPTANCE
The terms and provisions set forth in this Term Sheet, together with other terms and provisions relating to this transaction, shall be set forth more completely in the LDA(s) to be agreed upon and entered into by the District and VMP.

Exhibit A: Site Plan
Exhibit B-D: Purchase Price Methodologies
Exhibit E: Deposit Schedule
As of the date hereof, the Parties agree that this Term Sheet sets forth the framework for continuing LDA negotiations in accordance with the ERA:

The District:

DISTRICT OF COLUMBIA,

By: [Signature]

Name: [Name]
Title: [Title]

VMP:

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: [Signature]

Name: [Name]
Title: [Title]
As of the date hereof, the Parties agree that this Term Sheet sets forth the framework for continuing LDA negotiations in accordance with the ERA:

The District:

DISTRICT OF COLUMBIA,

By:

Name: __________________________
Title: __________________________

VMP:

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By:

Name: Adam C. Weeps
Title: AUTHORIZED REPRESENTATIVE
EXHIBIT A
Site Plan and Development Program

(see attached)
<table>
<thead>
<tr>
<th>Multi-family</th>
<th>Concept Program</th>
<th>Units</th>
<th>FAR</th>
<th>Land (Ac)</th>
<th>Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rental</td>
<td>300</td>
<td>208,280</td>
<td>1.5</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Condo</td>
<td>167</td>
<td>182,120</td>
<td>1.0</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Senior</td>
<td>86</td>
<td>78,800</td>
<td>0.6</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>MULTI-FAMILY TOTAL</strong></td>
<td><strong>553</strong></td>
<td><strong>529,200</strong></td>
<td><strong>3.1</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical Office</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office Building 1</td>
<td></td>
<td>431,993</td>
<td>1.5</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Office Building 2</td>
<td></td>
<td>443,587</td>
<td>1.5</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td></td>
<td><strong>875,580</strong></td>
<td><strong>3.0</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office Building 3</td>
<td></td>
<td>192,302</td>
<td>0.6</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>MEDICAL OFFICE TOTAL</strong></td>
<td><strong>1,068,282</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Townhomes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Townhome Group 1</td>
<td>164</td>
<td>358,782</td>
<td>1.5</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Townhome Group 2</td>
<td>21</td>
<td>44,206</td>
<td>2.0</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td><strong>TOWNHOME TOTAL</strong></td>
<td>185</td>
<td><strong>403,988</strong></td>
<td><strong>3.5</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Pads</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail (grocer)</td>
<td></td>
<td>104,600</td>
<td>1.5</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Retail (in-line)</td>
<td></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td><strong>OTHER PAD TOTALS</strong></td>
<td></td>
<td><strong>104,600</strong></td>
<td><strong>1.5</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>DEVELOPMENT PROGRAM TOTAL</strong></td>
<td>738</td>
<td><strong>2,103,069</strong></td>
<td><strong>11.7</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>McMillan Land Area</td>
<td>1,075,331</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>FAR</strong></td>
<td></td>
<td>1.98</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
EXHIBIT B
EYA Purchase Price Methodologies
(Townhomes)

(see attached)
EYA PURCHASE PRICE METHODOLOGY

Project Name: Group 1 Townhomes (Parcel E)

Use: Urban Townhomes

Number of Units: approximately 164 urban townhomes

Unit Sizes: They will range in size from 1,500 – 2,600 +/- square feet and range in width from 14 feet to 24 feet.

Workforce Units: 12% of the units (21 units) will be targeted to workforce families, earning between 80% - 120% of the Area Median Income (AMI). The average Purchase Price for these units will be approximately $325,000.

Purchase Price Methodology
- The pro-forma in the EYA McMillan Phase 1 Acquisition Proposal suggests a $0 land value (and no subsidy or land value reduction) is required for EYA to break even on the workforce housing portion of the project. As such, EYA proposes both no land value paid to the District and no subsidy requirement for the proposed workforce housing units be paid to EYA or deducted from the Market Rate Housing Purchase Price.

Market Units: The resulting mix is approximately 143 market rate townhomes and 21 workforce townhomes. 1-2 parking spaces for each of the townhomes will be included in a garage within the townhomes.

Purchase Price Methodology
- The District and EYA agree to value the EYA parcels on a per townhome lot basis. The Total Purchase Price per unit will be the Base Price per Unit Type at Closing (as detailed below) plus 25% of the positive difference between the Actual Base Sales Price and the Initial Base Sales Price per Unit, if any. This methodology is illustrated further in the Section 1.8 below.
- The Base Purchase Price will be paid to the District at Closing. The Base Price shall not include any pricing from purchaser selected options.
- The Additional Base Purchase Price will be paid to the District quarterly following EYA’s closings with home purchasers. The Additional Base Purchase Price also shall not include any pricing from purchaser selected options.

Land Area: The proposal will include approximately 250,000 square feet, 5.71 acres, including garage parking inside each unit.

Purchase Price Methodology Tables: The following table details the Total Base Land Price calculation at Closing to the District based on 143 market rate units and 21 workforce units of the type specified below. The actual Total Base Purchase Price will be set by the number of units of each home type approved in PUD times the Base Price per Unit Type at Closing.
## EXHIBIT B

<table>
<thead>
<tr>
<th>Market Rate Unit Types</th>
<th>Initial Base Sales Price per Unit</th>
<th>Purchase Price Percentage</th>
<th>Base Price per Unit Type to District at Closing</th>
<th># of Units</th>
<th>Total Base Land Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit A (14x36)</td>
<td>$460,000</td>
<td>15%</td>
<td>$69,000</td>
<td>19</td>
<td>$1,311,000</td>
</tr>
<tr>
<td>Unit B (16x36)</td>
<td>$510,000</td>
<td>15%</td>
<td>$76,500</td>
<td>68</td>
<td>$5,202,000</td>
</tr>
<tr>
<td>Unit C (18x36)</td>
<td>$560,000</td>
<td>15%</td>
<td>$84,000</td>
<td>48</td>
<td>$4,032,000</td>
</tr>
<tr>
<td>Unit D (20x60)</td>
<td>$600,000</td>
<td>15%</td>
<td>$90,000</td>
<td>8</td>
<td>$720,000</td>
</tr>
<tr>
<td>Unit Workforce</td>
<td>$325,000</td>
<td>0%</td>
<td>$0</td>
<td>21</td>
<td>$720,000</td>
</tr>
<tr>
<td>Total Projected Base Purchase Price</td>
<td></td>
<td></td>
<td></td>
<td>164</td>
<td>$11,265,000</td>
</tr>
</tbody>
</table>

The Projected Base Purchase Price will be augmented by the Additional Purchase Price, earned by the District at the sale of each market rate townhome unit and paid to the District quarterly, if Actual Base Sales Price per Unit exceeds the Initial Base Sales Price per Unit. If each of the projected 143 market rate units sold for $100,000 more than the Initial Base Sales Price, the District would receive $100,000 * 143 * 25% = $3,575,000. The following table details the example Additional Purchase Price Calculation. Additional Purchase Price will only be paid if Actual Base Sales Price per Unit exceeds the Initial Base Sales Price per Unit.

<table>
<thead>
<tr>
<th>Home Type</th>
<th>Initial Base Sales Price per Unit</th>
<th>Purchase Price Percentage</th>
<th># of Units</th>
<th>Actual Base Purchase Price</th>
<th>Difference</th>
<th>Additional Purchase Price Percentage</th>
<th>Additional Price Per Lot to District</th>
<th>Additional Purchase Price to District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market Townhomes (14x38) A</td>
<td>$460,000</td>
<td>15%</td>
<td>19</td>
<td>$550,000</td>
<td>$100,000</td>
<td>25%</td>
<td>$25,000</td>
<td>$475,000</td>
</tr>
<tr>
<td>Market Townhomes (16x38) B</td>
<td>$510,000</td>
<td>15%</td>
<td>68</td>
<td>$660,000</td>
<td>$100,000</td>
<td>25%</td>
<td>$25,000</td>
<td>$1,700,000</td>
</tr>
<tr>
<td>Market Townhomes (18x38) C</td>
<td>$560,000</td>
<td>15%</td>
<td>48</td>
<td>$660,000</td>
<td>$100,000</td>
<td>25%</td>
<td>$25,000</td>
<td>$1,200,000</td>
</tr>
<tr>
<td>Market Townhomes (20x60) D</td>
<td>$600,000</td>
<td>15%</td>
<td>8</td>
<td>$700,000</td>
<td>$100,000</td>
<td>25%</td>
<td>$25,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>Workforce</td>
<td>$0</td>
<td>$0</td>
<td>21</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>164</td>
<td></td>
<td></td>
<td></td>
<td>$3,575,000</td>
<td></td>
</tr>
</tbody>
</table>
Project Name: Group 2 Townhomes (Parcel D)

Use: Urban Townhomes

Number of Units: approximately 21 urban townhomes

Unit Sizes: They will range in size from 1,500 - 2,600 +/- square feet and range in width from 14 feet to 24 feet.

Workforce Units: 12% of the units (3 units) will be targeted to workforce families, earning between 80% - 120% of the Area Median Income (AMI). The average Purchase Price for these units will be approximately $325,000.

Purchase Price Methodology

- The pro-forma in the EYA McMillan Phase 1 Acquisition Proposal suggests a $0 land value (and no subsidy or land value reduction) is required for EYA to break even on the workforce housing portion of the project. As such, EYA proposes both no land value paid to the District and no subsidy requirement for the proposed workforce housing units be paid to EYA or deducted from the Market Rate Housing Purchase Price.

Market Units: The resulting mix is approximately 18 market rate townhomes and 3 workforce townhomes. 1-2 parking spaces for each of the townhomes will be included in a garage within the townhomes.

Purchase Price Methodology

- The District and EYA agree to value the EYA parcels on a per townhome lot basis. The Total Purchase Price per unit will be the Base Price per Unit Type at Closing (as detailed below) plus 25% of the positive difference between the Actual Base Sales Price and the Initial Base Sales Price per Unit, if any. This methodology is illustrated further in the Section 1.8 below.
- The Base Purchase Price will be paid to the District at Closing. The Base Price shall not include any pricing from purchaser selected options.
- The Additional Base Purchase Price will be paid to the District quarterly following EYA’s closings with home purchasers. The Additional Base Purchase Price also shall not include any pricing from purchaser selected options.

Land Area: The proposal will include approximately 16,088 square feet, .37 acres, including garage parking inside each unit.

Purchase Price Methodology Tables: The following table details the Total Base Land Price calculation at Closing to the District based on 18 market rate units and 3 workforce units of the type specified below. The actual Total Base Purchase Price will be set by the number of units of each home type approved in PUD times the Base Price per Unit Type at Closing.
EXHIBIT B

<table>
<thead>
<tr>
<th>Unit Types</th>
<th>Initial Base Sales Price per Unit</th>
<th>Purchase Price Percentage</th>
<th>Base Price per Unit Type to District at Closing</th>
<th># of Units</th>
<th>Total Base Land Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit A (14x36)</td>
<td>$460,000</td>
<td>15%</td>
<td>$69,000</td>
<td>6</td>
<td>$2,760,000</td>
</tr>
<tr>
<td>Unit B (16x36)</td>
<td>$510,000</td>
<td>15%</td>
<td>$76,500</td>
<td>6</td>
<td>$3,060,000</td>
</tr>
<tr>
<td>Unit C (18x36)</td>
<td>$560,000</td>
<td>15%</td>
<td>$84,000</td>
<td>4</td>
<td>$2,240,000</td>
</tr>
<tr>
<td>Unit D (20x60)</td>
<td>$600,000</td>
<td>15%</td>
<td>$90,000</td>
<td>2</td>
<td>$1,200,000</td>
</tr>
<tr>
<td>Unit Workforce</td>
<td>$325,000</td>
<td>0%</td>
<td>$0</td>
<td>3</td>
<td>$0</td>
</tr>
<tr>
<td>Total Projected Base Purchase Price</td>
<td>21</td>
<td></td>
<td></td>
<td></td>
<td>$9,260,000</td>
</tr>
</tbody>
</table>

The Projected Base Purchase Price will be augmented by the Additional Purchase Price, earned by the District at the sale of each market rate townhome unit and paid to the District quarterly, if Actual Base Sales Price per Unit exceeds the Initial Base Sales Price per Unit. If each of the projected 18 market rate units sold for $100,000 more than the Initial Base Sales Price, the District would receive $100,000 * 18 * 25% = $450,000. The following table details the example Additional Purchase Price Calculation. Additional Purchase Price will only be paid if Actual Base Sales Price per Unit for any unit exceeds the Initial Base Sales Price per Unit for that unit.

<table>
<thead>
<tr>
<th>Home Type</th>
<th>Initial Base Sales Price per Unit</th>
<th>Purchase Price Percentage</th>
<th># of Units</th>
<th>Actual Base Purchase Price</th>
<th>Difference</th>
<th>Additional Price Per Lot to District</th>
<th>Additional Purchase Price to District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit A (14x36)</td>
<td>$460,000</td>
<td>15%</td>
<td>6</td>
<td>$560,000</td>
<td>$100,000</td>
<td>$25,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Unit B (16x36)</td>
<td>$510,000</td>
<td>15%</td>
<td>6</td>
<td>$660,000</td>
<td>$100,000</td>
<td>$25,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Unit C (18x36)</td>
<td>$560,000</td>
<td>15%</td>
<td>4</td>
<td>$660,000</td>
<td>$100,000</td>
<td>$25,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>Unit D (20x60)</td>
<td>$600,000</td>
<td>15%</td>
<td>2</td>
<td>$700,000</td>
<td>$100,000</td>
<td>$25,000</td>
<td>$50,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>18</td>
<td></td>
<td></td>
<td></td>
<td>$450,000</td>
</tr>
</tbody>
</table>

If closing on the Phase 2 Parcels does not occur within 30 months from LDA execution, then the Initial Base Sales Price per Unit to the District at Closing will increase by 4% per year until Closing occurs. The Additional Purchase Price Percentage of 25% of the positive difference between the Actual Base Sales Price and the Initial Base Sales Price per Unit will remain in effect throughout the life of the LDA.
EXHIBIT C
JLDP Purchase Price Methodologies
(Multi-family Buildings)

(see attached)
JLDP PURCHASE PRICE METHODOLOGY

Location: Parcel F – Multifamily Rental Parcel 1

Development Program: mixed income rental community with ground floor retail

Development Program: Number of Units: Approximately 300 units of which 150 units will be marketed and focused toward graduate students and/or recent graduates.

Development Program: Ground Floor Retail: This apartment community will be programmed for some ancillary retail totaling approximately 10,000 SF.

Workforce Units: All of the apartment homes will be targeted to workforce customers with incomes ranges from 80 – 120% of AMI.

Purchase Price Methodology

- The purchase price for the Multifamily Rental Parcel will be determined by a formula which will not be calculated until six months (or less) prior to the commencement of vertical construction.

- The purchase price for the Multifamily Rental Parcel will be based on the then current fair market value as determined by a Return on Cost (“ROC”) calculation.
  - ROC for these purposes is defined as the projected Net Operating Income (“NOI”) for the project divided by Total Development Costs (“TDC”) for the project.

- The NOI will be supported by the market study prepared for and submitted to sources of debt financing, for instance the Federal Housing Administration (FHA). The NOI analysis will be based upon relevant market data including current and recent transactions of comparable projects and product types.

- The TDC will be supported by contracts and/or proposals from vendors involved in the project including the initial Guaranteed Maximum Price cost from the general contractor (“iGMP”). Complete construction documents and an iGMP are required as part of the FHA financing and will likely be part of the determination of the Fair Market Value (“FMV”).

- The District and JLDP agree to assume a 6% hard cost contingency and a 6% soft cost contingency as part of TDC.

- JLDP will serve as the development manager for the project and will cap its assumed development fee at 5% as part of TDC.

- The purchase price for the land will be equal to the highest possible land value which can be entered into the ROC calculation and results in the Minimum ROC. Minimum ROC is defined as follows:
  - Projected Exit Cap Rate + Acceptable Spread = Minimum ROC

- The agreed upon Projected Exit Cap will be based upon historical transaction data and research compiled by real estate experts with experience in these asset classes.
  - The agreed upon Acceptable Spread is 200 basis points.

The formula detailed above will be memorialized in the LDA and the purchase price will be paid in cash to the District at Closing.
Location: Parcel F – Multifamily Rental/Condominium Parcel

Development Program: mixed income rental building with an option to become an condominium building

Development Program: Number of Units: approximately 150 units.

Workforce Units: All of the apartment homes will be targeted to workforce customers with incomes ranges from 80 – 120% of AMI. If the Parcel is converted to condominium, then all the condominiums will be targeted to a workforce customer with incomes ranges from 80 – 120% AMI with units sizes which will not compete with the for sale townhome product.

Option to Change the Development Program:
JLDP may exercise, at its sole discretion, the option to convert the parcel to a condominium community ("Condominium Option") in the event the condo market has rebounded, favorable financing is available prior to the anticipated project start date, and the condominium land FMV is greater than the rental land FMV. The District, in its sole discretion, may reject the Condominium Option, if and only if, the condominium land FMV is lower than the rental land FMV.

JLDP shall make this determination within a reasonable time period prior to commencement of vertical construction. This time period will be defined within the LDA.

This determination will be based on JLDP’s assessment of forward-looking market conditions, including but not limited to availability of financing prior to the anticipated project start date and the difference between condominium use residual land value and apartment use residual land value, at the expected time of delivery of the project. JLDP’s assessment also will be corroborated by market data from considered experts in this asset class.

Purchase Price Methodology (Condominium Use):
In the event JLDP elects to convert the parcel to a condominium community, JLDP will present to the District an Initial Base Sales Plan, which shall include assumptions of expected sales price and expected sales pace and shall be supported by a market study prepared for sources of debt financing.

The sales analysis will be based upon market data including absorption rates, pre-sale conditions as well as current and recent transactions of comparable projects and product types.

The District also will be entitled to 10% of any increases to the expected sales prices of condominium units (as defined in the Initial Base Sales Plan) net of certain costs that will be defined in the LDA. These additional land value proceeds will be paid to the District in full at the settlement of each unit.

Purchase Price Methodology (Multifamily Rental Use)
Refer to Multifamily Rental use above.

Program Subject to Change: Development Program is subject to change based on 1) the Final PUD Approved site plan and 2) the Land Development phasing.
Location: Parcel C-3 – Senior Rental Parcel

Development Program: An affordable senior rental community

Development Program: Number of Units: Approximately 125 units.

Development Program: Senior Rental Affordable Units: All units will be restricted to residents over 62 years of age and incomes lower than 60% AMI.

Purchase Price Methodology
The purchase price for Senior Rental Parcel is $1.

At a point in time defined in the LDA, JLDPC intends to engage the District in discussions around the viability of securing a tax abatement that will subsidize the economic feasibility of this parcel.

The District will consider the use of a tax abatement and other sources of funds to subsidize the economic feasibility of this parcel.

JLDPC intends to apply for 4% or 9% Low Income Housing Tax Credits (LIHTC), issued by the District Department of Housing and Community Development (DHCD) and the District Housing Finance Agency (DCHFA) respectively.

With a 100% tax abatement, a $1 purchase price, and 4% LIHTC, JLDPC estimates that it also will need approximately $5,625,000 ($45,000 per unit * 125 units) in gap financing from DHCD. The estimate of gap financing is subject to change per the use of 9% LIHTC.
TCC PURCHASE PRICE METHODOLOGY

Project Name: Parcel AB – Building A

Use: Healthcare facility

Size: Approximately 435,000 square feet

Parking: Parking will be provided in a below-grade parking facility.

Purchase Price Methodology

- The land purchase price for Building A will be determined by a formula which will not be calculated until 12 months (or less) prior to the commencement of vertical construction.

- The land purchase price for Building A will be based on the then current fair market value as determined by a Return on Cost ("ROC") calculation.

- ROC for these purposes is defined as the projected Net Operating Income ("NOI") for the project divided by Total Development Costs ("TDC") for the project.

- The NOI will be supported by either an executed LOI/lease or market study based upon relevant market data including current and recent transactions of comparable projects and product types.

- The TDC will be supported by pre-construction pricing information provided by TCC's general contractor. Soft costs, financing costs, and other costs will be calculated based on TCC's experience with comparable projects and product types. These costs also will be submitted by the District for its review and approval.

- The purchase price for the land will be equal to the highest possible land value which can be entered into the ROC calculation and results in the Minimum ROC. Minimum ROC is defined as follows:
  - Projected Exit Cap Rate + Acceptable Spread = Minimum ROC

- The agreed upon Projected Exit Cap Rate will be based upon historical transaction data and research compiled by real estate experts with experience in the healthcare asset class.
  - The agreed upon Acceptable Spread for a build-to-suit healthcare facility is 200 basis points and the agreed upon Acceptable Spread for a speculative healthcare facility is 300 basis points.

The formula detailed above will be memorialized in the LDA and the purchase price will be paid in cash to the District at Closing.
**Project Name:** Parcel AB – Building B

**Use:** Healthcare facility

**Size:** Approximately 445,000 square feet

**Parking:** Parking will be provided through a below-grade parking facility.

**Purchase Price Methodology**

- The land purchase price for Building A will be determined by a formula which will not be calculated until 12 months (or less) prior to the commencement of vertical construction.

- The land purchase price for Building A will be based on the then current fair market value as determined by a Return on Cost ("ROC") calculation.

- ROC for these purposes is defined as the projected Net Operating Income ("NOI") for the project divided by Total Development Costs ("TDC") for the project.

- The NOI will be supported by either an executed LOI/lease or market study based upon relevant market data including current and recent transactions of comparable projects and product types.

- The TDC will be supported by pre-construction pricing information provided by TCC's general contractor. Soft costs, financing costs, and other costs will be calculated based on TCC’s experience with comparable projects and product types. These costs also will be submitted by the District for its review and approval.

- The purchase price for the land will be equal to the highest possible land value which can be entered into the ROC calculation and results in the Minimum ROC. Minimum ROC is defined as follows:
  - Projected Exit Cap Rate + Acceptable Spread = Minimum ROC

- The agreed upon Projected Exit Cap Rate will be based upon historical transaction data and research compiled by real estate experts with experience in the healthcare asset class.

  - The agreed upon Acceptable Spread for a build-to-suit healthcare facility is 200 basis points and the agreed upon Acceptable Spread for a speculative healthcare facility is 300 basis points.

The formula detailed above will be memorialized in the LDA and the purchase price will be paid in cash to the District at Closing.
Project Name: Parcel C-1 – Building C
Use: Healthcare facility
Size: approximately 200,000 square feet
Parking: Parking will be provided through a below-grade parking facility.

Purchase Price Methodology
• The purchase price for Parcel C will be determined by a formula which will not be calculated until 12 months (or less) prior to the commencement of vertical construction.
• The purchase price for Parcel C will be based on the then current fair market value as determined by a Return on Cost ("ROC") calculation.
  o ROC for these purposes is defined as the projected Net Operating Income ("NOI") for the project divided by Total Development Costs ("TDC") for the project.
• The NOI will be supported by either an executed LOI/lease or market study based upon relevant market data including current and recent transactions of comparable projects and product types.
• The TDC will be supported by pre-construction pricing information provided by TCC’s general contractor. Soft costs, financing costs, and other costs will be calculated based on TCC’s experience with comparable projects and product types. These costs also will be submitted by the District for its review and approval.
• The purchase price for the land will be equal to the highest possible land value which can be entered into the ROC calculation and results in the Minimum ROC. Minimum ROC is defined as follows:
  o Projected Exit Cap Rate + Acceptable Spread = Minimum ROC
• The agreed upon Projected Exit Cap Rate will be based upon historical transaction data and research compiled by real estate experts with experience in the medical office asset class.
  o The agreed upon Acceptable Spread for a speculative medical office facility is 300 basis points.
The formula detailed above will be memorialized in the LDA and the purchase price will be paid in cash to the District at Closing.
EXHIBIT E
Earnest Money Deposit Schedule
(Initial Deposit & Additional Deposit)

(see attached)
# EARNEST MONEY DEPOSIT SCHEDULE

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Building</th>
<th>Land Value (est.)</th>
<th>Initial Deposit</th>
<th>Additional Deposit</th>
</tr>
</thead>
<tbody>
<tr>
<td>AB</td>
<td>Phase 1 Building A</td>
<td>$4,319,930</td>
<td>$215,997</td>
<td>$647,990</td>
</tr>
<tr>
<td>AB</td>
<td>Phase 1 Building B</td>
<td>$8,879,740</td>
<td>$443,987</td>
<td>$1,331,961</td>
</tr>
<tr>
<td>C-1</td>
<td>Phase 2 Building C</td>
<td>$9,615,100</td>
<td>$480,755</td>
<td>$1,442,265</td>
</tr>
<tr>
<td>E</td>
<td>Phase 1 Towns</td>
<td>$10,118,425</td>
<td>$505,921</td>
<td>$1,517,764</td>
</tr>
<tr>
<td>D</td>
<td>Phase 2 Towns</td>
<td>$1,173,282</td>
<td>$58,664</td>
<td>$175,592</td>
</tr>
<tr>
<td>F</td>
<td>Phase 1 Multi A</td>
<td>$3,306,003</td>
<td>$165,300</td>
<td>$495,900</td>
</tr>
<tr>
<td>F</td>
<td>Phase 1 Multi B</td>
<td>$2,244,257</td>
<td>$112,213</td>
<td>$336,639</td>
</tr>
<tr>
<td>C-3</td>
<td>Phase 1 Senior</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>C-2</td>
<td>Grocery</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

**NOTE:** As outlined in the Term Sheet, VMP (or one or more of its members) may elect to perform the portions of the Pre-Closing Land Development work required to complete the Finished Pad work for any or all of the parcels indicated above.

In the event, VMP (or one or more of its members) makes such an election for any parcel, both the Initial Deposit and Additional Deposit amounts will be reduced for the respective parcel to reflect the value of the work performed by VMP (as verified and agreed to by the District).

An example of this adjustment is included in the calculation below:

<table>
<thead>
<tr>
<th>Original Land Value Estimate</th>
<th>$4,319,930</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduction for Work Performed by VMP</td>
<td>&lt;$3,000,000&gt;</td>
</tr>
<tr>
<td>Net Land Value</td>
<td>$1,319,930</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Initial Deposit (5%)</th>
<th>$65,996.50</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional Deposit (15%)</td>
<td>$197,989.50</td>
</tr>
</tbody>
</table>
**TERM SHEET**

Disposition of the McMillan Sand Filtration Site
Commercial (Healthcare) Parcels

<table>
<thead>
<tr>
<th><strong>Date</strong></th>
<th>October 2, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Seller</strong></td>
<td>District of Columbia (&quot;District&quot;), acting by and through the Office of the Deputy Mayor for Planning and Economic Development (&quot;DMPED&quot;).</td>
</tr>
<tr>
<td><strong>Buyer</strong></td>
<td>Vision McMillan Partners (&quot;VMP&quot; or &quot;Developer&quot;), a joint venture comprised MCMILLAN ASSOCIATES LLC (&quot;EYA&quot;), TC MID ATLANTIC DEVELOPMENT IV, INC (&quot;TC&quot;), and LDP MCMILLAN LAND ACQUIRER, LLC (&quot;JLDP&quot;).</td>
</tr>
<tr>
<td><strong>Real Property</strong></td>
<td>A portion (the &quot;Commercial Parcels&quot;) of the twenty-five (25) acre parcel of real property situated on North Capitol Street, Washington, D.C. and known for tax and assessment purposes as Lot 0800 in Square 3128 (the &quot;Property&quot;), together with appropriate set-backs and appurtenances deemed necessary to construct the Development Program.</td>
</tr>
<tr>
<td><strong>Land Disposition Agreement</strong></td>
<td>All of the terms and conditions of the sale and purchase of the Commercial Parcels will be governed by the terms of a Land Disposition Agreement (the &quot;LDA&quot;) to be negotiated and entered into by District and Developer.</td>
</tr>
<tr>
<td><strong>Finished Pad</strong></td>
<td>Subject to the terms of the LDA, DMPED will prepare and construct Finished Pads (as defined in the LDA) on the Commercial Parcels prior to conveyance of the Commercial Parcels to Developer for Fair Market Value (as defined below).</td>
</tr>
<tr>
<td><strong>Method of Disposition</strong></td>
<td>The Property will be conveyed in fee by District to Developer pursuant to D.C. Official Code § 10-801(6)(B)(F).</td>
</tr>
<tr>
<td><strong>Conditions of Closing</strong></td>
<td>In addition to the other District standard conditions of closing of sale pursuant to the LDA, District’s obligation to convey the Property is conditioned upon:</td>
</tr>
<tr>
<td></td>
<td>- Developer having obtained financing and equity to fund 100% of the development costs for the Development Program for the applicable phase</td>
</tr>
<tr>
<td></td>
<td>- The Developer having provided the District development and completion guaranties pursuant to the LDA for the Development Program for the applicable phase</td>
</tr>
<tr>
<td></td>
<td>- The District having satisfied its obligations concerning the Horizontal Development work in accordance with the terms of the LDA</td>
</tr>
<tr>
<td><strong>Development Program</strong></td>
<td>The Development Program will consist of the construction of three (3) parcels on the Property as medical/health care office buildings in accordance with the planned unit development (&quot;PUD&quot;) order issued by the Zoning Commission.</td>
</tr>
<tr>
<td><strong>Schedule of Performance</strong></td>
<td>Following is the Schedule of Performance with estimated dates, which may be amended and extended with the approval of DMPED, or otherwise upon an event of force majeure:</td>
</tr>
</tbody>
</table>
- Phase 1 Closing: 90 days after completion of the portion of the Horizontal Development required as a condition of Closing as outlined in the LDA
- Commence Phase 1 Construction: 30 days after Phase 1 Closing
- Completion of Phase 1: 48 months after Phase 1 Closing
- Phase 2 Closing: 48 months after Phase 1 Closing
- Commence Phase 2 Construction: 30 days after Phase 2 Closing
- Completion of Phase 2: 48 months after Phase 2 Closing

<table>
<thead>
<tr>
<th>Post Closing Requirements</th>
<th>Developer shall be bound by the Construction and Use Covenant, the forms of which shall be attached to the LDA.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Completion</td>
<td>Developer will provide a completion guaranty for the portions of the Development Program, the form of which will be attached to the LDA.</td>
</tr>
<tr>
<td>CBE Agreement</td>
<td>Developer’s CBE Agreement reflects that Developer’s 20% CBE developer/equity requirement has been satisfied through JLPD’s ownership position in Developer and its role as a prime developer for the multi-family portion of the McMillan project. The CBE Agreement also reflects that Developer’s 35% CBE contracting requirement will be satisfied through the CBE contractor participation achieved only on the Development Program, which is a portion of the overall McMillan project.</td>
</tr>
<tr>
<td>Fair Market Value</td>
<td>As consideration for the transfer of the Commercial Parcels, Developer shall pay to District fair market value. Fair market value will be determined by a return on cost (&quot;ROC&quot;) calculation and an agreed upon minimum ROC. The formula outlined above will be memorialized in the LDA and the purchase price will be paid in cash to the District at Closing for each Phase.</td>
</tr>
<tr>
<td>First Source Requirements</td>
<td>The Developer has entered into a First Source Agreement with the Department of Employment Services that shall govern certain obligations of the Developer pursuant to D.C. Official Code § 2-219.03, as amended, and Mayor's Order 83-265 (November 9, 1983) regarding job creation and employment generated as a result of the construction on the Property.</td>
</tr>
</tbody>
</table>
INTENTION AND LIMITATIONS OF THIS TERM SHEET

1. The Developer and DMPED acknowledge that they have prepared and signed this Term Sheet for the sole purpose of obtaining the approval of the Council of the District of Columbia (the “Council”) pursuant to D.C. Official Code § 10-801. Developer acknowledges that DMPED’s negotiation of the LDA and this Term Sheet, DMPED’s signature on this Term Sheet, and submission of this Term Sheet and supporting documents to the Council shall not bind the District to execute the LDA or to convey the Commercial Parcels to the Developer. Developer further acknowledges that, notwithstanding Council authorizing the conveyance of the Commercial Parcels, the District has no obligation to do so absent the District and the Developer duly executing the LDA and satisfaction of the conditions contained therein. In the event DMPED or the Mayor determine, in their sole and absolute discretion, to withhold submission of this Term Sheet and supporting documents to the Council or to otherwise decline to secure Council authorization for the conveyance, DMPED may terminate negotiations with the Developer and the District shall not be responsible for the Developer’s costs and expenses incurred in relation to the Development Program, except as otherwise provided in the Exclusive Rights Agreement between Developer and DMPED.

2. Developer acknowledges that all approvals required of the Council will be granted or withheld in the sole and absolute discretion of the Council and that, absent Council approval under D.C. Official Code § 10-801 (2014 Supp.), DMPED has no authority to convey the Commercial Parcels to the Developer. The Developer acknowledges that it is entering into this Term Sheet prior to obtaining all necessary Council approvals. Developer agrees it is proceeding at its sole risk and expense, in the absence of such approvals and execution of the LDA Developer shall have no recourse whatsoever against the District.

3. Developer and DMPED agree that upon receipt of all necessary Council approvals under D.C. Official Code § 10-801 (2014 Supp.), Developer and DMPED shall finalize and execute an LDA governing all of the terms and conditions of the purchase and sale of the Property. Until Developer and DMPED enter into the binding LDA, both Developer and DMPED reserve the right to proceed with the purchase and sale in their sole and absolute discretion. Upon the execution of the LDA, Developer and DMPED shall proceed in accordance with the terms of the LDA; provided, however, that Developer and DMPED acknowledge and agree that any substantive change in the terms set forth in this Term Sheet shall be subject to further Council review and approval in accordance with D.C. Official Code 10-801(b-1)(6).
IN WITNESS WHEREOF, DMPED and Developer have caused this Term Sheet, dated October 2, 2014 to be executed and attested by their respective duly authorized representatives.

DISTRICT:

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: ____________________________
    M. Jeffery Miller,
    Interim Deputy Mayor for Planning and Economic Development

DEVELOPER:

VISION MCMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: TC MidAtlantic Development IV, Inc., a Delaware corporation, its Authorized Representative

By: ____________________________
    Adam C. Weers
    Authorized Representative
IN WITNESS WHEREOF, DMPED and Developer have caused this Term Sheet, dated October 1, 2014 to be executed and attested by their respective duly authorized representatives.

DISTRICT:

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: [Signature]

M. Jeffrey Miller,
Interim Deputy Mayor for Planning and Economic Development

DEVELOPER:

VISION MCMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: TC MidAtlantic Development IV, Inc., a Delaware corporation, its Authorized Representative

By: [Signature]

Adam C. Weers
Authorized Representative
TERM SHEET
Disposition of the McMillan Sand Filtration Site
Commercial (Multi-family) Parcels

<table>
<thead>
<tr>
<th>Date</th>
<th>October 2, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seller</td>
<td>District of Columbia (&quot;District&quot;), acting by and through the Office of the Deputy Mayor for Planning and Economic Development (&quot;DMPED&quot;).</td>
</tr>
<tr>
<td>Buyer</td>
<td>Vision McMillan Partners, LLC (&quot;VMP&quot; or &quot;Developer&quot;), a joint venture comprised of MCMILLAN ASSOCIATES LLC (&quot;EYA&quot;), TC MID ATLANTIC DEVELOPMENT IV, INC (&quot;TC&quot;), and LDP MCMILLAN LAND ACQUIRER, LLC (&quot;JLDP&quot;).</td>
</tr>
<tr>
<td>Real Property</td>
<td>A portion (the &quot;Multifamily Parcels&quot;) of the twenty-five (25) acre parcel of real property situated on North Capitol Street, Washington, D.C. and known for tax and assessment purposes as Lot 0800 in Square 3128 (the &quot;Property&quot;), together with appropriate set-backs and appurtenances deemed necessary to construct the Development Program.</td>
</tr>
<tr>
<td>Land Disposition Agreement</td>
<td>All of the terms and conditions of the sale and purchase of the Multifamily Parcels will be governed by the terms of a Land Disposition Agreement (the &quot;LDA&quot;) to be negotiated and entered into by District and Developer.</td>
</tr>
<tr>
<td>Finished Pad</td>
<td>Subject to the terms of the LDA, DMPED will prepare and construct Finished Pads (as defined in the LDA) on the Multifamily Parcels prior to conveyance of the Multifamily Parcels to Developer for Fair Market Value (as defined below).</td>
</tr>
<tr>
<td>Method of Disposition</td>
<td>The Property will be conveyed in fee by District to Developer pursuant to D.C. Official Code § 10-801(b)(8)(F).</td>
</tr>
<tr>
<td>Conditions of Closing</td>
<td>In addition to the other District standard conditions of closing of sale pursuant to the LDA, District’s obligation to convey the Property is conditioned upon:</td>
</tr>
<tr>
<td>Development Program</td>
<td>The Development Program will consist of multi-family buildings with first floor retail in accordance with a planned unit development (&quot;PUD&quot;) order issued by the Zoning Commission.</td>
</tr>
<tr>
<td>Affordable Housing</td>
<td>District and Developer agree that a minimum of 20% of the residential units to be developed as a part of the Development Program will be affordable dwelling units (&quot;ADUs&quot;). This will include a senior affordable housing component with ADUs set aside for senior housing (55 years of age or older) for households earning between 50% and 60% of AMI. The non-senior ADUs will be set aside for households earning up to 80% AMI.</td>
</tr>
<tr>
<td>Green Building</td>
<td>Developer shall construct the Development Program development in accordance with the</td>
</tr>
<tr>
<td>-------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| **Schedule of Performance** | Following is the Schedule of Performance with estimated dates, which may be amended and extended with the approval of DMPED, or otherwise upon an event of force majeure:  
  - Phase 1 Closing: 90 days after completion of the portion of the Horizontal Development required as a condition of Closing as outlined in the LDA  
  - Commence Phase 1 Construction: 30 days after Phase 1 Closing  
  - Completion of Phase 1: 48 months after Phase 1 Closing  
  - Phase 2 Closing: 48 months after Phase 1 Closing, but prior to the expiration of the Extension Resolution  
  - Commence Phase 2 Construction: 30 days after Phase 2 Closing  
  - Completion of Phase 2: 48 months after Phase 2 Closing |
| **Post Closing Requirements** | Developer shall be bound by the Affordable Housing Covenant and the Construction and Use Covenant, the forms of which shall be attached to the LDA. |
| **Project Completion** | Developer will provide a completion guaranty for the construction of the Development Program, the form of which will be attached to the LDA. |
| **CBE Agreement** | Developer's CBE Agreement reflects that Developer’s 20% CBE developer/equity requirement has been satisfied through JLDP’s ownership position in Developer and its role as a prime developer for the multi-family portion of the McMillan project.  
The CBE Agreement also reflects that Developer’s 35% CBE contracting requirement will be satisfied through the CBE contractor participation achieved only on the Development Program which is a portion of the overall McMillan project. |
| **Fair Market Value** | As consideration for the transfer of the Multifamily Parcels, Developer shall pay to District fair market value. Fair market value will be determined by a return on cost ("ROC") calculation and an agreed upon minimum ROC.  
The formula outlined above will be memorialized in the LDA and the purchase price will be paid in cash to the District at Closing for each Phase. |
| **First Source Requirements** | The Developer has entered into a First Source Agreement with the Department of Employment Services that shall govern certain obligations of the Developer pursuant to D.C. Official Code § 2-219.03, as amended, and Mayor's Order 83-265 (November 9, 1983) regarding job creation and employment generated as a result of the construction on the Property. |
INTENTION AND LIMITATIONS OF THIS TERM SHEET

1. The Developer and DMPED acknowledge that they have prepared and signed this Term Sheet for the sole purpose of obtaining the approval of the Council of the District of Columbia (the “Council”) pursuant to D.C. Official Code § 10-801. Developer acknowledges that DMPED’s negotiation of the LDA and this Term Sheet, DMPED’s signature on this Term Sheet, and submission of this Term Sheet and supporting documents to the Council shall not bind the District to execute the LDA or to convey the Multifamily Parcels to the Developer. Developer further acknowledges that, notwithstanding Council authorizing the conveyance of the Multifamily Parcels, the District has no obligation to do so absent the District and the Developer duly executing the LDA and satisfaction of the conditions contained therein. In the event DMPED or the Mayor determine, in their sole and absolute discretion, to withhold submission of this Term Sheet and supporting documents to the Council or to otherwise decline to secure Council authorization for the conveyance, DMPED may terminate negotiations with the Developer and the District shall not be responsible for the Developer’s costs and expenses incurred in relation to the Development Program, except as otherwise provided in the Exclusive Rights Agreement between Developer and DMPED.

2. Developer acknowledges that all approvals required of the Council will be granted or withheld in the sole and absolute discretion of the Council and that, absent Council approval under D.C. Official Code § 10-801 (2014 Supp.), DMPED has no authority to convey the Multifamily Parcels to the Developer. The Developer acknowledges that it is entering into this Term Sheet prior to obtaining all necessary Council approvals. Developer agrees it is proceeding at its sole risk and expense, in the absence of such approvals and execution of the LDA Developer shall have no recourse whatsoever against the District.

3. Developer and DMPED agree that upon receipt of all necessary Council approvals under D.C. Official Code § 10-801 (2014 Supp.), Developer and DMPED shall finalize and execute an LDA governing all of the terms and conditions of the purchase and sale of the Multifamily Parcels. Until Developer and DMPED enter into the binding LDA, both Developer and DMPED reserve the right to proceed with the purchase and sale in their sole and absolute discretion. Upon the execution of the LDA, Developer and DMPED shall proceed in accordance with the terms of the LDA; provided, however, that Developer and DMPED acknowledge and agree that any substantive change in the terms set forth in this Term Sheet shall be subject to further Council review and approval in accordance with D.C. Official Code § 10-801(b-1)(6).
IN WITNESS WHEREOF, DMPED and Developer have caused this Term Sheet, dated October 2, 2014 to be executed and attested by their respective duly authorized representatives.

DISTRICT:

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By:________________________

M. Jeffery Miller,
Interim Deputy Mayor for Planning and Economic Development

DEVELOPER:

Vision McMillan Partners, LLC,
a District of Columbia limited liability company,

By: LDP McMillan Land Acquirer, LLC,
a Delaware limited liability company,
its Member

By: LDP Acquisitions, LLC,
a Delaware limited liability company,
its Sole Member

By: LDP Holdings, LLC,
a Delaware limited liability company,
its Manager

By:________________________

Jair K. Lynch, President
IN WITNESS WHEREOF, DMPED and Developer have caused this Term Sheet, dated October __, 2014 to be executed and attested by their respective duly authorized representatives.

DISTRICT:

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: __________________________________________

M. Jeffrey Miller,
Interim Deputy Mayor for Planning and Economic Development

DEVELOPER:

VISION MCMILLAN PARTNERS LLC, a District of Columbia limited liability company

By: LDP McMillan Land Acquirer, LLC,
a Delaware limited liability company,

By: LDP Acquisitions, LLC,
a Delaware limited liability company,
its Sole Member

By: LDP Holdings, LLC,
a Delaware limited liability company,
its Manager

By:__________________________________________

Jair K. Lynch, President
TERM SHEET  
Disposition of the McMillan Sand Filtration Site  
Townhouse Parcels

<table>
<thead>
<tr>
<th>Date</th>
<th>October 2, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seller</td>
<td>District of Columbia (&quot;District&quot;), acting by and through the Office of the Deputy Mayor for Planning and Economic Development (&quot;DMPED&quot;).</td>
</tr>
<tr>
<td>Buyer</td>
<td>Vision McMillan Partners LLC (&quot;VMP&quot; or &quot;Developer&quot;), a joint venture comprised of MCMILLAN ASSOCIATES LLC (&quot;EYA&quot;), TC MIDATLANTIC DEVELOPMENT IV, INC (&quot;TC&quot;), and LDP MCMILLAN LAND ACQUIRER, LLC (&quot;JLDP&quot;).</td>
</tr>
<tr>
<td>Real Property</td>
<td>A portion (the &quot;Townhouse Parcels&quot;) of the twenty-five (25) acre parcel of real property situated on North Capitol Street, Washington, D.C. and known for tax and assessment purposes as Lot 0800 in Square 3128 (the &quot;Property&quot;), together with appropriate set-backs and appurtenances deemed necessary to construct the Development Program.</td>
</tr>
<tr>
<td>Land Disposition Agreement</td>
<td>All of the terms and conditions of the sale and purchase of the Townhouse Parcels will be governed by the terms of a Land Disposition Agreement (the &quot;LDA&quot;) to be negotiated and entered into by District and Developer.</td>
</tr>
<tr>
<td>Finished Pad</td>
<td>Subject to the terms of the LDA, DMPED will prepare and construct Finished Pads (as defined in the LDA) on the Townhouse Parcels prior to conveyance of the Townhouse Parcels to Developer for Fair Market Value (as defined below).</td>
</tr>
<tr>
<td>Method of Disposition</td>
<td>The Property will be conveyed in fee by District to Developer pursuant to D.C. Official Code § 10-801(b)(8)(F).</td>
</tr>
<tr>
<td>Conditions of Closing</td>
<td>In addition to the other District standard conditions of closing of sale pursuant to the LDA, District's obligation to convey the Property is conditioned upon:</td>
</tr>
<tr>
<td>Development Program</td>
<td>The Development Program will consist of for-sale townhouse-style buildings in accordance with the planned unit development (&quot;PUD&quot;) order issued by the Zoning Commission.</td>
</tr>
<tr>
<td>Affordable Housing</td>
<td>District and Developer agree that a minimum of 15% of the residential units included in the Development Program will be affordable dwelling units (&quot;ADUs&quot;). Approximately 40% of the ADUs will be available for purchase to households earning no more than 50% of AMI and approximately 60% of the ADUs will be available for purchase to households earning no more than 80% of AMI.</td>
</tr>
<tr>
<td>Schedule of Performance</td>
<td>Following is the Schedule of Performance with estimated dates, which may be amended and extended with the approval of DMPED, or otherwise upon an event of force majeure:</td>
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<td></td>
<td>■ Phase 1 Closing: 90 days after completion of the of the portion of the Horizontal Development required as a condition of Closing as outlined in the LDA</td>
</tr>
<tr>
<td></td>
<td>■ Commence Phase 1 Construction: 30 days after Phase 1 Closing</td>
</tr>
<tr>
<td></td>
<td>■ Completion of Phase 1: 15 years after Phase 1 Closing.</td>
</tr>
<tr>
<td></td>
<td>■ Phase 2 Closing: 48 months after Phase 1 Closing, but prior to the expiration of the Extension Resolution</td>
</tr>
<tr>
<td></td>
<td>■ Commence Phase 2 Construction: 30 days after Phase 2 Closing</td>
</tr>
<tr>
<td></td>
<td>■ Completion of Phase 2: 15 years after Phase 2 Closing.</td>
</tr>
<tr>
<td>Post Closing Requirements</td>
<td>Developer shall be bound by the Affordable Housing Covenant and the Construction and Use Covenant, the forms of which shall be attached to the LDA.</td>
</tr>
<tr>
<td>Project Completion</td>
<td>Developer will provide a completion guaranty for the construction of the Development Program, the form of which will be attached to the LDA.</td>
</tr>
<tr>
<td>CBE Agreement</td>
<td>Developer’s CBE Agreement reflects Developer’s 20% CBE developer/equity requirement has been satisfied through JLDP’s ownership position in Developer and its role as a prime developer for the multi-family portion of the McMillan project.</td>
</tr>
<tr>
<td></td>
<td>The CBE Agreement also reflects that Developer’s 35% CBE contracting requirement will be satisfied through the CBE contractor participation achieved only on the Development Program, which is a portion of the overall McMillan project.</td>
</tr>
<tr>
<td>Fair Market Value</td>
<td>As consideration for the transfer of the Townhouse Parcels, Developer shall pay to District fair market value. District and Developer agree to determine the fair market value of the Townhouse Parcels on a per lot basis.</td>
</tr>
<tr>
<td></td>
<td>The formula outlined above will be memorialized in the LDA and the purchase price will be paid in cash to the District at Closing for each Phase.</td>
</tr>
<tr>
<td>First Source Requirements</td>
<td>The Developer has entered into a First Source Agreement with the Department of Employment Services that shall govern certain obligations of the Developer pursuant to D.C. Official Code § 2-219.03, as amended, and Mayor’s Order 83-265 (November 9, 1983) regarding job creation and employment generated as a result of the construction on the Property.</td>
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INTENTION AND LIMITATIONS OF THIS TERM SHEET

1. The Developer and DMPED acknowledge that they have prepared and signed this Term Sheet for the sole purpose of obtaining the approval of the Council of the District of Columbia (the "Council") pursuant to D.C. Official Code § 10-801. Developer acknowledges that DMPED's negotiation of the LDA and this Term Sheet, DMPED's signature on this Term Sheet, and submission of this Term Sheet and supporting documents to the Council shall not bind the District to execute the LDA or to convey the Townhouse Parcels to the Developer. Developer further acknowledges that, notwithstanding Council authorizing the conveyance of the Townhouse Parcels, the District has no obligation to do so absent the District and the Developer duly executing the LDA and satisfaction of the conditions contained therein. In the event DMPED or the Mayor determine, in their sole and absolute discretion, to withhold submission of this Term Sheet and supporting documents to the Council or to otherwise decline to secure Council authorization for the conveyance, DMPED may terminate negotiations with the Developer and the District shall not be responsible for the Developer's costs and expenses incurred in relation to the Development Program, except as otherwise provided in the Exclusive Rights Agreement between Developer and DMPED.

2. Developer acknowledges that all approvals required of the Council will be granted or withheld in the sole and absolute discretion of the Council and that, absent Council approval under D.C. Official Code § 10-801 (2014 Supp.), DMPED has no authority to convey the Townhouse Parcels to the Developer. The Developer acknowledges that it is entering into this Term Sheet prior to obtaining all necessary Council approvals. Developer agrees it is proceeding at its sole risk and expense, in the absence of such approvals and execution of the LDA Developer shall have no recourse whatsoever against the District.

3. Developer and DMPED agree that upon receipt of all necessary Council approvals under D.C. Official Code § 10-801 (2014 Supp.), Developer and DMPED shall finalize and execute an LDA governing all of the terms and conditions of the purchase and sale of the Townhouse Parcels. Until Developer and DMPED enter into the binding LDA, both Developer and DMPED reserve the right to proceed with the purchase and sale in their sole and absolute discretion. Upon the execution of the LDA, Developer and DMPED shall proceed in accordance with the terms of the LDA; provided, however, that Developer and DMPED acknowledge and agree that any substantive change in the terms set forth in this Term Sheet shall be subject to further Council review and approval in accordance with D.C. Official Code 10-801(b-1)(6).
IN WITNESS WHEREOF, DMPED and Developer have caused this Term Sheet, dated October 2, 2014 to be executed and attested by their respective duly authorized representatives.

DISTRICT:

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: ____________________________
M. Jeffery Miller,
Interim Deputy Mayor for Planning and Economic Development

DEVELOPER:

VISION MCMILLAN PARTNERS LLC, a District of Columbia limited liability company

By: McMillan Associates, LLC, a Delaware limited liability company, Its Managing Member

By: ____________________________
Brian Allan Jackson
Vice President and Secretary
IN WITNESS WHEREOF, DMPED and Developer have caused this Term Sheet, dated October 10, 2014 to be executed and attested by their respective duly authorized representatives.

DISTRICT:

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: ____________________________

M. Jeffrey Miller,
Interim Deputy Mayor for Planning and Economic Development

DEVELOPER:

VISION MCMILLAN PARTNERS LLC, a District of Columbia limited liability company

By: McMillan Associates, LLC, a Delaware limited liability company, Its Managing Member

By: ____________________________

Brian Allan Jackson
Vice President and Secretary
CONTRACT FOR DEVELOPMENT MANAGEMENT SERVICES

This CONTRACT FOR DEVELOPMENT MANAGEMENT SERVICES (this "Contract") is made as of April 23, 2010, (the "Effective Date") by and between the DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development, (the "District"), and VISION MCMLLAN PARTNERS, LLC, a District of Columbia limited liability company (the "Contractor").

1. Project. District seeks to develop the 25-acre parcel of real property, known as the McMillan Sand Filtration Site, situated on North Capitol Street, N.W., in Washington, D.C., known for tax and assessment purposes as Lot 0800 in Square 3128 (the "Property"). The development of the Property will include the horizontal land development (the "Land Development") and mixed-use vertical pad development (the "Vertical Development"). Pursuant to the terms of this Contract, Contractor shall provide pre-construction development, management, and related services for the Land Development (the "Project").

2. Contractor's Agents, Consultants and Subcontractors.

2.1 The Contractor shall be responsible for putting together the team of professionals needed to deliver the services provided for under the terms of this Contract. The Contractor shall solicit, evaluate and submit to the District for approval, all Consultants (as defined below) and subcontractors required to complete the deliverables required by the terms of this Contract.

2.2 Contractor has selected Bowman Associates as the "Civil Engineer" and Lessard Architectural Group as the "Lead Design Architect" for the Project, services and deliverables required under Section 6 below. Each has already been approved by the District along with the other Consultants as set forth on Exhibit B attached hereto. It is anticipated that a landscape architect and consulting planner and certain other professional consultants will be engaged by Contractor for the performance of this Contract. The Civil Engineer, Lead Design Architect and all such other professional consultants engaged by Contractor shall be referred to herein, each as a "Consultant" and collectively as "Consultants".

2.3 The Contractor shall be responsible for dividing the work required under this Contract into suitable bid packages, so that all of the bid packages taken together, with the self-performed work, provide for complete performance of the Contract, without omissions or gaps, and so that obtaining bids from suitable potential Consultants and subcontractors is facilitated. The Contractor shall develop and discuss with the District lists of suitable bidders that should be invited to bid on each package; and shall administer actual solicitation of bids from potential Consultants and subcontractors in accordance with the Performance Schedule (as defined in Section 8 below). The Contractor shall provide to the District a copy of all quotes or proposals submitted by potential Consultants and subcontractors.

2.4 The Contractor shall carefully document, in accordance with Contractor's standard practice as described in Exhibit 1, its procedures for making available bid packages to
2.4 The Contractor shall carefully document, in accordance with Contractor's standard practice as described in Exhibit I, its procedures for making available bid packages to potential bidders, the contents of each bid package, discussions with bidders at any pre-bid meetings, bidders' compliance with bid requirements, all bids received, the Contractor's evaluations of all bids, and the basis for the Contractor's determination as to which bidders are chosen. The District shall be afforded access to all such records at all reasonable times so that, among other things, it may independently confirm the Contractor's adherence to all Contract requirements.

2.5 The District shall have the right to approve all subcontractors and Consultants, but shall have the right to disapprove any subcontractors or Consultants only for good cause, which shall be conveyed to Contractor with specificity. The District shall respond to the Contractor's written request for approval of any subcontractor or Consultant within five (5) business days. If the District does not respond within five (5) business days, then the subcontractors and/or Consultants shall be deemed approved by the District. The District may elect to review the form of any agreement with a subcontractor or Consultant to insure that such contract incorporates the contractual provisions required by this Contract.

2.6 The Contractor must contract for provision of all services and materials required under this Contract (other than self-performed work) by written subcontracts. All subcontracts, including those with Consultants, shall include the following provisions, unless otherwise agreed to by the District:

(1) that, to the extent of the work within the subcontract's scope, the subcontractor is bound to the Contractor for the performance of all obligations which the Contractor owes the District under this Contract;

(2) that the subcontractor is not in privity with the District and shall not seek compensation directly from the District on any third-party beneficiary, quantum meruit, or unjust enrichment claim, or otherwise, except as may be permitted by any applicable mechanic's lien law;

(3) that the subcontractor consents to assignment of its agreement to the District, at the District's sole option, if the Contractor is terminated for default or in the event the District provides written notice to the subcontractor that it has elected to assume the subcontract; prior to assignment of the subcontract to the District, the Contractor shall ensure that work product, in its current state of completion at the time of assignment, and all supporting and necessary materials is appropriately transferred to the subcontractor; following assignment of the subcontract to the District, the Contractor no longer shall be responsible for managing the subcontractor and its work product;

(4) that the subcontractor shall comply immediately with a written order from the District to the Contractor to suspend or stop work;
(5) that the subcontractor shall maintain records of all work it is requested or authorized to do during the term of the subcontract, and shall make those records available for review or audit by the District;

(6) that the subcontractor shall obtain and maintain, throughout the term of the subcontract, workers' compensation insurance in accordance with the laws of the District of Columbia;

(7) that the Contractor may terminate the subcontract for convenience, upon seven (7) days' written notice to the subcontractor;

(8) that the District shall have the right to enter into a contract with the subcontractor upon similar terms and conditions negotiated by and between the District and the subcontractor, including for the same price as its subcontract price less amounts already paid, if the Contractor files a voluntary petition in bankruptcy or has an involuntary petition in bankruptcy filed against it;

(9) that the District shall not be responsible or liable for Contractor's failure to pay subcontractor in timely fashion provided that the District has timely funded its obligations hereunder;

(10) that the subcontractor shall not be entitled to payment for defective or non-conforming work, materials or equipment, and shall be obligated promptly to repair or replace non-conforming work, materials or equipment at its own cost;

(11) that subcontractors promptly pay subcontractors at lower tiers, barring reimbursement for interest paid to lower tier subcontractors due to a subcontractor's failure to pay them in timely fashion;

(12) that all subcontractors at all tiers comply with the provisions of Section 15 of this Contract, provided, however, that the Contractor may, in its reasonable discretion impose a different CBL subcontracting goal on some or all of its subcontractors; provided, further, however, that nothing in this clause shall be deemed to excuse the Contractor from complying with the terms of Section 15;

(13) a provision which allows the Contractor to withhold payment from the subcontractor if the subcontractor does not meet the requirements of the subcontract;

(14) lien and claim release and waiver provisions substantially identical to those in this Contract; and

(15) a provision that requires the subcontractor to indemnify and hold harmless the Contractor.

2.7 Within seven (7) days of receiving any payment from the District including amounts attributable to work performed, or materials or equipment supplied, by a subcontractor,
the Contractor shall either pay the subcontractor for its proportionate share of the amount paid to the Contractor for the subcontractor’s work, materials or equipment, or notify the District and the subcontractor, in writing, of the Contractor’s intention to withhold all or part of the payment and state the reason for the withholding. All monies paid to the Contractor under this Contract shall be used first to pay amounts due to subcontractors supplying labor or materials for this Contract and only money remaining after such payments are made may be used for other purposes. Any interest paid to subcontractors because the Contractor has failed to pay them in timely fashion shall not be reimbursable as part of the Contract Budget or Contract Price (each as defined in Section 9 and 10 below respectively).

2.8 The Contractor shall not enter into any profit sharing, rebate, or similar arrangement with any subcontractor at any tier with respect to the Contract or Project.

2.9 The Contractor shall not substitute or replace any subcontractor approved by the District without the District’s prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. The District shall respond to the Contractor’s written request for consent within five (5) business days. If District does not respond within five (5) business days, then the District shall be deemed to have consented to the substitution or replacement of any subcontractor.

2.10 The District has the right to contact Consultants and subcontractors at all tiers or material or equipment suppliers directly to confirm amounts due and owing to them or amounts paid to them for work performed for this Contract, and to ascertain from the subcontractors at all tiers their projections of the cost to complete their work or to supply their material or equipment, or the existence of any claims or disputes. In doing so, the District shall not issue any directions to subcontractors at any tier and shall not interfere with any direction given by Contractor to such parties. Further, the District’s contact as set forth above shall not delay or defer the timing of any monetary funding obligation of the District hereunder.

2.11 The Contractor shall schedule and attend meetings on a regular basis with the Consultants to ensure the timely and successful completion of the Project. During these meetings the Contractor shall review and discuss such critical path issues as value engineering, constructability reviews, and provide scheduling and cost analysis review for each phase of the designs. The District shall be informed in advance of such meetings, and permitted to attend any and all such meetings. In addition, the Contractor shall hold on a monthly basis, progress meetings with the District to permit the District to ask questions and give feedback on the direction of the Project.

2.12 The Contractor shall be responsible to the District for any and all acts and omissions of the Consultants, the Contractor’s agents, employees, subcontractors, sub-subcontractors, material suppliers, and laborers, and the agents and employees of the Consultants, subcontractors, sub-subcontractors, material suppliers, and laborers performing or supplying work in connection with this Contract. In the event the District elects to bring a claim against the Contractor under this Section 2.12 on account of an alleged deficiency in the Work Product, District shall, as a condition thereof, assign the subject Work Product to the Contractor.
to enable the Contractor to maintain an action against the responsible Consultant or subcontractor.

3. **Licensing, Accreditation and Registration.** The Contractor shall, and shall ensure that all of its Consultants, subcontractors, and subconsultants (regardless of tier) shall, comply with all applicable District of Columbia, state, and federal licensing, accreditation, and registration requirements and standards necessary for the performance of this Contract. Without limiting the generality of the foregoing, where applicable all drawings shall be signed and sealed by a professional architect or engineer licensed in the District of Columbia.

4. **Contractor Relationship and Duty of Care.** The Contractor accepts the relationship of trust and confidence established with the District by this Contract, and covenants to furnish the Contractor’s reasonable skill and judgment and to manage and oversee the Consultants and subcontractors in furthering the interests of the District relative to the Project. The Contractor shall use perform its obligations hereunder in an expeditious and economical manner consistent with the interests of the District relative to the Project. The District shall endeavor to promote harmony and cooperation among the Consultants, subcontractors, and other persons or entities employed to carry out the work of the Project. In performing its duties under this Contract, all services provided by the Contractor shall be performed in accordance with the highest professional standards recognized and adhered to by contractors of a similar background. Whenever the term "competent" is used herein to describe the Contractor’s actions or duties that term shall refer to the level of competence customarily possessed by those construction development Contractors that provide preconstruction horizontal management services for mixed-use development projects in large, urban areas. Notwithstanding the above, nothing herein shall be construed as to create a fiduciary relationship between the District and the Contractor.

5. **General Description of Contractor’s Duties.** The Contractor shall perform the services described in Section 6 below. The Contractor shall supply and furnish at the location where the contract work is to be performed all labor, services, and supervision, and shall bear all items of expense, necessary to complete and satisfactorily perform this Contract, except such items that the District, in this Contract, specifically agrees to pay, supply or furnish to or for the use of the Contractor. Any labor, materials, equipment, tools, services or supervision not specifically described in this Contract, but which may be fairly implied as required thereby or necessary to properly complete the Project, shall be deemed within the scope of this Contract and contracted work and shall be provided by the Contractor at the Contractor’s sole expense.

6. **Services and Scope of Work.** Contractor shall perform and provide to District the services identified herein, in compliance with the terms and conditions of this Contract.

6.1 **General Master Development Planning**

(1) By the date indicated in the Performance Schedule, the Contractor shall formulate and deliver to the District a conceptual development program for the use of the Property (the “Plan”). The Plan shall be presented in graphic form and shall be in such detail to permit the District to determine the proposed use(s) of the Property

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and the square footage to be allotted to each such proposed use and the location of
any pad sites, buildings, facilities and significant landscaping to be constructed on
the Property. The Plan shall take into account land topography, zoning,
transportation, traffic, historic preservation requirements, open land use,
neighboring land uses, environmental conditions existing on the Property, Green
Building standards and guidelines as set forth in Section 15.3 below, the approved
Stormwater Plans and any other important considerations for the Land
Development.

(2) By the date indicated in the Performance Schedule, the Contractor shall formulate
and present to the District a construction phasing plan to implement the land
development of the Property (the “Horizontal Phasing Plan”). The Horizontal
Phasing Plan shall be presented in graphic form and shall be in such detail to
permit the District to determine the proposed location of all roads, open space,
utilities and facilities for the Property, and the proposed timing of installation of
each.

(3) By the date indicated in the Performance Schedule, the Contractor shall formulate
and present to the District a construction phasing plan to implement the Vertical
Development of the Property (the “Vertical Phasing Plan”). The Vertical
Phasing Plan shall be presented in graphic form and shall be in such detail to
permit the District to determine the proposed location of all buildings and other
structures to be located on the Property, and the proposed timing of construction
of each.

6.2 Lead Design Process

(1) The Contractor shall lead and coordinate the performance of the design process
for the Project and shall deliver to District, pursuant to the Performance Schedule,
such drawings as are required under applicable law and regulations for
submission of Stage 1 (for the entire Property) and Stage 2 (for Phase 1 as
determined in the Vertical Phasing Plan) applications for a Planned Unit
Development (“PUD”) for the Property.

(2) The Contractor shall undertake a schematic design process for the Property that
complies with the approved Plan. The schematic design shall by developed in
consultation with the District. As part of the schematic design process, Contractor
shall produce and prepare all such documents and drawings as required under
applicable law and regulations for submittal to the D.C. Zoning Commission in
order to obtain PUD approval and Historic Preservation Review Board (“HPRB”)
approval of the Plan (“Schematic Design Documents”).

(3) By the dates indicated in the Performance Schedule, the Contractor shall produce
a dependable construction cost estimate (“Cost Estimates”) for the Land
Development. The Contractor shall solicit at least three (3) construction Cost
Estimates for the Land Development based on the approved Plan and Design
Documents. All Cost Estimates shall be presented to the District during meetings held with the responsive bidders and the Contractor, and shall include sufficient backup documentation for the subcontractor bids as to justify the estimated contract amounts. Ultimately, the Contractor shall be responsible, with the approval of the District, for making such determinations as the selection of materials, building systems and equipment with respect to such issues as maintainability and initial versus life-cycle costs. The Contractor shall also be responsible for determining construction feasibility, actions designed to minimize adverse effects of labor or material shortages, time requirements for procurement, installation and construction completion, and factors related to construction costs including estimates of alternative designs or materials, preliminary budgets and possible economies.

(4) The Contractor shall develop with the District the critical path for executing both horizontal and vertical development activities. Based on the established critical path, the Contractor shall develop and deliver to the District a construction schedule for the Land Development and Vertical Development (the “Project Schedule”). The Project Schedule shall provide the timing of the various components of major activities to be undertaken in connection with the applicable phase and the approximate timing for commencement and completion of such activities. The Project Schedule should be at appropriate level of detail to facilitate the management of the Land Development and Vertical Development, as applicable. The Project Schedule shall also include, without limitation, proposed activity sequences and durations, milestone dates for receipt and approval of pertinent information, and proposed dates of substantial completion, and final completion of the Land Development and Vertical Development. The Project Schedule shall be updated periodically throughout the term of this Contract.

(5) Pursuant to the dates indicated in the Schedule of Performance, the Contractor shall conduct a study (“Stormwater Study”) that examines the historical storm water volume and tendencies on the Site and provide alternative plans and recommendations for addressing storm water runoff anticipated in the Plan (“Stormwater Plans”). The Contractor shall submit to District a report that summarizes the results of the Stormwater Study, and the District shall have the right to approve the Stormwater Plans.

6.3 Lead Community Engagement Process

The District expects the development of the Plan to be coordinated with the citizens of the District of Columbia and other District agencies as necessary. In order to engage the community and build community consensus on the final Property site plan, the Contractor shall:

(1) develop a community engagement plan including activity timeline;
(2) participate in meetings with community stakeholder groups;
(3) solicit stakeholder feedback;
(4) present project status updates and development plans, when appropriate; and
(5) build consensus with the McMillan Advisory Group and ANC 5C.

6.4 **Lead Regulatory Approval Preparation Process**

The Contractor shall make a coordinated effort to meet with the following local and federal authorities, as necessary, to solicit feedback and input on the development plan beginning in the early stages of its formulation: (a) DC Office of Planning; (b) HPRB; (c) D.C. Department of Consumer and Regulatory Affairs; (d) Utility Providers (DC WASA, Pepco, Washington Gas, Verizon, Comcast, etc.); (e) Office of Tax and Revenue; (f) D.C. Office of the Chief Financial Officer; (g) D.C. Preservation League; (h) D.C. Department of Transportation; and (i) National Capital Planning Commission. The Contractor shall continue to schedule regular meetings with these authorities as appropriate throughout the development and completion of the Project.

6.5 **Fiscal Impact Analysis and Public Finance Plan**

The Contractor shall be responsible for generating and delivering to District a detailed fiscal impact analysis report for the Land Development and the Vertical Development (the “Report”) for submission to the Office of the Chief Financial Officer of the District of Columbia (“OCFO”). The District, with assistance from OCFO, will provide sufficient direction and detail to enable the Contractor to generate the Report in the format and manner and with the level of detail required by the OCFO. The Contractor shall engage a fiscal impact consulting firm which has knowledge of the District’s public finance process to produce the required Report which shall be submitted to the OCFO for comment and revised based on any comments received from the same. Upon the final acceptance of the Report by the OCFO, Contractor, along with the Office of Deputy Mayor for Planning and Economic Development and the OCFO shall hold meetings to develop a public finance plan to assist in the financing of the Land Development and the Vertical Development.

7. **Conformance with Laws.** It shall be the responsibility of the Contractor to perform under this Contract in conformance with all statutes, laws, codes, ordinances, regulations, rules, requirements, orders, and policies of governmental bodies, including, without limitation, the U.S. Government and the District of Columbia government; and it is the sole responsibility of the Contractor to determine the statutes, laws, codes, ordinances, regulations, rules, requirements, orders and policies that apply and their effect on the Contractor’s obligations thereunder.

8. **Performance Schedule.** Contractor shall perform the services and deliver the contract deliverables for the Project pursuant to milestones contained in the performance schedule attached hereto as Exhibit C (the “Performance Schedule”). There shall be no changes to the
Performance Schedule without the written approval of the District. The Contractor shall monitor its progress in relation to the Performance Schedule and promptly notify the District of any delays, regardless of their cause, the causes of such delays, and the Contractor's current projection of the effect of such delays on other milestones included in the Performance Schedule. The District's receipt of, and lack of objection to, any schedule update showing completion of milestones in the Performance Schedule later than the scheduled dates shall not be regarded as the District's agreement that the Contractor may have an extension of time, or as a waiver of any of the District's rights, but merely as the Contractor's representation that, as a matter of fact, the milestones may not be completed by the applicable milestone date. The Performance Schedule shall be maintained and updated during the term of this Contract. Time is of the essence for performance of the obligations of each of the Contractor and the District under this Contract.


9.1 The contract budget containing the estimated costs of the Project is attached hereto as Exhibit D (together, with any amendments approved by District and Change Orders, the “Contract Budget”) and has been approved by the District and Contractor. The Contractor shall not amend the Contract Budget without the prior written approval of the District of the proposed amendment.

9.2 If the District so elects, the District may, at any time, by written directive (“Change Directive”), make changes in this Contract within the general scope hereof. Within ten (10) days of receiving a Change Directive, the Contractor shall provide the District with a written statement of all changes in the Contract to which it believes it is entitled as a result of the Change Directive. If additional time is sought, a schedule analysis including a written narrative explanation that supports the requested extension should be included. If a change in the Contract Budget is sought (or if the District has requested a deduct change), the statement should include a breakdown, by line item, of the estimated cost changes attributable to the proposed change. The District may request, and the Contractor shall provide, further cost breakdowns, clarifications, documentation or back-up if the District reasonably believes such additional information is needed to understand and evaluate the request.

9.3 Any claim by Contractor for additional cost or time not resulting from a District Change Order shall be governed by this Section 9.3. For any claim submitted by Contractor pursuant to this Section 9.3 ("Contractor Change Directive"), the following procedures shall apply:

9.3.1 Contractor must file with the District a written claim within fourteen (14) days of the date of (i) commencement of such additional cost, (ii) recognition of any such additional cost to occur at some point in the future, or (iii) the event, act or omission which allegedly caused or will cause the additional cost, whichever is earlier. Contractor shall advise the District in writing at fourteen (14) day intervals of the amount of any additional cost and, after the increased cost ceases, shall file a full accounting within thirty (30) days.

9.3.2 The written claim must set forth in detail all facts upon which Contractor intends to rely to support the claim and all documentary or other information purportedly establishing
those facts, and include a proposed revised Contract Budget. Contractor is prohibited from providing any additional facts or information after submission of the claim to the District, except as requested by the District.

9.3.3 The District agrees to review Contractor's claim within fourteen (14) days of its receipt and to provide Contractor with a written response. The District shall have no obligation to Contractor for any costs included in the Contractor Change Directive unless the District approves the same in writing. Contractor acknowledges that the procedures set forth in this Section 9 are essential to enable the District to properly budget the costs of the Project and to effectively plan for and achieve the Project's objectives.

9.4 If the District and the Contractor reach agreement as to the Change Directive or Contractor Change Directive, as applicable, the agreement shall be set forth in a written change order, executed by the Contractor and the District ("Change Order"), at which point it will become binding on both parties. No Change Directive or Contractor Change Directive shall be binding on the parties unless a Change Order is executed by the parties. The Contractor is not entitled to any markup on any kind of Change Orders. The Contractor agrees that any Change Order constitutes its full and final adjustment for all costs, delays, disruptions, inefficiencies, accelerations, schedule impacts, or other consequences arising from the change in question, whether a Change Directive, Contractor Change Directive or changed event, or from any claimed cumulative effect of changes made through the date of the Change Order, and that no further adjustments in compensation or time shall be sought or made with respect to the Change Directive, Contractor Change Directive or the changed event giving rise to the Change Order. Nothing in this clause shall excuse the Contractor from proceeding with the Contract as changed by the Change Order.

9.5 In the event the Change Order increases the Contract Price to an amount greater than one million dollars ($1,000,000) during a twelve (12) month period or extends the time for performance of the Project such that performance will not be achieved within twelve (12) months following the Effective Date, any such Change Order shall be subject to approval by the D.C. Council pursuant to D.C. Official Code § 1-204.51 (2009 Supp.) prior to becoming effective.

10. **Contract Price and Payment.**

10.1 The District shall cause to be paid to the Contractor, and the Contractor agrees to accept as full compensation for services of the Contractor under this Contract the "**Contract Price**", which such amount shall be no greater than the amount of costs in the Contract Budget actually incurred by the Contractor. The Contract Price shall constitute full compensation for services under this Contract and the Contractor shall not be entitled to further payment or reimbursement for any additional costs, fees, or expenses.

10.2 The Contractor shall be paid no more frequently than once a month following the District’s receipt from the Contractor of an invoice meeting the requirements of this section ("**Monthly Invoice**"). Monthly Invoices shall clearly identify the line item in the Contract Budget to which the amounts are attributed, indicate the amount and percentage of the total line item in the Contract Budget spent to date, identify all Consultants or subcontractors being paid
from that invoice, and include invoices, receipts or other documentation reasonably satisfactory to District.

10.3 Each Monthly Invoice shall be accompanied by the Contractor's signed certification that all amounts paid to the Contractor on the previous Monthly Invoice that were attributable to Consultant or subcontractor work or to materials or equipment being supplied by any supplier has been paid over to the appropriate Consultants, subcontractors or supplier; that all amounts currently sought for Consultant or subcontractor work or supply of materials or equipment are currently due and owing to the Consultants, subcontractors or supplier; and that all work for which payment is sought is, to the best of the Contractor's knowledge, free from defect and meets all of the Contract requirements. The Contractor shall not include in a Monthly Invoice amounts for work for which the Contractor does not intend to pay.

10.4 Each Monthly Invoice shall (where the applicable Consultant or subcontractor has mechanics lien rights) be accompanied by written waivers of the right to file a mechanic's lien, in a form substantially similar to Exhibit E for the Contractor and all Consultants, subcontractors and material suppliers at all tiers who have supplied labor or material or both for which payment is requested, subject only to receipt of payment. If the District so requests, the Contractor shall also submit unconditional waivers of liens for itself and all Consultants, subcontractors and material suppliers (where the applicable Consultant or subcontractor has mechanics lien rights) at all tiers with respect to work or materials or equipment for which payment has been previously made, and additional forms of waiver acknowledging receipt of final payment under the Contract, and providing final release of such liens.

10.5 By submitting a Monthly Invoice, the Contractor warrants to the District that title to all work for which payment is sought will pass to the District, without liens, claims, or other encumbrances, upon the receipt of payment by the Contractor. The District may require execution of appropriate documents to confirm passage of clear title. Passage of title shall not operate to pass the risk of loss with respect to the work in question, which shall remain with the Contractor until completion of the Contractor.

10.6 Monthly Invoices are subject to the review and approval of the District. Within thirty (30) days after receiving any Monthly Invoice, the District shall either (a) pay the Monthly Invoice or (b) notify the Contractor of any defect in the Monthly Invoice or the Contractor's performance which may result in the District's declining to pay all or a part of the requested amount. The District shall not withhold payment for any completed or partially completed work that already has been approved by the District.

The District may withhold payment from the Contractor, in whole or part, as appropriate, if: (a) the work performed is defective and such defects have not been remedied; or (b) the Contractor has failed to pay Consultants, subcontractors or suppliers promptly or has made false or inaccurate certifications that payments to Consultants, subcontractors or suppliers are due or have been made; or (c) any mechanic's lien has been filed against the District, the Property or any portion thereof or interest therein, or any improvements on the site, even though the District has paid all undisputed amounts due to the Contractor, and the Contractor, upon notice, has failed to remove the lien, by bonding it off or otherwise, within ten (10) days; or (d) the District
has reasonable evidence that the work will not be completed by the date indicated in the Performance Schedule; or (e) the District has reasonable evidence that the work cannot be completed for the unpaid balance of the Contract Price; or (f) the Contractor is otherwise in breach of this Contract.

10.7 Amounts due to the Contractor and unpaid under this Contract as of the date due shall bear interest at the rate authorized and in the manner provided under the Quick Payment Act, D.C. Official Code §§ 2-221.01, et seq. (2001), and the regulations promulgated thereunder. In the event District fails to pay any properly payable invoice within one hundred twenty (120) days after payment is due, the Contractor shall be permitted to suspend work under the Contract not yet completed until such time as payment is received. The milestones contained in the Performance Schedule shall be extended day-for-day for each day Contractor has suspended work pursuant to this Section.

10.8 Payment of any progress payment or final payment shall not constitute acceptance of work that is defective or otherwise fails to conform to the Contract, or a waiver of any rights or remedies the District may have with respect to defective or nonconforming work.

10.9 The District shall have no obligation to pay or be responsible in any way for payments to a Consultant or subcontractor performing portions of the work.


11.1 All submissions, documents, contracts, analysis, minutes, services, programs and deliverables identified in Section 6 above, are collectively referred to in this Contract as “Work Product”. The District has the right to review, approve, require correction and accept all Work Product delivered by the Contractor.

11.2 The District shall complete its review of each submission of Work Product by the Contractor and provide a written response thereto within ten (10) business days after its receipt of the same. If the District fails to respond with its written response to a submission of any Work Product within such ten (10) business day period, the Contractor shall notify the District, in writing, of the District’s failure to respond by delivering to the District a notice, which shall be labeled, in bold, 18 point font, as a “Second and Final Notice”, (“Second Notice”). If the District fails to respond within five (5) days after the District’s receipt of the Second Notice, then the District’s approval shall be deemed to have been given. If the District’s response indicates disapproval of the Work Product, then the District’s response also will include specific directives that will allow the Contractor to remedy the stated reasons for disapproval.

11.3 If any of the services performed or Work Product delivered under this Contract do not conform to the requirements of this Contract, the District may require the Contractor to perform these services again or correct the Work Product in conformity with Contract requirements, at no increase in Contract Price. When the defects in services or the Work Product cannot be corrected by performance, the District may require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements and reduce the Contract Price to reflect the reduced value of services performed or Work Product delivered.
The Contractor shall make, or shall cause the Consultants to make, any required corrections promptly. If the Contractor fails to promptly perform the services again, correct the Work Product or take the necessary action to ensure future performance in conformity to Contract requirements, the District may (1) by contract or otherwise, perform the services or corrective action and charge the Contractor any cost incurred by the District that is directly related to the performance of such services or corrective action or (2) exercise its rights as are set forth in Section 18 hereof.

12. Qualified and Key Personnel.

12.1 To fulfill its obligations under this Contract, the Contractor shall employ only those employees, Consultants and subcontractors who will work together in harmony and who will cooperate with one another. The Contractor shall enforce strict discipline, good order and harmony among its employees, Consultants and its subcontractors and shall not permit any person to continue to provide services for this Contract who is unfit for the work or fails to conduct himself in a proper and cooperative manner. If the District requests removal of any person as unfit or as having behaved inappropriately, the Contractor shall promptly comply.

12.2 To carry out its duties, the Contractor shall provide at least the key personnel identified in Exhibit F, attached hereto and such replacements thereof as shall be employed by Contractor from time to time who have the knowledge, skill and experience to perform the services hereunder, and who shall carry out the functions identified in the Exhibit ("Key Personnel"). The Contractor's obligation to provide adequate staffing is not limited to providing the key personnel, but is determined by the needs of the Project and the scope of services provided for in Section 6 hereof. Except as set forth in the immediately following sentence, the Contractor shall not replace any of the Key Personnel without the District's prior written approval, which shall not be unreasonably withheld. If any of the Key Personnel become unavailable to perform services in connection with the Contract due to death, illness, discharge or resignation, then the Contractor shall promptly appoint a replacement reasonably acceptable to the District. The District shall be entitled to complete information on each such replacement, including a current resume of his or her qualifications and experience.

13. District's Designated Representative. The District designates the individual(s) identified in Exhibit G as its representative(s) with express authority to bind the District with respect to all matters requiring the District's approval or authorization. Subject to the limitations on their authority specified in Exhibit G, these representative(s) shall have the exclusive authority to make decisions on behalf of the District concerning estimates and schedules, construction budgets, and changes in the work, and execution of Change Orders. In order for the District to effectively manage the Contract and assure that the Contractor does not receive conflicting instructions regarding the work, the Contractor shall promptly notify the District's representative upon receiving any instructions or other communication in connection with the Contractor's work from any employee of the District or other purported agent of the District other than the District's representative.

14. Contractor's Designated Representative. The Contractor designates the individual(s) identified in Exhibit H as its representative with express authority to bind the Contractor with
respect to all matters requiring the Contractor's approval or authorization. During the entire term, it is agreed that the Contractor's designated representatives will devote such time to the Project as is necessary for the provision of services required by this Contract.

15. Economic Inclusion and Green Building Requirements.

15.1 CBE Utilization.

Section 15.1.1 The Contractor shall ensure that Certified Business Enterprises ("CBE") will participate in at least fifty percent (50%) of the contracts for the Project. Thirty-five percent (35%) of the dollar volume shall be awarded to entities that are certified as a Small Business Enterprise by the District of Columbia Department of Small and Local Business Development ("DSLBD"). The costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from Small Business Enterprises. In the event there are insufficient qualified Small Business Enterprises to completely fulfill the aforementioned subcontracting requirement, then the subcontracting requirement may be satisfied by subcontracting thirty-five percent (35%) of the dollar volume to any Certified Business Enterprises; provided, that all reasonable efforts shall be made to ensure that qualified Small Business Enterprises are significant participants in the overall subcontracting work. The CBE certification shall be, in each case, as of the effective date of the subcontract.

Section 15.1.2 The Contractor has developed a CBE Utilization Plan that is attached hereto as Exhibit J. The Contractor shall comply with the terms of the CBE Utilization Plan in making purchases and administering its Subcontractors and supply agreements.

Section 15.1.3 Neither the Contractor or a Consultant may remove a subcontractor if such subcontractor is certified as a CBE company unless District approves of such removal. District may condition its approval upon the Contractor developing a plan that is, in the District's sole discretion, adequate to maintain the level of CBE participation on the Project.

15.2 The Contractor, and every Consultant and subcontractor with a contract price greater than $15,000, shall comply with the requirements of the Living Wage Act of 2006 (D.C. Law 16-118, effective June 8, 2006), D.C. Official Code §§ 2-220.01, et seq. (2008 Supp.).

15.3 The Contractor shall design, develop, and manage the Project and Vertical Development plan to be in compliance with the Green Building Act of 2006, D.C. Official Code § 6-1451.01, et seq. (2007 Supp.), as amended, and the regulations promulgated therewith.

15.4 Pursuant to Mayor's Order 83-265, DC Law 5-93, as amended, and DC Law 14-24, the Contractor recognizes that one of the primary goals of the District of Columbia government is the creation of job opportunities for District of Columbia residents. Accordingly, the Contractor agrees to enter into a First Source Agreement with the D.C. Department of Employment Services within thirty (30) days after the Effective Date, which shall, among other
things, require the Contractor to: (i) use diligent efforts to hire and use diligent efforts to require its architects, engineers, consultants, contractors, and subcontractors to hire at least fifty one percent (51%) District of Columbia residents for all new jobs created by the Project, all in accordance with such First Source Agreement and (ii) use diligent efforts to ensure that at least fifty one percent (51%) of apprentices and trainees employed are residents of the District of Columbia and are registered in apprenticeship programs approved by the D.C. Apprenticeship Council.

16. **Covenant Against Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the District will have the right to terminate this Contract without liability or in its discretion to deduct from the Contract Price or otherwise recover, the full amount of the commission, percentage, brokerage, or contingent fee.

17. **District Employees Not To Benefit.** Unless a determination is made as provided herein, no officer or employee of the District will be admitted to any share or part of this Contract or to any benefit that may arise therefrom, and any contract made by the District employee authorized to execute contracts in which they or an employee of the District will be personally interested shall be void, and no payment shall be made thereon by the District or any officer thereof, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit. A District employees shall not be a party to a contract with the District and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the contracting agency that there is a compelling reason for contracting with the employee. The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the Contract.

18. **Default.**

18.1 The District may, subject to the provisions of paragraph 18.2 below, by written notice of default to the Contractor, terminate the whole or any part of this Contract in any one of the following circumstances:

(1) If the Contractor fails to make delivery of the Work Product or to perform the services within the time specified herein or any extension thereof; or

(2) If the Contractor fails to perform any of the other provisions of this Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of fifteen (15) business days (or such longer period as the District may authorize in writing) after receipt of notice from the District specifying such failure.
18.2 In the event the District terminates this Contract in whole or in part as provided in paragraph 18.1, the District may contract for, upon such terms and in such manner as the District may deem appropriate, the Work Product or service similar to those so terminated, and the Contractor shall be liable to the District for any excess costs for similar Work Product or services; provided, that the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.

18.3 Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the District or Federal Government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without fault or negligence of the Contractor. If the failure to perform is caused by the default of the subcontractor, and if such default arises out of causes beyond the control of the Contractor, Consultant and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess cost for failure to perform, unless the Work Product or services to be furnished by the Consultant or subcontractor were obtainable from other sources in sufficient time, which the District and the Contractor shall mutually determine, to permit the Contractor to meet the required delivery schedule.

18.4 If this contract is terminated as provided in paragraph 18.1, the District, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the District, in the manner and to the extent directed by the District, (i) completed Work Product, and (ii) such partially completed Work Product and materials, plans, drawing information, and contract rights (collectively, “Materials”) as the Contractor has specifically produced or specifically acquired for the performance of such part of this Contract as has been terminated; and the Contractor shall, upon direction of the District, protect and preserve property in possession of the Contractor in which the District has an interest. Payment for completed Work Product and Materials delivered to and accepted by the District will be in the amount of costs attributable to such Work Product, pursuant to paragraph 10. The District may withhold from amounts otherwise due the Contractor for such completed Work Product or Materials such sum as the District determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.

18.5 If, after notice of termination of this Contract under the provisions of this paragraph 18, it is determined for any reason that the Contractor was not in default under the provisions of this paragraph 18, or that the default was excusable under the provisions of this paragraph 18, the rights and obligations of the parties shall be the same as if the Notice of Termination had been issued pursuant to such clause.

18.6 The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
19. Indemnification.

19.1 The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorneys’ fees), resulting from, arising out of, or in any way connected to activities or work performed by the Contractor, Contractor’s officers, employees, agents, servants, and subcontractors. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall also repair or replace any District property that is damaged by the Contractor, Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder.

19.2 The indemnification obligation under this section shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Consultant or subcontractor, and shall survive the termination of this Contract. The District agrees to give the Contractor written notice of any claim of indemnity under this section. Additionally, the Contractor shall have the right and sole authority to control the defense or settlement of such claim, except that such defense or settlement shall be handled by counsel reasonably acceptable to the District, provided that no contribution or action by the District is required in connection with the settlement. Monies due or to become due the Contractor under this Contract may be retained by the District as necessary to satisfy any outstanding claim which the District may have against the Contractor.

20. Termination for Convenience.

20.1 The District may terminate performance of work under this Contract in whole or, from time to time, in part, if the District determines that a termination is in the District’s interest. The District shall terminate by delivering to the Contractor a “Notice of Termination” specifying the extent of termination and effective date.

20.2 After receipt of a Notice of Termination, and except as directed by the District, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this Section:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the Contract.

(3) Terminate all contracts to the extent they relate to the work terminated.
(4) Assign to the District, as may be directed, all rights, title and interest of the Contractor under the subcontracts terminated, in which case the District will have the right to settle or pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the District, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. The approval or ratification will be final for purposes of this clause.

(6) As directed by the District, transfer title and deliver to the District (i) work in process, completed work, supplies, and other materials produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the Contract has been completed, would be required to be furnished to the District.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the District may direct, for the protection and preservation of the property related to this Contract that is in the possession of the Contractor and in which the District has or may acquire an interest.

20.3 After termination, the Contractor shall submit a final termination settlement proposal to the District in the form and with the certification prescribed by the District. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the District upon written request of the Contractor within this one year period. However, if the District determines that the facts justify it, a termination settlement proposal may be received and acted on after one year or any extension. If the Contractor fails to submit the proposal within the time allowed, the District may determine, on the basis of information available, the amount, if any, due to the Contractor because of the termination and shall pay the amount determined.

20.4 Subject to Section 20.3 above, the Contractor and the District may agree upon the whole or any part of the amount to be paid because of the termination. Any such amount shall be paid by the District within thirty (30) days after execution of the settlement agreement. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under Section 20.4 or 20.5 below, may not exceed the total Contract Price as reduced by (1) the amount of payment previously made and (2) the Contract Price of work not terminated. This Contract shall be amended, and the Contractor paid the agreed amount. Section 20.5 below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this Section.

20.5 If the Contractor and the District fail to agree on the whole amount to be paid because of the termination work, the District shall pay the Contractor the amounts determined by the District as follows, but without duplication of any amounts agreed on under Section 20.4 above: (1) the contract price for completed Work Product or services accepted by the District not previously paid for; (2) the total of: (i) the costs incurred in the performance of the work
terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to Work Product or services paid or to be paid under subparagraph (1) above; (ii) the cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Contract if not included in subparagraph (1) above; and (iii) a sum, as profit on subparagraph (1) above, determined by the District to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, the District shall allow no profit under this subparagraph (iii) and shall reduce the settlement to reflect the indicated rate of loss; and (3) the reasonable cost of settlement of the work terminated, including (i) accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data; and (ii) the termination and settlement of Consultants and subcontractors (excluding the amounts of such settlements).

21. **Insurance.**

21.1 The Contractor covenants and agrees to maintain, or cause to be maintained as indicated below, the following insurance during the term of this Contract in addition to the other insurance, bonds, or securities required by law:

(a) Commercial General Liability Insurance covering bodily injury, personal injury, contractual liability and property damage with a minimum coverage limit of $1,000,000 per occurrence and $3,000,000 aggregate;

(b) Commercial Auto Liability Insurance covering bodily injury and property damage with a minimum coverage limit of $1,000,000 per occurrence for all the Contractor owned and hired vehicles plus non-owned autos;

(c) Workers Compensation and Employers Liability Insurance providing statutory workers compensation coverage and minimum limits as required by the laws of the District of Columbia; and

(d) Professional Liability Insurance shall be maintained by the Contractor all Consultants and subcontractors engaged in design work covering claims arising out of the performance of professional services caused by negligent error, omission or act for which the Consultant or subcontractor is legally liable, with a minimum coverage limit of $1,000,000.

21.2 The policies shall be endorsed as primary and to waive subrogation rights against the District. All policies required hereunder must be placed in effect prior to execution of this Contract and the Contractor will furnish evidence of all policies satisfactory to the District upon execution of this Contract. Upon renewal of any policy, the Contractor shall provide the District with a certificate evidencing renewal. The policies must be placed with companies having a Minimum Best Rating of A and licensed in the District of Columbia. The policies shall name the District as an additional insured.
21.3 In the event of a claim that takes place as a consequence relating to this Contract, the Contractor will notify the District in writing within 7 business days following discovery of the claim by the Contractor. In addition, the Contractor will investigate and furnish the District with reports of all accidents, claims and potential claims for damage or injury (but not so as to compromise its defense thereof, the attorney-client privilege, the work product doctrine, or similar protections) and will cooperate with its insurers and the District.

21.4 The Contractor shall include the foregoing insurance requirements in contracts with all Consultants and subcontractors and shall require malpractice coverage from all Consultants and subcontractors performing architectural or engineering services. Contractor shall promptly furnish to the District certificates of insurance and copies of notices from insurers given to the Contractor.

22. Retention and Examination of Records.

22.1 The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the District under the Contract. The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the Contract for a period of three (3) years after termination or expiration of the Contract, or if an audit has been initiated and audit findings have not been resolved at the end of three (3) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the Contract.

22.2 The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the District.

22.3 The Contractor agrees to include the wording of this Section 22 in all its subcontracts in excess of twenty five thousand dollars ($25,000.00) that directly relate to the Contract.

23. Extent of Contract. This Contract, together with the exhibits attached hereto and incorporated herein by this reference, represents the entire and integrated agreement between the District and Contractor and supersedes all prior negotiations representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both the District and Contractor. If anything in any document incorporated into this Contract is inconsistent with this Contract, this Contract shall govern; provided however, any Change Order issued and executed by the District shall supersede those portions of any earlier dated contract documents to which it pertains.

24. Ownership And Use of Documents. The Work Product, Materials and other documents prepared by the Contractor, Consultant, and any subcontractor, and copies thereof furnished to the Contractor, are the property of the District (including Contractor's rights to any prior versions of the Work Product) and are for use by Contractor solely with respect to this Contract. They are not to be used by the Contractor, Consultants, subcontractors, sub-subcontractors or
suppliers on other projects, or for additions to this Contract outside the scope of the work, without the specific written consent of the District.

25. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the District of Columbia.

26. **Assignment.** This Contract shall inure to the benefit of, and be binding upon and enforceable by, the parties and their respective successors and permitted assigns. The Contractor acknowledges that, in entering into this Contract, the District is relying on the particular qualifications of the Contractor, and the Contractor therefore shall not delegate or assign any of its duties or obligations under the Contract, except in accordance with the Contract’s provisions relating to subcontracting, or pursuant to the District’s prior written consent. Neither the Contractor nor the District shall assign its rights under the Contract without the prior written consent of the other party. Any delegation or assignment made contrary to the provisions of this Section shall be null and void.

27. **Anti-Competitive Practices and Anti-kickback Provisions.**

27.1 The Contractor recognizes the need for markets to operate competitively and shall observe and comply with all applicable law, rules, and regulations prohibiting anti-competitive practices. The Contractor shall not engage, directly or indirectly, in collusion or other anti-competitive practices that reduces or eliminates competition or restrains trade.

27.2 The Contractor shall observe and comply with all applicable law, rules, and regulations prohibiting kickbacks and, without limiting the foregoing, Contractor shall not (i) provide or attempt to provide or offer to provide any kickback; (ii) solicit, accept, or attempt to accept any kickback; or (iii) include, directly or indirectly, the amount of any kickback in the contract price charged by Contractor or a Consultant, or subcontractor the District. The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in this Section 27 in its own operations and direct business relationships. The District may take any recourse available to it under the law for violations of this anti-kickback provision.

27.3 The Contractor represents and warrants that it did not, directly or indirectly, engage in any collusive or other anti-competitive behavior in connection with the bid, negotiation or award of this Contract.

28. **Ethical Standards.** The District expects the Contractor to observe the highest ethical standards and to comply with all applicable law, rules, and regulations governing ethical conduct or conflicts of interest. Neither the Contractor, nor any person associated with the Contractor, shall provide (or seek reimbursement for) any gift, gratuity, favor, entertainment, loan or other thing of value to any employee of the District or the District not in conformity with applicable law, rules or regulations. The Contractor shall not engage the services of any person or persons in the employment of the District for any work required, contemplated or performed under the Contract. The Contractor may not assign to any former District employee who has joined the Contractor’s firm any matter on which the former employee, while in the employ of the District,
had material or substantial involvement in the matter. The Contractor may request a waiver to permit the assignment of such matters to former District personnel on a case-by-case basis. The Contractor shall include in every subcontract a provision substantially similar to this section so that such provisions shall be binding upon each Consultant, subcontractor or vendor.

29. **Gratuities and District Not to Benefit Provisions.**

29.1 If it is found, after notice and hearing, by the District that gratuities (in the form of entertainment, gifts, payment, offers of employment or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any official, employee or agent of the District with a view toward securing the Contract or any other contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of the Contract, the District may, by written notice to the Contractor, terminate the right of the Contractor to proceed under the Contract and may pursue such other rights and remedies provided by law and under the Contract.

29.2 In the event the Contract is terminated as provided in Section 29.1, the District shall be entitled: (a) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor; and (b) as a penalty, in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the District) which shall be not less than ten times the costs incurred by the Contractor in providing any such gratuities to any such District or employee.

30. **Non-Discrimination in Employment Provisions.**

30.1 The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap. The affirmative action shall include, but not be limited to, the following: (a) employment, upgrading, or transfer; (b) recruitment or recruitment advertising; (c) demotion, layoff, or termination; (d) rates of pay, or other forms of compensation; and selection for training and apprenticeship.

30.2 The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in this Section 30.

30.3 The Contractor agrees to send to each labor union or representative of workers with which it has a collective bargaining agreement, or other contract or understanding, a notice to be provided by the District, advising each labor union or workers' representative of the Contractor's commitments under this paragraph 30, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

30.4 The Contractor agrees to permit access by the District to all books, records and accounts pertaining to its employment practices for purposes of investigation to ascertain
compliance with this Section and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

30.5 The Contractor shall include in every subcontract the equal opportunity clauses of this Contract so that such provisions shall be binding upon each Consultant, subcontractor or vendor.

30.6 The Contractor shall take such action with respect to any Consultant or subcontractor as the Contractor may deem necessary as a means of enforcing these provisions, including sanctions for non-compliance.

31. **False Claims Act.** The Contractor shall be governed by all laws and regulations prohibiting false or fraudulent statements and claims made to the government, including the prescriptions set forth in District of Columbia Official Code § 2-308.14.

32. **Disputes.** Within fifteen (15) days after the Effective Date, each party agrees to appoint one representative to act as a primary point of contact in the event of a dispute under the provisions of this Contract, which point of contact will be responsible for attending meetings to resolve disputes arising under this Contract. Each party may remove and replace that point of contact at its sole discretion. The parties agree to the greatest extent possible to resolve any and all disputes arising under this Contract through informal negotiations.

33. **Independent Contractor.** In carrying out all its obligations under the Contract, the Contractor shall be acting as an independent contractor, and not as an employee or agent of the District, or joint venturer or partner with the District. The Contractor shall have exclusive authority to manage, direct, and control the work.

34. **Confidential Information.** In the course of the Contractor's performance of the work provided for hereunder, the District may make available to the Contractor information that the District designates as trade secrets or other confidential engineering, technical and business information. As long as, and to the extent that, such information remains confidential and available to others only with the consent of the District, or is not generally available to the public from other sources, the Contractor shall maintain such information in strict confidence and shall not disclose any such information to others (including its employees, Consultants or subcontractors), except to the extent necessary to enable the Contractor to carry out the Contract. The Contractor shall similarly obligate any and all persons to whom such information is necessarily disclosed to maintain the information in strict confidence. The Contractor agrees that, in the event of any breach of this confidentiality obligation, the District shall be entitled to equitable relief, including injunctive relief or specific performance, in addition to all other rights or remedies otherwise available.

35. **No Third-Party Beneficiary Rights.** Nothing in this Agreement shall be construed as creating third-party beneficiary rights in any person or entity, except as otherwise expressly provided in this Agreement.
36. **Media Releases.** Neither the Contractor, its employees, agents, Consultants, subcontractors or material suppliers shall make any press release or similar media release related to the Contract unless such press release have been discussed with and approved by the District prior to its issuance.

37. **Construction.** This Contract shall be construed fairly as to all parties and not in favor of or against any party, regardless of which party prepared the Contract.

38. **Notices.** All notices or communications required or permitted under this Contract shall be in writing and shall be hand delivered or sent by telexcopier or by recognized overnight carrier to the intended recipient at the address stated below, or to such other address as the recipient may have designated in writing. Any such notice or communication shall be deemed delivered as follows: if hand delivered, on the day so delivered, if sent by telexcopier, on confirmation of successful transmission, and if sent by recognized overnight carrier, the next business day.

If to the District: District of Columbia Government  
Office of the Deputy Mayor for Planning and Economic Development  
1350 Pennsylvania Avenue, N.W., Suite 317  
Washington, D.C. 20004  
Attn: Project Manager – McMillan

With a copy to: Office of the Attorney General  
1100 15th Street, N.W., Suite 800  
Washington, D.C. 20005  
Attn: Deputy Attorney General

If to the Contractor: Vision McMillan Partners I.I.C  
4800 Hampden Lane, Suite 300  
Bethesda, MD 20814  
Attn: Aakash Thakkar

With a copy to: Vision McMillan Partners LLC  
1055 Thomas Jefferson Street, N.W., Suite 600  
Washington, DC 20007  
Attn: Adam C. Weers

And a copy to: Vision McMillan Partners LLC  
1508 U Street, N.W.  
Washington, D.C. 20009  
Attn: R. Mark Taylor

And a copy to: Russ August & Kabat  
12424 Wilshire Boulevard, 12th Floor  
Los Angeles, CA 90025
Attn: Richard L. August, Esq.

39. **Survival.** All agreements, warranties, and representations of the Contractor contained in the Contract or in any certificate or document furnished pursuant to the Contract shall survive termination or expiration of the Contract.

40. **No Waiver.** If the District waives in writing any power, right, or remedy arising from this Contract or any applicable law, the waiver shall not be deemed to be a waiver of the power, right, or remedy on the later recurrence of any similar events. No act, delay, or course of conduct by the District shall be deemed to constitute the District's waiver, which may be effected only by an express written waiver signed by the District.

41. **Remedies Cumulative.** Unless specifically provided to the contrary in this Contract, all remedies set forth in this Contract are cumulative and not exclusive of any other remedy the District may have, including, without limitation, at law or in equity. The District's rights and remedies will be exercised at its sole discretion, and shall not be regarded as conferring any obligation on the District to exercise those rights or remedies for the benefit of the Contractor or any other person or entity.

42. **Headings/Captions.** The headings or captions used in this Contract are for convenience only and shall not be deemed to constitute a part of the Contract, nor shall they be used in interpreting the Contract.

43. **Severability.** In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Contract, and in lieu of each such invalid, illegal or unenforceable provision, there shall be added automatically as a part of this Contract a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable; each part of this Contract is intended to be severable.

44. **Anti-Deficiency Act.** The District's obligations and responsibilities under the terms of the Contract are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1350, 1351, (ii) the D.C. Code 47-105, (iii) the District of Columbia Anti-Deficiency Act, D.C. Code §§ 47-355.01 - 355.08, as the foregoing statutes may be amended from time to time, and (iv) Section 446 of the District of Columbia Home Rule Act. The Contract shall not constitute an indebtedness of the District, nor shall it constitute an obligation for which the District is obligated to levy or pledge any form of taxation, or for which the District has levied or pledged any form of taxation.

45. **Unavoidable Delay.** Neither the District nor the Contractor shall be in default under this Contract by virtue of its inability to perform any term, condition or covenant under this Contract so long as such performance is delayed or prevented by any acts of God, strikes, lockouts, restrictions imposed by any governmental authority on the availability of material, civil riot or
acts of terrorism, earthquake, fire or other casualty, state of national emergency, flood or any other cause not reasonably within the control of the party claiming the delay (collectively, an "Unavoidable Delay"). Inability to (a) pay a sum of money or (b) obtain financing from a lender shall not constitute Unavoidable Delay.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed as of the date first written above.

DISTRICT:

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development pursuant to delegation of authority contained in Mayor's Order No. 2008-137, effective October 20, 2008

By: [signature]
Name: Valerie-Joy Santos
Title: Deputy Mayor

Approved for legal sufficiency:
D.C. Office of the Attorney General

By: [signature]

CONTRACTOR:

VISION MCMLLAN PARTNERS, LLC

By: McMillan Associates, LLC, its managing member

By: [signature]
Name: [signature]
Title: [signature]
### APPROVED CONSULTANT & SUBCONTRACTOR LIST

<table>
<thead>
<tr>
<th>Consultant/Sub-Contractor</th>
<th>CBE (Y/N)</th>
<th>Brief Description of Work</th>
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Project: McMillian Schedule 4.1.10
Date: Thu 4/11/10

---

Page 1
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**CBE Performance Calculations**

Gross Budget: 939,749
CBE Excluded Costs: None
CBE Eligible Budget: 939,749
CBE Contracting Goal: 35% 328,912

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**In Compliance?** YES
AFFIDAVIT, FINAL RELEASE AND WAIVER OF CLAIMS AND LIENS

The undersigned, officer of __________________________ (the "Contractor"), contractor for ________________________, a limited liability company (the "Owner"), having its address at ____________________________ under a contract or purchase order for the furnishing of material, labor, services and/or equipment associated with the construction of a shell office building and parking structure as defined in the contract and known as __________________________ located on real property described as ____________ acres recorded in ____________ County, __________________________, in Deed Book __________, Page __________ of the "Project" and the "Property"), represents and warrants unto the Owner, each and every party acquiring title to and/or making a loan on the Project, the title company or companies examining and/or insuring title to the Property, and any other party having an interest in the Project or the Property and any and all of their successors and assigns (the "Released Entities") that it has heretofore paid or secured payment of all withholding, social security and unemployment taxes on all its laborers, mechanics, agents and employees, and has further paid all of its laborers, mechanics, agents and employees for all services by them performed, pursuant to the contract, and that since either commencing performance hereunder or receipt of payment from the Owner, materials, labor, services and/or equipment for use in or about performance of the contract herein referred to, have been paid for, including taxes of every description.

In consideration of receipt of payment of Invoice/Requisition No. __________, dated __________ (the "Requisition Date"), in the amount of __________________________ .00 and for other additional consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor hereby waives, releases and quit claims in favor of the Released Entities, any and all liens and rights to any mechanic's or materialman's lien which presently exist or hereafter may accrue to the undersigned by virtue of any labor supplied, or material furnished in, for, to, or in connection with the Property, the Project, or any portion thereof, either under or in connection with the contract.

In consideration of receipt of payment of the aforesaid invoice/requisition and for other additional consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor hereby represents that the work covered by such requisition and all other work done by Contractor has been completed in accordance with the aforesaid contract.

In consideration of receipt of payment of the aforesaid invoice/requisition and for other additional consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor releases, waives, and forever discharges the Released Entities of and from any and all debts, claims, demands, liabilities, expenses and/or causes of action and defenses of every character whatsoever, in law or equity or otherwise, and whether known or unknown and whether presently ascertainable or not, which the undersigned and/or its successors and/or assignees ever had, now have, or will ever have against the Owner or Developer arising out of or in connection with the contract either by reason of delivery of material and/or work performed by the Contractor on the Project.

In addition to this release and waiver and not in limitation thereof, Contractor represents its payment status as of the Requisition Date as follows:

Final Payment Received which constitutes a Final Release and Waiver of Claims and Liens $__________________________ .00

Total Payment Received $__________________________ .00

In witness whereof, this Affidavit, Final Release and Waiver of Claims and Liens has been executed on this __________ day of __________, __________.

CONTRACTOR: __________________________

BY: __________________________

NAME: __________________________

TITLE: __________________________

Subscribed and sworn to before me this __________ day of __________, 20 __________.

__________________________

Notary Public
(Notary Seal)

My Commission Expires: __________________________
AFFIDAVIT, PARTIAL RELEASE AND WAIVER OF CLAIMS AND LIENS

The undersigned, officer of ______________________ (the "Contractor"), contractor for ______________________, a limited liability company (the "Owner"), having its address at ______________________ under a contract or purchase order for the furnishing of material, labor, services and/or equipment associated with the construction of a shell office building and parking structure as defined in the contract and known as ______________________ located on real property described as ______________________ in ________ County,  

in Deed Book ________, Page ___ (the "Project" and the "Property"), represents and warrants unto the Owner, each and every party acquiring title to and/or making a loan on the Project, the title company or companies examining and/or insuring title to the Property, and any other party having an interest in the Project or the Property and any and all of their successors and assigns (the "Released Entities") that it has heretofore paid or secured payment of all withholding, social security and unemployment taxes on all its laborers, mechanics, agents and employees, and has further paid all of its laborers, mechanics, agents and employees for all services by them performed, pursuant to the contract, and that since either commencing performance hereunder or receipt of payment from the Owner, materials, Labor, services and/or equipment for use in or about performance of the contract herein referred to, have been paid for, including taxes of every description, except for the following amounts set forth (there are none unless specific parties and amounts are listed either here or on attached sheets as noted here):

In consideration of receipt of payment of Invoice/Requisition No. ________, dated ________, ________ (the "Requisition Date"), in the amount of $ _________.00 and for other additional consideration, the receipt (except for the payment requested herein) and sufficiency of which is hereby acknowledged, the Contractor hereby waives, releases and quit claims in favor of the Released Entities, any and all liens and rights to any mechanic's or materialman's lien which presently exist or hereafter may accrue to the undersigned by virtue of any labor supplied, or material furnished in, for, to, or in connection with the Property, the Project, or any portion thereof, either under or in connection with the contract.

In consideration of receipt of payment of the aforesaid invoice/requisition and for other additional consideration, the receipt (except for the payment requested herein) and sufficiency of which is hereby acknowledged, the Contractor hereby represents that the work covered by such requisition and all other work done by Contractor prior to the Requisition has been completed in accordance with the aforesaid contract. 

In consideration of receipt of payment of the aforesaid invoice/requisition and for other additional consideration, the receipt (except for the payment requested herein) and sufficiency of which is hereby acknowledged, the Contractor releases, waives, and forever discharges the Released Entities of and from any and all debts, claims, demands, liabilities, expenses and/or causes of action and defense of every character whatsoever, in law or equity or otherwise, and whether known or unknown and whether presently ascertainable or not, which the undersigned and/or its successors and/or assignees ever had, now have or will ever have against the Owner or Developer arising out of or in connection with the contract either by reason of delivery of material and/or work performed by the Contractor on the Project arising from ant act or omission occurring prior to or through the Requisition Date.

In addition to this release and waiver and not in limitation thereof, Contractor represents its payment status as of the Requisition Date as follows:

(a) Prior Payments Received (from Owner) $ _________.00  
(b) Prior Payments Requested, But Not Received $ _________.00  
(c) This Pmt. (MO/YR ________) $ _________.00  
(d) Total Progress Payments Due or Received (a)+(b)+(c) $ _________.00

CONTRACTOR: ________________________________  
NAME: ________________________________  
TITLE: ________________________________

Subscribed and sworn to before me this ________ day of ________, 20_____.

______________________________ (Notary Public)  
My Commission Expires: ________________________________

Page 2 of 2 (Exhibit E)
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<td>Bob Youngenrød</td>
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<td>President</td>
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<tr>
<td>Aakash Thakkar</td>
<td>EYA</td>
<td>Vice President</td>
</tr>
<tr>
<td>Lorin Randall</td>
<td>EYA</td>
<td>Vice President</td>
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<tr>
<td>Wyndham Robertson</td>
<td>EYA</td>
<td>Senior Vice President</td>
</tr>
<tr>
<td>Jair Lynch</td>
<td>JLDP</td>
<td>President &amp; CEO</td>
</tr>
<tr>
<td>R. Mark Taylor</td>
<td>JLDP</td>
<td>Executive Vice President &amp; Chief Development Officer</td>
</tr>
<tr>
<td>T. Christopher Roth</td>
<td>TCC</td>
<td>President</td>
</tr>
<tr>
<td>Eric Fischer</td>
<td>TCC</td>
<td>Principal</td>
</tr>
<tr>
<td>Spencer Brott</td>
<td>TCC</td>
<td>Principal</td>
</tr>
<tr>
<td>Adam C. Weers</td>
<td>TCC</td>
<td>Senior Vice President</td>
</tr>
</tbody>
</table>
## DESIGNATED REPRESENTATIVES

<table>
<thead>
<tr>
<th>Name</th>
<th>Firm</th>
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</thead>
<tbody>
<tr>
<td>Aakash Thakkar</td>
<td>EYA</td>
</tr>
<tr>
<td>R. Mark Taylor</td>
<td>JLDP</td>
</tr>
<tr>
<td>Adam C. Weers</td>
<td>TCC</td>
</tr>
</tbody>
</table>


**Exhibit I**

**VISION McMILLAN PARTNERS – STANDARD BIDDING PRACTICES**

As a contractor to the District, VMP commits to conducting fair and competitive RFP, RFQ, or other similar bidding processes. VMP shall employ the following general structure to solicit and engage contractors, subcontractors, and/or consultants:

| Step 1 | Request Issued | Unless otherwise deemed unnecessary, all requests will include the following general categories of information:
|        |               | • Project Description
|        |               | • Proposal/Request requirements
|        |               | • Proposal/Request timeline

| Step 2 | Request Evaluations | Unless otherwise deemed unnecessary, requests/proposals will include the following general categories to be evaluated by VMP in selecting winning bidders:
|        |                   | • Firm resume
|        |                   | • Comparable projects
|        |                   | • Experience w/District approval processes (if applicable)
|        |                   | • Experience meeting CBE/LSDBE goals (if applicable)
|        |                   | • Proposed project team org chart
|        |                   | • References

| Step 3 | Scoring | Unless otherwise deemed inappropriate, the general evaluation categories will typically be weighted in the manner outlined below:
|        |         | • Firm resume – 20%
|        |         | • Comparable projects – 20%
|        |         | • District approval experience – 20%
|        |         | • CBE/LSDBE experience – 10%
|        |         | • Proposed staffing plan (org chart) – 20%
|        |         | • References – 10%

If deemed appropriate in certain instances, the weighting noted above may be adjusted to more appropriately match specific projects.

Each evaluation category will also be scored along the following rating system:

<p>| 6 – Exceptional [exceeds highest expectations] |
| 5 – Outstanding [meets highest expectations]   |
| 4 – Very Good [exceeds basic expectations]     |
| 3 – Meets Expectations [meets basic expectations] |
| 2 – Marginal [in some respects short of basic expectations] |
| 1 – Poor [does not meet basic expectations]    |</p>
<table>
<thead>
<tr>
<th>Step 4</th>
<th>Interviews</th>
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<tbody>
<tr>
<td>All bidders submitting compliant bids may be invited to an interview session at which time each bidder will be provided an equal amount of time to present the information submitted in their bid and respond to questions or clarification requests from VMP. If VMP determines that interviews are necessary for a given proposal or request, all compliant bidders will be invited to interview regardless of pre-interview scoring and evaluation and all interviews will be conducted in a homogenous manner. VMP may determine that interviews are not necessary for any given proposal or request based upon the sufficiency of the bid responses received or the nature of the proposal or request. If VMP determines that interviews are not necessary for any given proposal or request, all bidders and the District will be informed that interviews will not be necessary and the process will move directly from scoring [Step 3] to selection [Step 5].</td>
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<tr>
<th>Step 5</th>
<th>Selection</th>
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<tr>
<td>Based upon the scoring of bid packages received and any interviews conducted (if applicable), VMP will select winning bidders. Final scoring will be based solely on the bidders' response packages if there are no interviews. If there are interviews, final scoring will be based upon both the bidders' response packages as well as the interviews. For any given proposal or request, VMP may choose to select one winning bidder, multiple winning bidders, or no winning bidders. This determination (one winner vs. multiple winners) will be made based upon the specific circumstances surrounding each proposal or request and will be clearly communicated to each bidder as early as possible during the process. Should VMP deem it appropriate to select multiple winning bids, the maximum number of bidders selected will only be limited by the number of compliant bids received, however not all respondents will necessarily be selected. Should VMP deem it appropriate to select one winning bid, the bidder with the second highest scoring total will receive a request to remain as a stand-by or back-up bidder in case the winning bidder is unable or unwilling to enter into a contract with VMP and perform the related work. Should the bidder with the second highest scoring total decline VMP's request to operate as a back-up, an identical request will be made to the third highest scoring bidder, and so on, until VMP is either able to secure one back-up bidder, or the entire list of non-winning bidders has been exhausted without anyone filling the back-up role.</td>
<td></td>
</tr>
</tbody>
</table>
### PRIME CONTRACTOR INFORMATION:

**Company:** Vision McMillan Partners LLC  
**Street Address:** 1055 Thomas Jefferson St NW Ste 600  
**City & Zip Code:** Washington, DC 20007  
**Phone Number:** 202.427.4066  
**Fax:** 301.634.8717  
**Email Address:** athakkar@eya.com  

| Project Name: | McMillan  
| Address: | Lot 0800 Square 3128 North Capital Street, N.W.  
| Project Descriptions: | PUD Package Preparation |

**Solicitation Number:**  
**Contractor’s Tax ID Number:**  
**Caption of Plan:**  

| Duration of the Plan: | From 03/10 to 03/11  
| Total Prime Contract Value: | $939,749.00  
| Amount of Contract (excluding the cost of materials, goods, supplies and equipment): | $939,749.00  
| Amount of all Subcontracts: | $854,999.00  
| LSDBE Total: | $410,000.00 equals 48.0%  
| LSDBE Subcontract Value: |  

(List each subcontractor at any tier that will be awarded a subcontract to meet your total set aside goal.)

<table>
<thead>
<tr>
<th>Name</th>
<th>Address &amp; Telephone No.</th>
<th>Type of Work</th>
<th>NIGP Code(s)</th>
<th>Description of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Symmetra Design</td>
<td>1001 Pennsylvania Ave, NW Suite 600 South Washington, DC 20004 202.742.6546</td>
<td>Traffic Engineering &amp; Transportation Planning</td>
<td>926-03-00</td>
<td>Traffic Studies &amp; Consulting</td>
</tr>
</tbody>
</table>

**Total Amount Set Aside:** $85,000.00  
**Percentage of Total Set Aside Amount:** 20.7%  
**Tier:** 1st  
**LSDBE Certification Number:** LSD87366042019

| Certification Status: | SBE: X | LBE: X | DBE: X | DZE | ROB: | LRB: |

**Point of Contact:** Nicole White  
**Contact Telephone Number:** 202.742.6546  
**Fax Number:** 202.742.6549  
**Email Address:** nwhite@symmetradesign.com

### CERTIFICATIONS

The prime contractor shall attach a notarized statement including the following:

a. A description of the efforts the prime contractor will make to ensure that LBEs, DBEs, ROBs, SBEs, LRBs, or DZEs will have an equitable opportunity to compete for subcontracts;

b. In all subcontracts that offer further subcontracting opportunities, assurances that the prime contractor will include a statement, approved by the contracting officer, that the subcontractor will adopt a subcontracting plan similar to the subcontracting plan required by the contract;

c. Assurances that the prime contractor will cooperate in any studies or surveys that may be required by the contracting officer, and submit periodic reports, as requested by the contracting officer, to allow the District to determine the extent of compliance by the prime contractor with the subcontracting plan;

d. Listing if the type of records the prime contractor will maintain to demonstrate procedures adopted to comply with the requirements set forth in the subcontracting plan, and include assurances that the prime contractor will make such records available for review upon the District’s request; and

e. A description of the prime contractor’s recent efforts to locate LBEs, DBEs, SBEs, DZE, LRBs, and ROBs, and to award subcontracts to them.

### PERSON PREPARING THE SUBCONTRACTING PLAN:

**Name:** Aakash Thakkar  
**Telephone Number:** 202.427.4066  
**Fax Number:** 301.634.8717  
**Email Address:** athakkar@eya.com  

**Signature:**  
**Title:** Authorized Representative  
**Date:** 3.8.10

### FOR CONTRACTING OFFICER USE ONLY

**Date Plan Received by Contracting Officer:**  
**Report:**  
- [ ] Acceptable  
- [ ] Not Acceptable  
**Contract Number:**  

**Name & Title of Contracting Officer:**  
**Signature:**  
**Date:**
## SUBCONTRACTORS LIST CONTINUED

(List each subcontractor that will be awarded a subcontract to meet your total set aside goal.)

<table>
<thead>
<tr>
<th>Name</th>
<th>Address &amp; Telephone No.</th>
<th>Type of Work</th>
<th>NI GP Code(s)</th>
<th>Description of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shalom Baranes Associates, PC</td>
<td>3299 K Street NW Suite 400 Washington, DC 20007</td>
<td>Architectural Services</td>
<td>960-00-00 916-15-00</td>
<td>Architectural Services</td>
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Total Amount Set Aside: $120,000.00  
Percentage of Total Set Aside Amount: 29.3%  
LSDBE Certification Number: LX26911052011  
Point of Contact: Debra Baugh  
Contact Telephone Number: 202.342.2200  
Fax Number: 202.342.9552  
Email Address: noden@sbaranes.com

<table>
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<tr>
<th>Name</th>
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<tbody>
<tr>
<td>Wiles Mensch Corporation - DC</td>
<td>1424 K Street NW Suite 302 Washington, DC 20006</td>
<td>Civil Engineering &amp; Consulting Services</td>
<td>925-00-00 918-42-10</td>
<td>Civil Engineering &amp; Consulting Services</td>
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Total Amount Set Aside: $14,500.00  
Percentage of Total Set Aside Amount: 10.1%  
LSDBE Certification Number: LSDZ19478052011  
Point of Contact: Mary Ramsey  
Contact Telephone Number: 703.472.9750  
Fax Number: 202.638.4050  
Email Address: mramsey@wilesmensch.com

<table>
<thead>
<tr>
<th>Name</th>
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<th>Type of Work</th>
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<tr>
<td>WDG Architecture, PLLC</td>
<td>1025 Connecticut Ave NW Suite 300 Washington, DC 20036</td>
<td>Architecture Services</td>
<td>906-00-00 918-15-00</td>
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Total Amount Set Aside: $120,000.00  
Percentage of Total Set Aside Amount: 29.3%  
LSDBE Certification Number: LX45660052010  
Point of Contact: Beth Ring  
Contact Telephone Number: 202.857.8301  
Fax Number: 202.463.2198  
Email Address: jnees@wdgarch.com

<table>
<thead>
<tr>
<th>Name</th>
<th>Address &amp; Telephone No.</th>
<th>Type of Work</th>
<th>NI GP Code(s)</th>
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<tbody>
<tr>
<td>EHT Traceries, Inc.</td>
<td>1121 5th Street NW Washington, DC 20001</td>
<td>Historic Consulting</td>
<td>906-48-00 956-30-00</td>
<td>Historic Consulting</td>
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Total Amount Set Aside: $35,000.00  
Percentage of Total Set Aside Amount: 8.5%  
LSDBE Certification Number: LS98656072011  
Point of Contact: Emily Hotaling Eig  
Contact Telephone Number: 202.393.1199  
Fax Number: 202.393.1056  
Email Address: Emily.eig@traceries.com

<table>
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<tr>
<th>Name</th>
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<tr>
<td>Green Door Advisors, LLC</td>
<td>2642 12th Street NE Washington, DC 20018</td>
<td>Advisory &amp; Consulting Services</td>
<td>918-89-00</td>
<td>Market &amp; Feasibility Analysis</td>
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Total Amount Set Aside: $35,000.00  
Percentage of Total Set Aside Amount: 8.5%  
LSDBE Certification Number: LS0Z24684022011  
Point of Contact: Marisa Flowers  
Contact Telephone Number: 202.234.0726  
Fax Number: 202.234.0727  
Email Address: mflowers@greendooradvisors.com

Subcontracting Plan Form – DCOCP-1105
<table>
<thead>
<tr>
<th>Name</th>
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<th>Type of Work</th>
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<tbody>
<tr>
<td>Greenstein Delorme &amp; Luchs, P.C.</td>
<td>1620 L Street NW Suite 900 Washington, DC 20036</td>
<td>Legal Services</td>
<td>918-74-00 961-49-00</td>
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<tr>
<td><strong>Point of Contact:</strong> Gilbert Delorme</td>
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<tr>
<td><strong>Contact Telephone Number:</strong> 202.452.1400</td>
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<tr>
<td><strong>Fax Number:</strong> 202.452.1410</td>
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<tr>
<td><strong>Email Address:</strong> <a href="mailto:ged@godilaw.com">ged@godilaw.com</a></td>
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**SUBCONTRACTOR INFORMATION:**

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</table>
Vision McMillan Partners, LLC ("Contractor") has made significant efforts prior to entering into this agreement to ensure that LBEs, DBE, ROBs, SBEs, LRBs, or DZEs (collectively referred to as "CBE Firms") have an equitable opportunity to participate in this project. This commitment is evidenced by the fact that seven (7) of the eleven subcontracting opportunities currently anticipated to be generated by this project will be filled by the CBE firms outlined in the Subcontracting Plan. These contracts are currently estimated to equal 48% (exceeding the 35% requirement) of the dollar value of the amount of subcontracting opportunities generated by the project.

The Contractor agrees that, should any further subcontracting opportunities be generated by the project, and if such opportunities relate to services for which there are qualified CBE firms available to perform such work, that the Contractor will pursue commercially reasonable efforts to ensure that CBE firms have an equitable opportunity to be considered for such subcontracts and that, if such qualified CBE firms are awarded subcontracting opportunities, that a similar Subcontracting Plan will be adopted.

The Contractor agrees to participate in any studies or surveys that may be required by the contracting officer and submit periodic reports, as requested by the contracting officer, to allow the District to determine the extent of compliance by the Contractor with the Subcontracting Plan.

The Contractor will maintain adequate records related to any future subcontracting opportunities such that the standard practices outlined in accordance with Exhibit I of the project’s DMA between Contractor and the District can be adhered to.

CONTRACTOR:

VISION MCMILLAN PARTNERS, LLC

By: McMillan Associates, LLC, its managing member

By: ________________________________

Name: ______________________________

Title: ______________________________

DISTRICT OF COLUMBIA
WASHINGTON, DC TO WIT:

On this _____ day of __________, 2010 before me appeared ____________________________, to me personally known, who, being duly sworn, did say that __________________ is the __________________ of McMillan Associates, LLC, the managing member of Vision McMillan Partners, and that said instrument was signed and in behalf of said limited liability company by authority of its members and manager; and said person acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

____________________________________
Notary Public
My commission expires: ____________________
Order No: PO337008 - Development Management Services - McMillan Project

Issued on Mon, 09 Aug, 2010

Supplier: VISION MCMILLAN PARTNERS LLC
4800 Hampden Lane
# 300
Bethesda, MD 20814
Phone: 301-634-8600
Contact: IDOW ODUBAYO

Ship To: Deputy Mayor for Planning and Economic Development
1330 Pennsylvania Ave NW Suite 317
Washington, DC 20002
United States

Bill To: Deputy Mayor for Planning and Economic Development
1100 4th Street, SW Suite E450
Washington, DC 20024
United States
Phone: 1202-442-6934

Deliver To: Sheila Cuthrell

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Part Number</th>
<th>Unit Qty</th>
<th>Need By</th>
<th>Unit Price</th>
<th>Extended Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>Contractor shall provide pre-construction ...</td>
<td>each 542,000</td>
<td>Mon, 09 Aug 2010</td>
<td>$1.00 USD</td>
<td>$542,000.00 USD</td>
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</tbody>
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Contractor shall provide pre-construction development, management and related services for the McMillan Sand Filtration Site Development.

Bill To Contact: LaShawn VanHome
If used in conjunction with a contract award, purchase order is placed in accordance with all provisions of Contract Number: MGMT SRVCS
Requester: Sheila Cuthrell
Delivery Date: Mon, 9 Aug, 2010
PR No.: RQ705135

Total $542,000.00 USD

Comments

- COMMENT by aribasystem on 08/09/2010
  "*****GOVERNMENT OF THE DISTRICT OF COLUMBIA STANDARD CONTRACT PROVIDING FOR USE WITH THE DISTRICT OF COLUMBIA GOVERNMENT SUPPLY AND SERVICES CONTRACTS ARE HEREBY INCORPORATED BY REFERENCE, WWW.JCP.DC.GOV***** (aribasystem, Mon, 09 Aug, 2010)

- COMMENT by aribasystem on 08/09/2010
  ALL INVOICES SHALL BE SUBMITTED TO THE 'BILL TO' ADDRESS INDICATED ON THIS PURCHASE ORDER. INVOICES SHALL INCLUDE THE PURCHASE ORDER NUMBER, CONTRACT NUMBER (IF APPLICABLE), CONTRACTOR'S NAME AND ADDRESS, INVOICE DATE, QUANTITY AND DESCRIPTION OF GOOD(S) OR SERVICE(S) FOR WHICH PAYMENT IS BEING REQUESTED, REMITTANCE ADDRESS, AND CONTACT PERSON NAME AND PHONE NUMBER IF THERE IS A PROBLEM WITH THE INVOICE. INVOICES FOR QUANTITIES OR AMOUNTS GREATER THAN WHAT IS STATED ON THE PURCHASE ORDER WILL BE REJECTED. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY RESULT IN DELAYS IN PAYMENT. (aribasystem, Mon, 09 Aug, 2010)

- COMMENT by aribasystem on 08/09/2010
  FOB is Destination unless specified otherwise (aribasystem, Mon, 09 Aug, 2010)
**AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT**

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<td>MOD 0004</td>
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<td>See Box 16C</td>
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**6. Issued By:**

DISTRICT OF COLUMBIA OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT (DMPED) CONTRACTS AND PROCUREMENT
1100 4th Street, SW Suite 500E
Washington, DC 20024

**8. Name and Address of Contractor (No. Street, city, county, state and ZIP Code):**

VISION McMILLAN PARTNERS LLC
4800 Hampden Lane, Suite 300
Bethesda, MD 20814
Phone: 301.634.8600
FEIN: 272378019

**9. Amendment of Solicitation No.:**

<table>
<thead>
<tr>
<th>9A. Amendment of Solicitation No.</th>
<th>9B. Dated (See Item 11)</th>
<th>10A. Modification of Contract/Order:</th>
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<td>X DCEB-DMPED-11-C-0023</td>
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<td>10B. Dated (See Item 13)</td>
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<td>April 23, 2010</td>
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The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of offer is extended. The offer is not for submission.

**12. Accounting and Appropriation Data (If Required):**

**13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14**

A. This change order is issued pursuant to: (Specify Authority)

B. The above numbered contract/ order is modified to reflect the following changes such as changes in purpose, appropriation, etc. set forth in Item 14.

C. This supplemental agreement is entered into pursuant to authority of:


**14. Description of amendment/ modification (Organized by GCF Section headings, including solicitation/contract subject matter where feasible):**

The purpose of this modification is to:

1. Add Contract number: DCEB-DMPED-11-C-0023
2. Extend the term of the contract to no additional cost to the District from April 23, 2011 to November 30, 2011.
3. Add Exhibit C-1 to clarify period of performance, contract value and option periods. (See Page 2)

All other terms and conditions under this Contract shall remain unchanged.

**15A. Name and Title of Signer (Type or print):**

Robert Young, President

**16A. Name of Contracting Officer:**

Jaspreet McDaniels, CDFM, CPPM, MBA, MST

**16B. Name of Contractor:**

VISION McMILLAN PARTNERS LLC

**16C. Date Signed:**

April 23, 2011
Exhibit C-1

C-1.1  **PERIOD OF PERFORMANCE**

C-1.1.1 Base Period: April 23, 2010 through November 30, 2011, Amount: $995,249.00
C-1.1.2 Option Period One: December 1, 2011 through November 30, 2012, Amount: $1,340,000.00
C-1.1.3 Option Period Two: December 1, 2012 through November 30, 2013, Amount: $1,340,000.00
C-1.1.4 Option Period Three: December 1, 2013 through November 30, 2014, Amount: $1,340,000.00
C-1.1.5 Option Period Four: December 1, 2014 through November 30, 2015, Amount: $1,340,000.00

C-1.2  **DELIVERIES OR PERFORMANCE**

C-1.2.1 **TERM OF AGREEMENT**

The term of this agreement shall be for a period of one (1) year from the date of award specified on page 1 of the contract.

C-1.2  **OPTIONS**

The District may extend the term of this contract for a period of four (4) one-year option periods, or successive fractions thereof by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor a preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.

C-1.2.1 If the District exercises this option, the extended contract shall be considered to include this option provision.

C-1.2.2 The price for the option period shall be as specified in the contract.

C-1.2.3 The total duration of this contract, including the exercise of any options under this clause, shall not exceed five (5) years.

All other terms and conditions under this Contract shall remain unchanged.
MEMORANDUM

TO: Victor L. Hoskins  
Deputy Mayor for Planning and Economic Development

THRU: Susan Longstreet  
Deputy Attorney General; Commercial Division  
Office of the Attorney General, DC

FROM: Jennifer Castor  
Chief, Real Estate Transactions Section; Commercial Division,  
Office of the Attorney General, DC

Joseph P. Lapan  
Assistant Attorney General, Real Estate Transactions Section;  
Commercial Division,  
Office of the Attorney General, DC

DATE: October 7, 2011

RE: Proposed Development Management Services Contract in the amount of $1,340,000.00 ("Contract") between the District of Columbia, acting by and through the Deputy Mayor for Planning and Economic Development ("DMPED") and Vision McMillan Partners, LLC, a District of Columbia limited liability company ("Contractor")

Contract Description

DMPED proposes to enter into the Contract with the Contractor, a District of Columbia limited liability company, for the purpose of procuring development management services for the redevelopment of the McMillan Sand Filtration Site, a 25-acre parcel of real property situated on North Capitol Street, N.W., in Washington, D.C., known for tax and assessment purposes as Lot 0800 in Square 3128 ("Property"). The development of the Property is planned to include the District’s undertaking of horizontal land development, which will lead to vertical mixed-use development by private developers, to include a mix of residential, office, retail and public uses ("Project"). Pursuant to the terms of the Contract, Contractor shall provide pre-construction
development, management, and related services for the land development portion of the Project, including leading the preparation of work product and the approval process for necessary zoning and historic preservation approvals and providing land development cost estimates. The Contract will be performed over an approximately 18-month period.

Legal Review

Congress amended § 451 of the District Charter by requiring that no contract involving the expenditure of funds in excess of $1 million in a 12-month period be made “unless the Mayor submits the contract to the Council for its approval and the Council approves the contract.” District of Columbia Financial Responsibility and Management Assistance Act of 1995 § 304(a), 109 Stat. 151, Pub. L. 104-8 (April 17, 1995) (codified at D.C. Official Code § 1-204.51 (b) (2001)). The monetary expenditure for the Contract exceeds $1 million; therefore, Council review and approval is required pursuant to § 451 of the District Charter.

The Contract will be entered into pursuant to authority granted to the Mayor by the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008 (“NCRC/AWC Act”), specifically Section 203 which states that “the Mayor may enter into a contract based upon a solicitation, including a request for proposals, request for qualifications, or request for expressions of interest, issued by the NCRC or the AWC before October 1, 2007”. The initial “Solicitation for Land Development Partner” for the McMillan site was issued by NCRC in July 2006 and contemplated, among other things, the procurement of a contractor for portions of the site redevelopment. Pursuant to Mayor’s Order 2008-137, the Mayor delegated his authority to perform any activity or function under the NCRC/AWC Act to the Deputy Mayor and placed the Property under the management and control of the Deputy Mayor.

DMPED has indicated that the Contract will be funded from appropriated and budgeted capital funds (see funding certification); therefore it is considered a “contract extending beyond one year” and does not require additional Council approval for the 18-month term of the Contract. District of Columbia Financial Responsibility and Management Assistance Act of 1995 § 304(a), 109 Stat. 151, Pub. L. 104-8 (April 17, 1995) (codified at D.C. Official Code § 1-204.51 (a) (2001)).

Conclusion

I have reviewed the enclosed Contract and its exhibits and after reviewing the Contract, I conclude that it is legally sufficient to facilitate the Contract in accordance with District law provided: (1) a funding certification is obtained showing the amount of the Contract has been appropriated and budgeted for this purpose; and (2) Council approval is obtained.

Attachments.
MEMORANDUM

TO: Jacque McDonald  
Director of Contracts  
Office of the Deputy Mayor for Planning & Economic Development

FROM: Conrad W. Bridges  
Agency Fiscal Officer, DMPED

DATE: October 7, 2011

SUBJECT: CFO Certification of Funding for the McMillan Project

This memorandum should serve as certification that the necessary funding is available within the Office of the Deputy Mayor for Planning & Economic Development’s capital budget to secure the “development management services” contract for the McMillan project.

“The Agency has sufficient funding available with which to pay for the development management services contract for the McMillan project and acknowledge that such funding has a limit of not to exceed $1,340,000 for Fiscal Year 2012”.

If you have any additional questions, please contact me at 202-442-8681.
GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

Legal Counsel Division

MEMORANDUM

TO: Jacque McDonald
   Director of Contracts and Procurement
   Office of the Deputy Mayor for Planning and Economic Development

FROM: Janet M. Robins
       Deputy Attorney General
       Legal Counsel Division

DATE: April 30, 2013


This responds to your request that this Office conduct a legal sufficiency review of the above-referenced executive draft bill and accompanying emergency declaration resolution (“Draft Legislation”).


This Office has reviewed the Draft Legislation and determined it to be legally sufficient with the attached technical revisions. Accordingly, I have attached a Certificate of Legal Sufficiency. In addition, please be reminded that you must secure a fiscal impact statement from the Office of the Chief Financial Officer before transmittal to the Council.

1350 Pennsylvania Avenue, N.W., Suite 409, Washington, D.C. 20004 (202) 724-5524 Fax: (202) 724-6160
If you have any questions regarding this memorandum, please contact Daniel J. Mayer,* Assistant Attorney General, Legal Counsel Division, at 724-6152, or me at 724-5524.

JMR/djm

Attachments as stated

* Admitted to practice only in Maryland. Practicing in the District of Columbia under the direct supervision of Janet M. Robins, a member of the D.C. Bar, pursuant to D.C. Court of Appeals Rule 49(c).
MEMORANDUM

TO: Lolita S. Alston  
Deputy  
Office of Legislative Support

FROM: Janet M. Robins  
Deputy Attorney General  
Legal Counsel Division

DATE: April 30, 2013


This is to Certify that this Office has reviewed the above-referenced executive draft bill and accompanying emergency declaration resolution and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

Janet M. Robins
This memorandum certifies that the Office of the Deputy Mayor for Planning and Economic Development (DMPED) has in its FY13 budget, capital funding in the amount of $1,340,000.00 to meet the obligation for the proposed exercise of option period two for the entire option period in the contract referenced below.

Contract No.: DCEB-DMPED-11-C-0023
Period of Performance: December 1, 2012 through November 30, 2013
Contractor: Vision McMillan Partners LLC
Type of Service: Development Management
Contract Action Value: $1,340,000.00

If you have any questions or require additional information, I may be reached on 202-442-8681. Thank you.
MEMORANDUM

TO: Jacque McDonald  
Director of Contracts and Procurement  
Office of the Deputy Mayor for Planning and Economic Development

FROM: Nancy K. Hapeman  
Chief, Procurement Section  
Commercial Division

DATE: May 13, 2013

SUBJECT: Proposed Exercise of Remainder of Option Year 2  
Contractor: Vision McMillan Partners, LLC  
Contract No. DCEB-DMPED-11-C-0023, Modification No. M006,  
for Development Management Services  
Contract Type: Firm Fixed Price  
Option Year 2 Term: December 1, 2012 – November 30, 2013  
Option Year 2 Price: $1,340,000.00

1. Description of Proposed Contract Action

Proposed Modification No. M06 to Contract No. DCEB-DMPED-11-C-0023 ("the Contract") will continue performance under the Contract for the period June 1, 2013, through November 30, 2013. By Modification No. M06, the Office of the Deputy Mayor for Planning and Economic Development ("DMPED"), proposes to exercise the remainder of Option Year Two to the Contract with Vision McMillan Partners, LLC ("VMP") to continue to provide to the District Development Management Services ("Services") for development of the twenty-five acre parcel known as the McMillan Sand Filtration Site. The Services, to be provided by the Contractor and its consultants and subcontractors in accordance with the approved budget incorporated in the Contract, include leading and coordinating the design and regulatory-approval processes and preparing and the required Fiscal Impact Analysis and Public Finance Plan, as well as coordinating the development plans with community stakeholder groups and with District agencies. The period of Option Year 2 is from December 1, 2012 through November 30, 2013 and its fixed price is $1,340,000. After the District exercises the remainder of Option Year 2, the District will have the unilateral right to exercise the two additional one-year options.
During Option Year Two, among other things, VMP will return to the Historic Preservation Review Board for its third presentation of the Master Plan for the site in order to present revised design guidelines, revised site boundaries, and design documents associated with buildings, landscaping, and plans for a Central Park in the site. VMP also has been negotiating a Land Disposition Agreement with the District while continuing to engage community entities like the McMillan Advisory Group and the local Advisory Neighborhood Commission ("ANC"). During this second year option year period, on behalf of the District, VMP intends to submit to the City Council a Planned Unit Development application and a final proposed Land Disposition Agreement. Already, the Contractor has secured from the local ANC a unanimous vote in favor of the Master Plan.

2. Procurement Process

Commencing with a Request for Qualifications in September 2006, responded to by five teams, the District eventually selected Vision McMillan Partners, LLC, to be its Land Development Partner for the McMillan Sand Filtration Site. DMPED awarded the Contract to VMP on April 23, 2010, and, by bilateral modification number 0001, on April 22, 2011, extended the one-year base period through November 30, 2011, at no increase in the fixed base-period price of $995,249. By bilateral modification number 002 and unilateral modification number 0003, Option Year One was exercised, at a fixed price of $1,340,000, for the period December 1, 2011 through November 30, 2012. By modification 005, dated November 21, 2013, the District awarded a partial option for the period of December 1, 2012, through May 31, 2013, for a not to exceed amount of $900,000. By proposed modification number 006, the District intends to exercise the remainder of the option year two from June 1, 2013, through November 30, 2013, for $440,000, thereby making the amount for option year two $1,340,000.

On October 25, 2012, the Contracting Officer notified VMP that the District intended to exercise Option Year Two. By modification number M06, DMPED now proposes to exercise the remainder of Option Year Two for VMP to continue to provide the District with Development Management Services for the McMillan Sand Filtration Site, for the period December 1, 2012 through November 30, 2013 at the fixed price of $1,340,000.

In the Business Clearance Memorandum and supporting documentation, the Contracting Officer determined that it is in the best interests of the District to continue without disruption the ongoing development project with VMP and its proposed Option Year Two price of $1,340,000. She also determined that the fixed price, which DMPED found to be reasonable at the time it competitively awarded the Contract to VMP, is fair and reasonable. The Contracting Officer further found VMP to have a satisfactory record of performing these and similar services for the District, through Option Year One of the Contract, and for customers in Virginia and Maryland and found VMP to be a responsible contractor and otherwise to be in compliance with 27 DCMR, Chapters 20 and 22, and other applicable laws and regulations, including compliance with tax laws of the District. The Agency Fiscal Officer, Office of the Deputy Mayor for Planning and Economic Development, provided a certification that the necessary capital funds are available in the FY2013 agency budget. VMP does not appear on the federal or District listings of debarred or suspended firms and, based upon our search of Prolaw, we have determined that VMP does not have any pending legal claims against the District. In the BCM
and Council Contract Summary, the Contracting Officer requests approval by the Council of award of Option Year Two of the Contract in the amount $1,340,000.

3. **Legal Review**

By memorandum dated May 2, 2013, you requested that this Office review for legal sufficiency proposed modification M006 for exercise of the remainder of Option Year Two of the Contract. We have reviewed the package for legal sufficiency and approve it.

We note that in accordance with D.C. Official Code § 2-352.02, the Mayor must submit to the Council for approval this contract action for over one million dollars.

If you have any questions, please contact Talia S. Cohen, Assistant Attorney General, at (202) 724 8074.

cc: Surinder Sharma
Office of the Chief Financial Officer

MEMORANDUM

TO: Victor L. Hoskins
   Deputy Mayor

   Jacque McDonald
   Director of Contracts and Procurement

FROM: Conrad Bridges
   Agency Fiscal Officer

DATE: November 5, 2013

SUBJECT: Certification of Funds Availability

Total Contract Value: $1,340,000.00

This memorandum certifies that the Office of the Deputy Mayor for Planning and Economic Development (DMPED) has in its FY14 budget, capital funding in the amount of $1,340,000.00 to meet the obligation for the proposed exercise of option period three for the entire option period in the contract referenced below.

Contract No.: DCEB-DMPED-11-C-0023

Period of Performance: December 1, 2013 through November 30, 2014

Contractor: Vision McMillan Partners LLC

Type of Service: Development Management

Contract Action Value: $1,340,000.00

If you have any questions or require additional information, I may be reached on 202-442-8681. Thank you.

VICTOR L. HOSKINS, DEPUTY MAYOR
GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

Procurement Section

MEMORANDUM

TO:       Jacque McDonald
Director of Contracts and Procurement
Office of the Deputy Mayor for Planning and Economic Development

FROM:    Nancy K. Hapeman
Chief, Procurement Section
Commercial Division

DATE:     NOV 5 2013

SUBJECT: Proposed Exercise of Option Year 3
Contractor: Vision McMillan Partners, LLC
Contract No. DCEB-DMPED-11-C-0023, Modification No. M007,
for Development Management Services
Contract Type: Firm Fixed Price
Option Year 3 Term: December 1, 2013 – November 30, 2014
Option Year 3 Price: $1,340,000.00

1. Description of Proposed Contract Action

By proposed Modification No. M007 to Contract No. DCEB-DMPED-11-C-0023 ("the Contract")
the Office of the Deputy Mayor for Planning and Economic Development ("DMPED"), proposes
to exercise Option Year Three of the Contract for the period of December 1, 2013, through
November 30, 2014, with Vision McMillan Partners, LLC ("VMP") to continue to provide to the
District development management services ("Services") for development of the twenty-five acre
parcel known as the McMillan Sand Filtration Site. The Services, to be provided by the Contractor
and its consultants and subcontractors in accordance with the approved budget incorporated in the
Contract, include leading and coordinating the design and regulatory-approval processes and
preparing the required Fiscal Impact Analysis and Public Finance Plan, as well as coordinating the
development plans with community stakeholder groups and with District agencies. The period of
Option Year 3 is from December 1, 2013, through November 30, 2014 and its fixed price is
$1,340,000. After the District exercises the Option Year 3, the District will have the unilateral right
to exercise the one additional one-year option.

441 Fourth Street, N.W., Room 700S, Washington, D.C. 20001 (202) 727-3400 Fax (202) 741-5228 - 1 -
2. **Procurement Process**

Commencing with a Request for Qualifications in September 2006, responded to by five teams, the District eventually selected Vision McMillan Partners, LLC, to be its Land Development Partner for the McMillan Sand Filtration Site. DMPED awarded the Contract to VMP on April 23, 2010, and, by bilateral modification number 0001, on April 22, 2011, extended the one-year base period through November 30, 2011, at no increase in the fixed base-period price of $995,249. By bilateral modification number 002 and unilateral modification number 0003, Option Year One was exercised, at a fixed price of $1,340,000, for the period December 1, 2011 through November 30, 2012. By modification 005, dated November 21, 2013, the District awarded a partial option for the period of December 1, 2012, through May 31, 2013, for a not to exceed amount of $900,000. By modification number 006, the District exercised the remainder of the option year two from June 1, 2013, through November 30, 2013, for $440,000, thereby making the amount for option year two $1,340,000.00. By proposed Modification M007, the District intends on exercising option year three.

3. **Legal Review**

By memorandum dated November 6, 2013, you requested that this Office review for legal sufficiency proposed modification M007 for exercise of the remainder of Option Year Three of the Contract. We have reviewed the package for legal sufficiency and approve it.

We note that in accordance with D.C. Official Code § 2-352.02, the Mayor must submit to the Council for approval this contract action for over one million dollars.

If you have any questions, please contact Talia S. Cohen, Assistant Attorney General, at (202) 724-8074.

cc: Surinder Sharma
GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

Procurement Section

MEMORANDUM

TO: Lolita S. Alston
   Director
   Office of Legislative Support

FROM: Nancy Hapeman
   Chief, Procurement Section
   Commercial Division

DATE: NOV 5 2013

SUBJECT: Certificate of Legal Sufficiency for Proposed Modification No. M007
   for the Exercise of Option Year Three
   Development Management Services
   Contract No. DCEB-DMPED-11-C-0023
   Contractor: Vision McMillan Partners, LLC
   Contract Amount: $1,340,000
   (PL 406929)

This is to Certify that this Office has reviewed the above-referenced
modification for the exercise of option year two of the contract, and that we have found it
to be legally sufficient. If you have any questions in this regard, please do not hesitate to
call me at 724-4391.

Nancy Hapeman

441 Fourth Street, N.W., Room 700S, Washington, D.C. 20001 (202) 727-3400 Fax (202) 741-5228 1
MEMORANDUM

TO: M. Jeffrey Miller
    Interim Deputy Mayor

Jacque McDonald, CPPO, CPPB, SPSM, MBA, MST
Director of Contracts, Procurement and Grants

FROM: Conrad Bridges
       Agency Fiscal Officer

DATE: October 9, 2014

SUBJECT: Certification of Funds Availability

Total Contract Value: $1,340,000.00

This memorandum certifies that the Office of the Deputy Mayor for Planning and Economic Development has in its FY15 budget $1,340,000.00 to meet the obligation for the proposed exercise of option period four in the contract referenced below.

Contract No.: DCEB-DMPED-11-C-0023
Period of Performance: December 1, 2014 through November 30, 2015
Contractor: Vision McMillan Partners LLC
Type of Service: McMillan Sand Filtration Development Management Project
Contract Action Value: $1,340,000.00

If you have any questions or require additional information, I may be reached on 202-442-8681. Thank you.
GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

Procurement Section

MEMORANDUM

TO: James D. Staton, Jr.
Chief Procurement Officer
Office of Contracting and Procurement

FROM: Robert Schildkraut
Chief, Procurement Section
Commercial Division

DATE: October 24, 2014

SUBJECT: Proposed Modification M11 for the Exercise of Option Four
Contract for Development Management Services
Contractor: Vision McMillan Partners, LLC
Contract No.: DCEB-DMPED-11-C-0023
Amount for Option Four: $1,340,000.00

1. Description of Proposed Modification No. M11

The Office of the Deputy Mayor for Planning and Economic Development ("DMPED"), proposes to issue Modification M11 that would exercise Option Year Four of Contract No. DCEB-DMPED-11-C-0023 ("Contract") with Vision McMillan Partners ("VMP"). Once the District exercises the Option Four, VMP will continue to provide development management services ("Services") to the District for development of the twenty-five acre parcel known as the McMillan Sand Filtration Site. The Services, to be provided by the Contractor and its consultants and subcontractors in accordance with the approved budget incorporated in the Contract, include leading and coordinating the design and regulatory-approval processes and preparing the required Fiscal Impact Analysis and Public Finance Plan, as well as coordinating the development plans with community stakeholder groups and with District agencies.

The District seeks to exercise Option Four of the Contract for the period December 1, 2014, through November 30, 2015, in the amount of $1,340,000. After the District's exercise of Option Four, no option periods will remain under the Contract.
2. **Procurement Process**

Commencing with a Request for Qualifications in September 2006, responded to by five teams, the District eventually selected Vision McMillan Partners, LLC, to be its Land Development Partner for the McMillan Sand Filtration site. DMPED awarded the Contract to VMP on April 23, 2010, and by bilateral modification number 0001, on April 22, 2011, extended the one-year base period through November 30, 2011, at no increase in the fixed base-period price of $995,249. By modification number 0002 and modification number 003 (second modification numbered 002 in the package), option year one was exercised, at a fixed price of $1,340,000, for the period December 1, 2011, through November 30, 2012. By modification 005, dated November 21, 2012, the District awarded a partial option for the period of December 1, 2012, through May 31, 2013, for a not to exceed amount of $900,000. By modification number 006, the District exercised the remainder of the option year two from June 1, 2013, through November 30, 2013, for $440,000, thereby making the amount for option year two $1,340,000. By modification number 007, the District exercised option year three from December 1, 2013, through November 30, 2014, in the amount of $1,340,000. Modification 008 extended the contract from December 1, 2013, through December 18, 2014, at no additional cost to the District. Modification 09 incorporated the contractor’s budget dated August 28, 2014, and increased the contract amount by $683,984.10. Modification 10, dated October 23, 2014, incorporated the Way to Work Amendment Act of 2006 clauses as Section 15.5 and made them part of the contract.

By proposed modification 11, the District intends on exercising option year four in the amount of $1,340,000 for the period from December 1, 2014, through November 30, 2015.

By memorandum dated October 9, 2014, to M. Jeffrey Miller and Jacque McDonald, Conrad Bridges, Agency Fiscal Officer, Office of the Deputy Mayor Planning and Economic Development, certified “that the Office of the Deputy Mayor for Planning and Economic Development has in its FY15 budget $1,340,000.00” for this contract for the period December 1, 2014, through November 30, 2015.

3. **Legal Review**

By memorandum dated October 15, 2014, you requested that this Office review for legal sufficiency the proposed package. After revising the package, DMPED returned the revised package to this office on October 23, 2014. We have reviewed the proposed contract action, and we approve it for legal sufficiency.

We note that in accordance with D.C. Official Code § 2-352.02 (2011), the Mayor must submit to the Council for approval this contract action for over one million dollars.

If you have any questions, please contact Lauren Brown at 727-4613.
MEMORANDUM

TO: M. Jeffrey Miller
Interim Deputy Mayor

Jacque McDonald, CPPo, CPPb, SPSM, MBA, MST
Director of Contracts, Procurement and Grants

FROM: Conrad Bridges
Agency Fiscal Officer

DATE: October 9, 2014

SUBJECT: Certification of Funds Availability

Total Contract Value: $1,340,000.00

This memorandum certifies that the Office of the Deputy Mayor for Planning and Economic Development has in its FY15 budget $1,340,000.00 to meet the obligation for the proposed exercise of option period four in the contract referenced below.

Contract No.: DCEB-DMPED-11-C-0023
Period of Performance: December 1, 2014 through November 30, 2015
Contractor: Vision McMillan Partners LLC
Type of Service: McMillan Sand Filtration Development Management Project
Contract Action Value: $1,340,000.00

If you have any questions or require additional information, I may be reached on 202-442-8681. Thank you.
MEMORANDUM

TO: Lolita S. Alston
   Director
   Office of Legislative Support

FROM: Robert Schildkraut
   Chief, Procurement Section
   Commercial Division

DATE: October 24, 2014

SUBJECT: Certificate of Legal Sufficiency
         Approval of Option Four (M11)
         Contract No. DCEB-DMPED-11-C-0023
         Contractor: Vision McMillan Partners LLC
         Option Four Amount: $1,340,000.00
         (PL434993)

This is to Certify that this Office has reviewed the above-referenced Contract and that we have found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-4018.

Robert Schildkraut

441 Fourth Street, N.W., Room 700S, Washington, D.C. 20001 (202) 727-3400 Fax (202) 741-5228
GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

Procurement Section

MEMORANDUM

TO:        Jacque McDonald
            Director of Contracts, Procurement and Grants
            Office of the Deputy Mayor for Planning and Economic Development

FROM:      Robert Schildkraut
            Chief, Procurement Section
            Commercial Division

DATE:      June 18, 2015

SUBJECT:   Proposed Equitable Adjustment to Option Year 4
            Contractor: Vision McMillan Partners, LLC
            Contract No. DCEB-DMPED-11-C-0023, Modification No. M16,
            for Development Management Services
            Contract Type: Fixed Price
            Option Year 4 Term: December 1, 2014 – November 30, 2015
            Option Year 4 Price Increase: $2,170,527.00
            Option Year 4 Total Value: $3,510,527.00

1. Description of Proposed Contract Modification M16

Proposed Modification No. M16 to Contract No. DCEB-DMPED-11-C-0023 ("the Contract") provides for implementation of enhanced performance under the Contract during the fourth option year, which extends through November 30, 2015. By Modification No. M16, the Office of the Deputy Mayor for Planning and Economic Development ("DMPED"), proposes to increase the funding for the fourth option year of this Contract with Vision McMillan Partners, LLC ("VMP") by $2,170,527, to a total of $3,510,527. Modification M16 will provide funds for implementation, at negotiated fixed prices, of expanded services and scope of work that are provided for and detailed in bilateral modification number M14 which contemplates completion of the Project through final design by the end of the fourth option year.

Since award of the Contract in April 2010, VMP has provided to the District management services (the "Services") for development of the twenty-five acre parcel known as the McMillan Sand Filtration Site. The Services, provided by the Contractor and its consultants and subcontractors in accordance with the approved budget incorporated in the Contract, include leading and coordinating the design and regulatory-approval processes and preparing and the required Fiscal...
Impact Analysis and Public Finance Plan, as well as coordinating the development plans with community stakeholder groups and with District agencies. Option Year Four is the final available option period.

During its performance of the Services, among other things, VMP accomplished the following: VMP has repeatedly testified before the DC City Council’s Committee on Economic Development in support of the planning and scope of the budgeting for the Project. During the second year option year, on behalf of the District, VMP submitted to the City Council a Planned Unit Development application and a final proposed Land Disposition Agreement. It has appeared before the Historic Preservation Review Board for presentation and acceptance of the Master Plan for the site, submitting several iterations of plans and design documents based upon revised design guidelines and revised site boundaries, including plans for a central park on the site. VMP also has been negotiating a Land Disposition Agreement with the District while continuing to engage community entities like the McMillan Advisory Group and the local Advisory Neighborhood Commission (“ANC”). Previously, the Contractor secured from the ANC a unanimous vote in favor of the Master Plan.

2. Procurement Process

Commencing with a Request for Qualifications in September 2006, responded to by five teams, the District eventually selected Vision McMillan Partners, LLC, to be its Land Development Partner for the McMillan Sand Filtration Site (the “Project”). DMPED awarded the Contract to VMP on April 23, 2010, and, by bilateral modification number 001, on April 22, 2011, extended the one-year base period through November 30, 2011, at no increase in the fixed base-period price of $995,249. Since then, DMPED awarded and VMP fully performed option years one, two and three, each at a fixed price of $1,340,000, encompassing in toto the period December 1, 2011 through November 30, 2014.

By modification number M09 on September 12, 2014, DMPED supplemented option year three funding by $683,984 for additional necessary design and pre-development activities in support of the Project. By modification number M15 on May 7, 2015, DMPED implemented D.C. Act 20-82 by which the Council retroactively approved an increased payment to VMP for option year two of $922,064. By modification number M11, with Council approval, DMPED timely awarded option year four in the amount of $1,340,000. Now DMPED seeks Council approval of modification number 16, by which the scope of work and fixed price of the fourth option year would be increased by $2,170,527 to further the Contract’s goals for the Project. This increase in the fixed price will implement the expanded services and scope of work that are detailed in bilateral modification number M14, effective March 18, 2015, and VMP’s cost proposal (as incorporated in modification M16).

In the Business Clearance Memorandum and supporting documentation, the Contracting Officer/Director of Contracts, Procurement and Grants (“CO”) determined that it is in the best interests of the District to continue without disruption the ongoing Project with VMP and its above-stated increase to the scope and funding for the fourth option year. She also determined that the fixed prices in Modification M16, for which OCP conducted cost and price analysis of the cost proposal incorporated in this modification, is fair and reasonable. The CO further found
VMP to have a satisfactory performance record and to be a responsible contractor and otherwise to be in compliance with 27 DCMR, Chapters 20 and 22, and other applicable laws and regulations, including compliance with tax laws of the District. The Agency Fiscal Officer, Office of the Deputy Mayor for Planning and Economic Development, has certified that necessary capital funds are available in the FY2015 agency budget. VMP does not appear on the federal or District listings of debarred or suspended firms and we have ascertained, based upon our search of Prolaw, that VMP has no pending legal claims against the District. On these bases, the Contracting Officer requests approval by the Council of award of the $2,170,527 increase in fixed price for the fourth option year of the Contract.

3. Legal Review

By memorandum received in this Office on June 11, 2015, you requested that we review for legal sufficiency proposed modification M16 for increase in the scope and fixed price for Option Year Four of the Contract. Accordingly, we have reviewed the package, as supplemented in accordance with our comments, and approve it for legal sufficiency.

We note that in accordance with D.C. Official Code § 2-352.02, the Mayor must submit to the Council for approval this contract action for over one million dollars.

If you have any questions, please contact Assistant Attorney General Jon N. Kulish, at 442-9756.

cc: Margaret Platek
MEMORANDUM

TO: Lolita S. Alston
   Director
   Office of Legislative Support

FROM: Robert Schildkraut
   Chief, Procurement Section
   Commercial Division

DATE: June 18, 2015

SUBJECT: Proposed Equitable Adjustment to Option Year 4
   Contractor: Vision McMillan Partners, LLC
   Contract No. DCEB-DMPED-11-C-0023, Modification No. M16,
   for Development Management Services
   Contract Type: Fixed Price
   Option Year 4 Term: December 1, 2014 – November 30, 2015
   Option Year 4 Price Increase: $2,170,527.00
   Option Year 4 Total Value: $3,510,527.00
   (PL-455464)

This is to Certify that this Office has reviewed the above-referenced contract
and that we have found it to be legally sufficient. If you have any questions in this regard, please
do not hesitate to call me at 724-4018.

Robert Schildkraut
MEMORANDUM

TO: Brian T. Kenner
    Deputy Mayor

    Jacque McDonald, CPPO, CPPB, SPSM, MBA, MST
    Director of Contracts, Procurement and Grants

FROM: Curtis J. Lewis II
      Agency Fiscal Officer

DATE: June 10, 2015

SUBJECT: Certification of Funds Availability

| Original Contract Value:  | $1,340,000.00 |
| Proposed Contract Modification Value: | $2,170,527.00 |
| Total Contract Value:      | $3,510,527.00 |

This memorandum certifies that the Office of the Deputy Mayor for Planning and Economic Development has in its FY15 budget $3,510,527.00 to meet the obligation for the proposed Modification 16 during option period four in the contract referenced below.

Contract No.: DCEB-DMPED-11-C-0023

Period of Performance: Date of Modification 16 award through November 30, 2015

Contractor: Vision McMillan Partners LLC

Type of Service: McMillan Sand Filtration Development Management Project

Contract Action Value: $2,170,527.00

If you have any questions or require additional information, I may be reached on 202-724-7206. Thank you.
EXCLUSIVE RIGHTS AGREEMENT

THIS EXCLUSIVE RIGHTS AGREEMENT (the "ERA") is made effective for all purposes as of the 23th day of April, 2010 ("Effective Date"), by and between: (i) THE DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development (the "District"); and (ii) VISION MCMILLAN PARTNERS, LLC, a District of Columbia limited liability company (the "Developer"). The District and the Developer may be collectively referred to as the "Parties".

RECITALS:

R-1. The District owns that 25-acre parcel of real property, known as the McMillan Sand Filtration Site, situated on North Capital Street, N.W., in Washington, D.C. and known for tax and assessment purposes as Lot 0800 in Square 3128, together with all appurtenances and improvements located thereon as of the Effective Date (the "Property"). The District plans to cause the vertical development of the Property through a sequence of three phases (each, a "Phase" and collectively the "Phases").

R-2. The District will determine the Phases and uses on the Property during the master planning and entitlement process. The District selected the Developer for its collective expertise in developing the following uses: (i) residential townhomes, (ii) residential apartment and condominium buildings with ground floor retail, and (iii) medical office buildings with ground floor retail ("Developer Uses"). The Developer (or its members) will not be precluded from submitting proposals to the District to compete for opportunities to develop other uses on the Property.

R-3. The Developer desires to submit proposals to the District for the acquisition and vertical development of Phase 1 Sites (defined below) to be constructed on the Property.

R-4. Subject to the terms and conditions of this ERA, the District wishes to grant the Developer the exclusive right to negotiate for the acquisition and development of Phase 1 Sites on the Property designated for the Developer Uses, in accordance with the District's understanding of the Developer's collective expertise. The Phase 1 Sites will be identified in the Land Disposition and Development Agreements (collectively, the "LDA") to be negotiated by the Parties.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the District and the Developer do hereby agree as follows, to wit:

1. The foregoing Recitals are incorporated herein by this reference.
2. **Exclusive Rights for Phase 1**

2.1. District has set the following Phase 1 vertical development program goals:
- Residential townhomes
- Residential apartment and/or condominium building(s) with ground floor retail
- Medical office building(s) with ground floor retail
- Hotel(s) with ground floor retail
- A grocery store
- An anchor retail use in the northeast corner of the Property near the intersection of North Capitol Street NW and Michigan Avenue NW

2.2. Within one hundred twenty (120) days after the Effective Date, the District shall determine the location of the pad sites ("**Phase 1 Sites**") to be included in the first Phase ("Phase 1") of the vertical development on the Property. At least ninety (90) days, but no later than one hundred twenty (120) days, after the Effective Date, the Developer shall submit to the District proposals expressing its interest in acquiring and developing the Phase 1 Sites designated for the Developer Uses ("**Phase 1 Acquisition Proposal**"). The Phase 1 Acquisition Proposal shall describe and illustrate development concepts for each pad site, indicate the Developer’s (and its members’) preferred timing for acquisition and development of the pad sites, and demonstrate and describe the Developer’s (and its members’) capabilities to execute such concepts, and be generally consistent with those terms included in **Exhibit B**. Developer shall submit the Phase 1 Acquisition Proposal to District pursuant to those submission guidelines included in **Exhibit C**. District shall review the Phase 1 Acquisition Proposal and respond to the Developer within fifteen (15) days after District’s receipt of the Phase 1 Acquisition Proposal to initiate iterative discussions regarding the Phase 1 Acquisition Proposal. Over the following forty-five (45) days, the District and the Developer will endeavor to reach agreement on the Phase 1 Acquisition Proposal and to establish a framework upon which the Parties may negotiate the LDA for Phase 1 ("Phase 1 LDA").

2.3. For the first one hundred twenty (120) days after the Effective Date, District shall not negotiate with any other person or entity with respect to the acquisition and/or development of the Phase 1 Sites. During the Phase 1 Exclusivity Period (defined below), District will not negotiate with any other person or entity with respect to the acquisition and/or development of Phase 1 Sites on the Property designated for the Developer Uses. The "**Phase 1 Exclusivity Period**" shall commence on the Effective Date and shall terminate upon the earlier of: (i) Developer’s failure to deliver the Phase 1 Acquisition Proposal in the timeframe set forth herein; (ii) one year after the Effective Date; (iii) the execution of the Phase 1 LDA; or (iv) notice from District following a default by Developer hereunder or under any other agreement between the Parties. The Exclusivity Period may only be extended by District in its sole and absolute discretion. As such, the District and the Developer agree to endeavor to fully negotiate the Phase 1 LDA within the Phase 1 Exclusivity Period. Notwithstanding the foregoing, District may terminate the Phase 1 Exclusivity Period at any time for any of the Phase 1 Sites, in District’s sole and absolute discretion; provided, however, if District so terminates the Phase 1 Exclusivity Period for any pad site designated for the Developer Uses, the District will be responsible for the Termination Fee pursuant to **Section 2.4**. Upon termination of the Phase 1 Exclusivity Period,
this ERA shall also terminate, except for those obligations contained in Section 2.4, which shall survive for so long as such obligations are outstanding pursuant to the terms therein.

2.4. Subject to Section 4.7, in the event District terminates negotiations with the Developer as to the Phase 1 Sites designated for Developer Uses or the Phase 1 Exclusivity Period terminates without the Parties having executed a Phase 1 LDA, District shall pay to Developer a fee in the amount of Five Hundred Sixty-Four Thousand Dollars $ 564,000 ("Termination Fee"), within ninety (90) days after the termination of the ERA.

3. Exclusive Rights for Phase 2 and Phase 3. As part of the negotiations of the Phase 1 LDA, the Parties will negotiate the terms on which Developer shall have the exclusive right to offer with respect to certain pad sites designated for the Developer Uses in the second and third Phases, as will be further provided in the Phase 1 LDA.


4.1 Nothing in this ERA exempts the Property from generally applicable laws and regulations in effect from time-to-time in the District of Columbia, including without limitation the jurisdiction or exercise of the authority of the District of Columbia Zoning Commission.

4.2 The Parties acknowledge and agree that this ERA does not set forth the terms of any potential LDA between the Parties, that Exhibit B represents the terms on which the Parties intend to establish the framework for the LDA, and that all terms are subject to negotiation and incorporation into future agreements that will be, if mutually acceptable terms can be reached, entered into by the Parties.

4.3 Developer may not assign its rights under this ERA to any other person or entity without District’s prior written approval, which may be granted or denied in District’s sole discretion; provided, however, Developer may assign its rights under this ERA to one or more affiliates of Developer or to a principal of Developer with District’s reasonable written approval.

4.4 None of the terms or provisions of this ERA may be changed, waived, modified or terminated except in writing executed by the party against which enforcement of the change, waiver, modification or termination is asserted. None of the terms or provisions of this ERA shall be deemed to have been abrogated or waived by reason of any failure or refusal to enforce the same.

4.5 This ERA shall be governed by and construed under the laws of the District of Columbia. For the purpose of any suit, action or proceeding arising out of or relating to this ERA, the Developer and the District irrevocably consent and submit to the courts of the District of Columbia. The Developer and the District waive the right to claim any remedy or relief against the other arising under this ERA, except for the Termination Fee in accordance with Section 2.4.

4.6 This ERA does not give, and shall not be construed as giving, the Developer any right, interest or expectancy in the Property. Neither this ERA, nor any memorandum of this ERA, shall be recorded in the Land Records of the District of Columbia. In the event any party
records this ERA, or any memorandum or other document evidencing the terms of this ERA, in the Land Records of the District of Columbia, this ERA shall immediately terminate and be of no further force and effect, except to the extent any provisions contained herein expressly survive termination.

4.7 The District and the Developer acknowledge and agree that the ability of the Parties to enter into a LDA for any of the Phases and consummate the closing(s) of the disposition of any portion of the Property from the District to the Developer is subject to the negotiation of mutually acceptable agreements and the satisfaction of all requirements under applicable laws.

4.8 Developer expressly acknowledges and agrees that (i) any and all determinations and approvals required under the federal and District laws and regulations, including disposition approval by the D.C. Council in accordance with D.C. Official Code §10-801, shall be made in accordance with such applicable laws; (ii) absent receipt of all required approvals necessary for the disposition of any portion of the Property to Developer, the District has no authority to convey any portion of the Property to the Developer or to approve any development plan proposed by the Developer; and (iii) the failure of the Mayor to receive all required approvals necessary for the disposition of the Property shall not constitute a breach of this ERA by the District. The Developer further acknowledges and agrees that any expenditures made by Developer while proceeding under this ERA are at its sole risk and expense with no recourse whatsoever against the District.


4.10 This ERA supersedes and replaces all prior agreements between the Parties relative to any sale, potential sale, or right to negotiate for the sale of the Property.

[SIGNATURES APPEAR ON FOLLOWING PAGES.]
As of this 23rd day of April, 2010, the District and the Developer have executed this ERA by and through their respective, duly authorized representatives:

The District:

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development pursuant to delegation of authority contained in Mayor's Order No. 2008-137, effective October 20, 2008

By: [Signature]
Name: Valerie Santos
Title: Deputy Mayor for Planning and Economic Development

APPROVED AS TO LEGAL SUFFICIENCY:
Office of the Attorney General for the District of Columbia

By: [Signature]
Date: 4/14/10

The Developer:

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: McMillan Associates, LLC, its managing member

By: [Signature]
Name: [Redacted]
Title: [Redacted]
EXECUTION VERSION

EXHIBIT A
[INTENTIONALLY OMITTED]
EXHIBIT B
[Summary of General Business Terms]

As of the Effective Date of the ERA, the following terms describe the current understanding between the District and the Developer pursuant to the LDA for the development of the Property.

1. Land Development
   a. The District plans to complete land development on the Property in one phase
   b. Subject to the negotiation of a mutually acceptable agreement, the District expects to hire the Developer to serve in the role of land development manager with responsibility for oversight and completion of all aspects of land development on the Property.
   c. Subject to the terms of a mutually acceptable agreement, the District shall pay the Developer a fee based on a % of total land development costs and the product of personnel hourly rates and time spent.

2. Vertical Development
   a. In accordance with the terms and conditions set forth in the ERA, the Developer may submit Acquisition Proposals to the District for consideration for the acquisition and development of certain pad sites in all phases of vertical development.
   b. The disposition and development of the pad sites on the Property shall be governed by the terms of a mutually acceptable LDA. The LDA will provide the Developer (and/or its members) with a right to purchase certain pad sites in Phase 1 of the vertical development. In the event the Developer (or its members) does not perform as required and achieve certain milestones that will be established in the LDA, the District, in its sole discretion, may terminate the LDA as it relates to the affected pad site(s).
   c. The LDA will provide the Developer with a right to offer to purchase and develop certain pad sites in Phases 2 and 3 of vertical development, in District's sole discretion, provided that the Developer performs and achieves certain milestones that will be established in the LDA. The District, in its sole discretion, may change the Developer's offer rights as provided herein for certain pad sites in Phases 2 and 3 of the vertical development to an exclusive right to negotiate a LDA on such terms as may be mutually acceptable to the Parties.
   d. The District and the Developer shall negotiate and/or calculate the purchase prices for finished pad sites twelve (12) or fewer months prior to the District's expected closing on the dispositions of said pad sites.

3. Land Development Finance Agreement
   a. The District plans to finance the net cost of land development of the Property, including but not limited to:
      i. backbone common infrastructure, including streets, street improvements, utilities (including storm water management) and lighting
ii. common area amenities, such as active open space, historic preservation, and landscaping.

b. The Developer will be required to close on the acquisition of their pad sites in advance of the District commencing land development.

c. The District's land development investment will be based on the difference between the land development budget and the net proceeds paid to the District for the disposition of Phase 1 pad sites.

d. The Developer’s investment in certain pre-development expenses shall be treated as preferred equity capital and therefore shall earn a mutually acceptable fair market return. The value of the Developer’s capital and return on capital shall be credited to the aggregate purchase price of the Developer's expected acquisitions of Phase 1 Sites. The amount of all costs and expenses (including Stage 2 PUD Architectural and Engineering expenses) actually incurred by the District and attributable to the Developer’s vertical development projects will be added (plus a fair market return) to the respective purchase prices of Phase 1 Sites.
EXHIBIT C
[Acquisition Proposal Submission Guidelines]

1. Team Composition
   1.1. Organizational Chart
   1.2. Identify Key Members of the Development Team
       1.2.1. Member Roles and Responsibilities
   1.3. Identification of Key Team Members (to the extent applicable at such time)
       1.3.1. Lead Developer
       1.3.2. Development Partner
       1.3.3. Equity Investor(s)
       1.3.4. Commercial Lender(s)
       1.3.5. Lead Architect
       1.3.6. General Contractor
       1.3.7. Operating Partner(s)
       1.3.8. Asset Manager(s)

2. Development Program
   2.1. Land Area Required
   2.2. Use(s)
   2.3. Size (FAR Square Feet)
   2.4. Project Schedule
   2.5. Chart of Critical Development Milestones (including duration of time to complete)
   2.6. Market Analysis (justifying use proposed)
   2.7. Design Illustrations (including aerial views and elevations)

3. Qualifications
   3.1. Background on Three Comparable Projects (table format)
       3.1.1. Role of Developer
       3.1.2. Responsibilities of Developer
       3.1.3. List of Development Partners
       3.1.4. Total Project Costs (break-out by category)
       3.1.5. Project Location
       3.1.6. Project Use and Description
       3.1.7. Project Size
       3.1.8. Project Start and Finish Dates
       3.1.9. Description of Capital Structure Utilized

4. Financial Offer
   4.1. Price for Land
   4.2. Methodology for Determining Price
   4.3. Structure of Payment(s) to District
5. **Project Finance (to the extent applicable at such time)**

5.1. Excel-based Project Pro Forma
   5.1.1. Key Assumptions
   5.1.2. Proposed Capital Structure
   5.1.3. Monthly Cash Flow Schedule
   5.1.4. Annual Cash Flow Schedule
   5.1.5. Capital Draw Schedules
   5.1.6. Key Financial Performance Metrics

5.2. Description of Proposed Capital Structure for: (table format)
   5.2.1. Total Development Costs
      5.2.1.1. Equity (type of source – sponsor, partner)
      5.2.1.2. Debt (type of source)
      5.2.1.3. Other (type of source)
   5.2.2. Pre-Development
      5.2.2.1. Equity (type of source – sponsor, partner)
      5.2.2.2. Debt (type of source)
      5.2.2.3. Other (type of source)
   5.2.3. Land Acquisition
      5.2.3.1. Equity (type of source – sponsor, partner)
      5.2.3.2. Debt (type of source)
      5.2.3.3. Other (type of source)
   5.2.4. Construction
      5.2.4.1. Equity (type of source – sponsor, partner)
      5.2.4.2. Debt (type of source)
      5.2.4.3. Other (type of source)
   5.2.5. Permanent
      5.2.5.1. Equity (type of source – sponsor, partner)
      5.2.5.2. Debt (type of source)
      5.2.5.3. Other (type of source)

5.3. Identify Key Terms Acceptable to the Developer
   5.3.1. Level of Recourse for Debt
   5.3.2. Interest Rate on Debt
   5.3.3. Target IRR for Investors

5.4. Identify Critical Path for Fundraising for All Project Stages

5.5. Source and Form of Project Completion and Performance Guaranty
FIRST AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT

THIS FIRST AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT (this "Agreement") is made as of the 13th day of April, 2011 (the "Effective Date") by and between (i) THE DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development (the "District"); and (ii) VISION MCMILLAN PARTNERS, LLC, a District of Columbia limited liability company (the "Developer"). The District and the Developer may be collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, the District and Developer previously entered into that certain Exclusive Rights Agreement dated April 23, 2010 (the "ERA") related to certain real property owned by the District known as the McMillan Sand Filtration Site and situated on North Capitol Street, Washington, D.C. and known for tax and assessment purposes as Lot 0800 in Square 3128 (the "Property").

WHEREAS, the ERA allows the Phase 1 Exclusivity Period by the District in its sole and absolute discretion.

WHEREAS, the District and Developer wish to amend and modify certain terms and conditions of the ERA as is hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct and are incorporated herein as a substantive part of this Amendment.

2. **Defined Terms.** All capitalized terms used herein and not otherwise defined herein shall have the meanings given them in the ERA.

3. **Phase 1 Exclusivity Period.** The Parties hereby agree that the Phase 1 Exclusivity Period shall terminate upon the earlier of (i) two (2) years after the Effective Date of the ERA, (ii) the execution of the Phase 1 LDA; or (iii) notice from District following a default by Developer under the ERA or under any other agreement between the Parties.

4. **Negotiation During Phase 1 Exclusivity Period.** District and Developer shall endeavor to fully negotiate the Phase 1 LDA within the Phase 1 Exclusivity Period. During the Phase 1 Exclusivity Period, District and Developer shall jointly determine negotiation milestones within the Phase 1 Exclusivity Period based on the status of pre-development activities related to the Property. During the Phase 1 Exclusivity Period, Developer shall cooperate and
communicate with District and its agents with respect to pre-development activities related to the Property, as necessary.

5. **General Terms.** The Parties acknowledge and agree that except as set forth herein, all of the terms and conditions of the ERA remain in full force and effect as originally written, and the Parties ratify and confirm same. All of the general terms and conditions of Section 4 of the ERA are incorporated herein by reference as though fully set forth herein.

As of this 13th day of April, 2011, the District and the Developer has executed this First Amendment to Exclusive Rights Agreement by and through their respective, duly authorized representatives:

**The District:**

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

[Signature]

By: [Signature]

Name: Victor L. Hoskins
Title: Deputy Mayor for Planning and Economic Development

**APPROVED AS TO LEGAL SUFFICIENCY:**
Office of the Attorney General for the District of Columbia

[Signature]

By: [Signature]

Date: 4/11/11

**The Developer:**

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

[Signature]

By: [Signature]

Name: Ankush Thakkar
Title: Senior Vice-President
SECOND AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT

THIS SECOND AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT (this "Agreement") is made as of the 5th day of February, 2012 (the "Effective Date") by and between (i) THE DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development (the "District"); and (ii) VISION MCMILLAN PARTNERS, LLC, a District of Columbia limited liability company (the "Developer"). The District and the Developer may be collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, the District and Developer previously entered into that certain Exclusive Rights Agreement dated April 23, 2010 (the "ERA"), as amended by a First Amendment to Exclusive Rights Agreement dated April 13, 2011, related to certain real property owned by the District known as the McMillan Sand Filtration Site and situated on North Capitol Street, Washington, D.C. and known for tax and assessment purposes as Lot 0800 in Square 3128 (the "Property").

WHEREAS, the ERA allows the Phase 1 Exclusivity Period to be extended by the District in its sole and absolute discretion.

WHEREAS, the District and Developer wish to amend and modify certain terms and conditions of the ERA as is hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct and are incorporated herein as a substantive part of this Amendment.

2. **Defined Terms.** All capitalized terms used herein and not otherwise defined herein shall have the meanings given them in the ERA.

3. **Phase 1 Exclusivity Period.** The Parties hereby agree that the Phase 1 Exclusivity Period shall terminate upon the earlier of (i) thirty (30) months after the Effective Date of the ERA, (ii) the execution of the Phase 1 LDA; or (iii) notice from District following a default by Developer under the ERA or under any other agreement between the Parties.

4. **Negotiation During Phase 1 Exclusivity Period.** District and Developer shall endeavor to fully negotiate the Phase 1 LDA within the Phase 1 Exclusivity Period. During the Phase 1 Exclusivity Period, District and Developer shall jointly determine negotiation milestones within the Phase 1 Exclusivity Period based on the status of pre-development activities related to

ZONING COMMISSION
District of Columbia
CASE NO.13-14
EXHIBIT NO.77
the Property. During the Phase 1 Exclusivity Period, Developer shall cooperate and communicate with District and its agents with respect to pre-development activities related to the Property, as necessary.

5. **General Terms.** The Parties acknowledge and agree that except as set forth herein, all of the terms and conditions of the ERA remain in full force and effect as originally written, and the Parties ratify and confirm same. All of the general terms and conditions of Section 4 of the ERA are incorporated herein by reference as though fully set forth herein.

As of this **15th** day of **February**, 2012, the District and the Developer has executed this Second Amendment to Exclusive Rights Agreement by and through their respective, duly authorized representatives:

**The District:**

DISTRICT OF COLUMBIA, by and through the
Office of the Deputy Mayor for Planning and
Economic Development

By: [Signature]
Name: Victor L. Hoskins
Title: Deputy Mayor for Planning and
Economic Development

**APPROVED AS TO LEGAL SUFFICIENCY:**
Office of the Attorney General for the District of Columbia

By: [Signature]
Date: [Signature]

**The Developer:**

VISION McMILLAN PARTNERS, LLC, a District
of Columbia limited liability company

By: [Signature]
Name: 
Title: 

the Property. During the Phase 1 Exclusivity Period, Developer shall cooperate and communicate with District and its agents with respect to pre-development activities related to the Property, as necessary.

5. **General Terms.** The Parties acknowledge and agree that except as set forth herein, all of the terms and conditions of the ERA remain in full force and effect as originally written, and the Parties ratify and confirm same. All of the general terms and conditions of Section 4 of the ERA are incorporated herein by reference as though fully set forth herein.

As of this _____ day of ________, 2012, the District and the Developer has executed this Second Amendment to Exclusive Rights Agreement by and through their respective, duly authorized representatives:

**The District:**

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: _______________________________
Name: Victor L. Hoskins
Title: Deputy Mayor for Planning and Economic Development

APPROVED AS TO LEGAL SUFFICIENCY:
Office of the Attorney General for the District of Columbia

By: _______________________________
Date: ______________

**The Developer:**

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: _______________________________
Name: Adam C. Weers
Title: Authorized Representative
THIRD AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT

THIS THIRD AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT (this "Agreement") is made as of the 31st day of December, 2012 (the "Effective Date") by and between (i) THE DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development (the "District"); and (ii) VISION MCMILLAN PARTNERS, LLC, a District of Columbia limited liability company (the "Developer"). The District and the Developer may be collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, the District and Developer previously entered into that certain Exclusive Rights Agreement dated April 23, 2010 (the "ERA"), as amended by a First Amendment to Exclusive Rights Agreement dated April 13, 2011, as amended by a Second Amendment to Exclusive Rights Agreement dated February 15, 2012, related to certain real property owned by the District known as the McMillan Sand Filtration Site and situated on North Capitol Street, Washington, D.C. and known for tax and assessment purposes as Lot 0800 in Square 3128 (the "Property").

WHEREAS, the ERA allows the Phase 1 Exclusivity Period to be extended by the District in its sole and absolute discretion.

WHEREAS, the District and Developer wish to amend and modify certain terms and conditions of the ERA as is hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct and are incorporated herein as a substantive part of this Amendment.

2. **Defined Terms.** All capitalized terms used herein and not otherwise defined herein shall have the meanings given them in the ERA.

3. **Phase 1 Exclusivity Period.** The Parties hereby agree that the Phase 1 Exclusivity Period shall terminate upon the earlier of (i) thirty-nine (39) months after the Effective Date of the ERA, (ii) the execution of the Phase 1 LDA; or (iii) notice from District following a default by Developer under the ERA or under any other agreement between the Parties.

4. **Negotiation During Phase 1 Exclusivity Period.** District and Developer shall endeavor to fully negotiate the Phase 1 LDA within the Phase 1 Exclusivity Period. During the Phase 1 Exclusivity Period, District and Developer shall jointly determine negotiation milestones
within the Phase 1 Exclusivity Period based on the status of pre-development activities related to the Property. During the Phase 1 Exclusivity Period, Developer shall cooperate and communicate with District and its agents with respect to pre-development activities related to the Property, as necessary.

5. **General Terms.** The Parties acknowledge and agree that except as set forth herein, all of the terms and conditions of the ERA remain in full force and effect as originally written, and the Parties ratify and confirm same. All of the general terms and conditions of Section 4 of the ERA are incorporated herein by reference as though fully set forth herein.

As of this 3rd day of April, 2012, the District and the Developer has executed this Third Amendment to Exclusive Rights Agreement by and through their respective, duly authorized representatives:

**The District:**

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: [Signature]
Name: Victor L. Hoskins
Title: Deputy Mayor for Planning and Economic Development

APPROVED AS TO LEGAL SUFFICIENCY:
Office of the Attorney General for the District of Columbia

By: [Signature]
Date: 3/12/12

**The Developer:**

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: McMillan Associates, LLC, its managing member

By: [Signature]
Name: Brian J. Jackson
Title: Senior Vice President
FOURTH AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT

THIS FOURTH AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT (this "Amendment") is made as of the 16th day of July, 2013 (the "Effective Date") by and between (i) THE DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development (the "District"); and (ii) VISION MCMILLAN PARTNERS, LLC, a District of Columbia limited liability company (the "Developer"). The District and the Developer may be collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, the District and Developer previously entered into that certain Exclusive Rights Agreement dated April 23, 2010 (the "ERA"), as amended by a First Amendment to Exclusive Rights Agreement dated April 13, 2011, as amended by a Second Amendment to Exclusive Rights Agreement dated February 15, 2012, as amended by a Third Amendment to Exclusive Rights Agreement dated July 31, 2012 related to certain real property owned by the District known as the McMillan Sand Filtration Site and situated on North Capitol Street, Washington, D.C. and known for tax and assessment purposes as Lot 0800 in Square 3128 (the "Property").

WHEREAS, the ERA allows the Phase 1 Exclusivity Period to be extended by the District in its sole and absolute discretion.

WHEREAS, the District and Developer wish to amend and modify certain terms and conditions of the ERA as is hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct and are incorporated herein as a substantive part of this Amendment.

2. **Defined Terms.** All capitalized terms used herein and not otherwise defined herein shall have the meanings given them in the ERA.

3. **Phase 1 Exclusivity Period.** The Parties hereby agree that the Phase 1 Exclusivity Period shall terminate upon the earlier of (i) fifty-two (52) months after the Effective Date of the ERA, (ii) the execution of the Phase 1 LDA; or (iii) notice from District following a default by Developer under the ERA or under any other agreement between the Parties.

4. **Negotiation During Phase 1 Exclusivity Period.** District and Developer shall endeavor to fully negotiate the Phase 1 LDA within the Phase 1 Exclusivity Period. During the Phase 1 Exclusivity Period, District and Developer shall jointly determine negotiation milestones.
within the Phase 1 Exclusivity Period based on the status of pre-development activities related to the Property. During the Phase 1 Exclusivity Period, Developer shall cooperate and communicate with District and its agents with respect to pre-development activities related to the Property, as necessary.

5. **General Terms.** The Parties acknowledge and agree that except as set forth herein, all of the terms and conditions of the ERA remain in full force and effect as originally written, and the Parties ratify and confirm same. All of the general terms and conditions of Section 4 of the ERA are incorporated herein by reference as though fully set forth herein.

As of this [16th] day of [July], 2013, the District and the Developer has executed this Fourth Amendment to Exclusive Rights Agreement by and through their respective, duly authorized representatives:

**The District:**

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: [Signature]

Name: Victor L. Hoskins
Title: Deputy Mayor for Planning and Economic Development

APPROVED AS TO LEGAL SUFFICIENCY:
Office of the Attorney General for the District of Columbia

By: [Signature]

Date: 7/14/13

**The Developer:**

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: McMillian Associates, LLC, its managing member

By: [Signature]

Name: __________________________
Title: __________________________
within the Phase 1 Exclusivity Period based on the status of pre-development activities related to the Property. During the Phase 1 Exclusivity Period, Developer shall cooperate and communicate with District and its agents with respect to pre-development activities related to the Property, as necessary.

5. **General Terms.** The Parties acknowledge and agree that except as set forth herein, all of the terms and conditions of the ERA remain in full force and effect as originally written, and the Parties ratify and confirm same. All of the general terms and conditions of Section 4 of the ERA are incorporated herein by reference as though fully set forth herein.

As of this [10th] day of [July], 2013, the District and the Developer has executed this Fourth Amendment to Exclusive Rights Agreement by and through their respective, duly authorized representatives:

**The District:**

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By:

Name: Victor L. Hoskins
Title: Deputy Mayor for Planning and Economic Development

APPROVED AS TO LEGAL SUFFICIENCY:
Office of the Attorney General for the District of Columbia

By: ____________________________
Date: __________________________

**The Developer:**

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: McMillian Associates, LLC, its managing member

By: ____________________________
Name: Adam C. McMillan
Title: AUTHORIZED REPRESENTATIVE
FIFTH AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT

THIS FIFTH AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT (this "Agreement") is made as of the 41st day of June, 2014 (the "Effective Date") by and between (i) THE DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development (the “District”); and (ii) VISION MCMLLAN PARTNERS, LLC, a District of Columbia limited liability company (the “Developer”). The District and the Developer may be collectively referred to as the “Parties”.

WITNESSETH:

WHEREAS, the District and Developer previously entered into that certain Exclusive Rights Agreement dated April 23, 2010 (the “ERA”), as amended by a First Amendment to Exclusive Rights Agreement dated April 13, 2011, as amended by a Second Amendment to Exclusive Rights Agreement dated February 15, 2012, as amended by a Third Amendment to Exclusive Rights Agreement dated July 31, 2012, as amended by a Fourth Amendment to Exclusive Rights Agreement dated July 16, 2013 related to certain real property owned by the District known as the McMillan Sand Filtration Site and situated on North Capitol Street, Washington, D.C. and known for tax and assessment purposes as Lot 0800 in Square 3128 (the “Property”).

WHEREAS, the ERA allows the Phase 1 Exclusivity Period to be extended by the District in its sole and absolute discretion.

WHEREAS, the District and Developer wish to amend and modify certain terms and conditions of the ERA as is hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct and are incorporated herein as a substantive part of this Amendment.

2. **Defined Terms.** All capitalized terms used herein and not otherwise defined herein shall have the meanings given them in the ERA.

3. **Phase 1 Exclusivity Period.** The Parties hereby agree that the Phase 1 Exclusivity Period shall terminate upon the earlier of (i) sixty-four (64) months after the Effective Date of the ERA, (ii) the execution of the Phase 1 LDA; or (iii) notice from District following a default by Developer under the ERA or under any other agreement between the Parties.

4. **Negotiation During Phase 1 Exclusivity Period.** District and Developer shall endeavor to fully negotiate the Phase 1 LDA within the Phase 1 Exclusivity Period. During the Phase 1 Exclusivity Period, District and Developer shall jointly determine negotiation milestones within the Phase 1 Exclusivity Period based on the status of pre-development activities related to the Property. During the Phase 1 Exclusivity Period, Developer shall cooperate and communicate with District and its agents with respect to pre-development activities related to the Property, as necessary.

5. **Redefinition of Phase 1.** The Parties hereby agree that Phase 1, for the purposes of the ERA, shall mean the development by Developer of all of the pad sites on the Property, including those pad
sites which were in Phase 2 and Phase 3. The Parties further agree that the Parties may execute more than one LDA for the development of the Property and that those LDAs collectively, shall constitute the Phase I LDA for purposes of the ERA. Accordingly, the Parties shall have no further obligations concerning Phase 2 and Phase 3.

6. **General Terms.** The Parties acknowledge and agree that except as set forth herein, all of the terms and conditions of the ERA remain in full force and effect as originally written, and the Parties ratify and confirm same. All of the general terms and conditions of Section 4 of the ERA are incorporated herein by reference as though fully set forth herein.

As of this **4** day of **Jan**., 2014, the District and the Developer has executed this Third Amendment to Exclusive Rights Agreement by and through their respective, duly authorized representatives:

**The District:**

DISTRICT OF COLUMBIA, by and through the
Office of the Deputy Mayor for Planning and Economic Development

By: 
Name: Victor L. Hoskins
Title: Deputy Mayor for Planning and Economic Development

APPROVED AS TO LEGAL SUFFICIENCY:
Office of the Attorney General for the District of Columbia

By: 
Date: 2/14/14

**The Developer:**

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: McMillian Associates, LLC, its managing member

By: 
Name: 
Title: 

SIXTH AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT

THIS SIXTH AMENDMENT TO EXCLUSIVE RIGHTS AGREEMENT (this "Agreement") is made as of the 6th day of July, 2015 (the "Effective Date") by and between (i) THE DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development (the "District"); and (ii) VISION MCMLLAN PARTNERS, LLC, a District of Columbia limited liability company (the "Developer"). The District and the Developer may be collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, the District and Developer previously entered into that certain Exclusive Rights Agreement dated April 23, 2010 (the "ERA"), as amended by a First Amendment to Exclusive Rights Agreement dated April 13, 2011, as amended by a Second Amendment to Exclusive Rights Agreement dated February 15, 2012, as amended by a Third Amendment to Exclusive Rights Agreement dated July 31, 2012, as amended by a Fourth Amendment to Exclusive Rights Agreement dated July 16, 2013, and as amended by a Fifth Amendment to Exclusive Rights Agreement dated June 4, 2014 related to certain real property owned by the District known as the McMillan Sand Filtration Site and situated on North Capitol Street, Washington, D.C. and known for tax and assessment purposes as Lot 0800 in Square 3128 (the "Property").

WHEREAS, the ERA allows the Phase 1 Exclusivity Period to be extended by the District In its sole and absolute discretion.

WHEREAS, the District and Developer wish to amend and modify certain terms and conditions of the ERA as is hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct and are incorporated herein as a substantive part of this Amendment.

2. **Defined Terms.** All capitalized terms used herein and not otherwise defined herein shall have the meanings given them in the ERA.

3. **Phase 1 Exclusivity Period.** The Parties hereby agree that the Phase 1 Exclusivity Period shall terminate upon the earlier of (i) sixty-eight (68) months after the Effective Date of the ERA; (ii) the execution of the Phase 1 LDA; or (iii) notice from District following a default by Developer under the ERA or under any other agreement between the Parties.

4. **Negotiation During Phase 1 Exclusivity Period.** District and Developer shall endeavor to fully negotiate the Phase 1 LDA within the Phase 1 Exclusivity Period. During the Phase 1 Exclusivity Period, District and Developer shall jointly determine negotiation milestones within the Phase 1 Exclusivity Period based on the status of pre-development activities related to the Property. During the Phase 1 Exclusivity Period, Developer shall cooperate and communicate with District and its agents with respect to pre-development activities related to the Property, as necessary.
5. **General Terms.** The Parties acknowledge and agree that except as set forth herein, all of the terms and conditions of the ERA remain in full force and effect, and the Parties ratify and confirm same. All of the general terms and conditions of Section 4 of the ERA are incorporated herein by reference as though fully set forth herein.

As of this 28th day of May, 2015, the District and the Developer has executed this Sixth Amendment to Exclusive Rights Agreement by and through their respective, duly authorized representatives:

**District:**

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: [Signature]

Name: Brian Kenner
Title: Deputy Mayor for Planning and Economic Development

**Approved as to Legal Sufficiency:**
Office of the General Counsel

By: [Signature]
Assistant General Counsel

**Developer:**

VISION McMILLAN PARTNERS, LLC, a District of Columbia limited liability company

By: McMillian Associates, LLC, its managing member

By: [Signature]
Name: Adam C. Weeks
Title: Authorized Representative