



**West Center Village**

## HDF LOAN SYNOPSIS

APPLICANT: Delaware Valley Development Company on behalf of West Center Valley Associates, L.P., an entity to be created for property development and syndication of Tax Credits.

DEVELOPMENT NAME: West Center Village (subsidized family complex).

DEVELOPMENT LOCATION: Scattered Sites  
Wilmington, Delaware

LOAN REQUEST: Construction Loans: **HDF** loan in the amount of \$2,141,312 at 3% interest for 24 months. Exchange Funds (grant) in the amount of \$1,274,653. **Wilmington Trust Company (WTC)** is expected to finance \$4,604,567 for 24 months at approximately 6% interest. HOME Program funds are expected from the **City of Wilmington** in the amount of \$750,000 at 1% interest for 24 months and Developer will contribute at least \$971,924 of the **Low Income Housing Tax Credit (LIHTC)** equity at initial closing. **Tax Credit Exchange Funds** in the amount of \$1,274,653.

Permanent Financing: **Delaware Community Investment Corporation (DCIC)** first mortgage in the amount of \$1,600,000 at approximately 5.5% interest for 20 years amortized over 30 years. **HDF** will provide a second mortgage in an amount not to exceed \$1,421,400 at 5.5% interest for 20 years amortized over 30 years. **HDF** will provide a deferred third mortgage in an amount not to exceed \$1,856,657 at 1% interest for 30 years. HOME funds from the **City of Wilmington** (\$750,000) will be a deferred fourth loan at 1% interest for 30 years. **Tax Credit Exchange Funds** in the amount of \$1,274,653.

### DEVELOPMENT DESCRIPTION:

1. Acquisition and major rehabilitation of a 55-unit garden row style apartment development located on scattered parcels of land. The office and community area will be newly constructed as part of the work.
2. Development to include 20 two-bedroom, 33 three-bedroom and two four-bedroom units. The development will meet handicapped accessibility requirements.
3. Stick-built construction with brick, stucco and vinyl siding. Units will be equipped with dishwasher, microwaves, range/oven, refrigerator and internet access. Electric cooking and hot water with heating and air conditioning supplied by electric heat pumps.

4. Development is expected to receive a 2009 Tax Credit reservation in the amount of \$531,106 annually.
5. Pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA), DSHA has elected to provide 2009 Tax Credit Exchange Funds for the equity shortfall due to the current equity market conditions.
6. Development currently receives project-based subsidy for all units from the U.S. Department of Housing and Urban Development (HUD) and the subsidy is expected to continue. All tenants must be at 50% of median income to be eligible to initially reside in the development. It is estimated that at least 45 units or 81% of the current residents are at or below 50% of median income and 10 units or 19% of the current residents are at incomes below 60% of median income (maximum to qualify as a Tax Credit unit).
7. Equity distribution structure is similar to other recent HUD subsidized developments in that after the first mortgage payment and operational expenses are paid, any surplus funds available would go toward an equity distribution of the lesser of 1.5% of the net equity contribution made to the development or the maximum amount allowed by HUD before HDF mortgage payments are made. Any shortfall in distribution may be carried forward and would accumulate until funds are available. Distribution allowed only to the extent required by limited partner and as approved by HUD.

SOURCES AND USES OF FUNDS

West Center Village  
(For Construction Only)

SOURCES:

WTC	\$ 4,604,567
HDF	2,141,312
City of Wilmington HOME	750,000
Tax Credit Equity <sup>1</sup>	971,924
Portion of Development Fee to be paid by Tax Credit Equity	400,000
Exchange Funds (Grant)	<u>1,274,653</u>
Total Sources:	<u>\$10,142,456</u> <sup>2</sup>

USES:

Acquisition	\$ 1,809,000
Rehabilitation	4,079,345
Sitework	147,955
General Requirements (10%) <sup>3</sup>	352,980
General Contractor's Profit/Overhead (10%) <sup>4</sup>	464,970
Performance Bond	69,750
LOC Fees	3,034
Appraisal and Market Study	25,278
Permits/Fees	71,100
Environmental	15,277
Survey/Soil Borings	18,333
Architect Fees/Consultants	244,440
Legal/Organizational	150,000
Title and Recording	45,000
Cost Certification/Accounting	25,000
Insurance	52,500
State Improvement Tax	54,716
Real Estate/Transfer Taxes	62,135
Construction Interest	449,075
Marketing/Furniture, Fixtures, Equipment	30,000
WTC Loan Fees <sup>5</sup>	26,520
and Inspection Fees	7,900
DCIC Loan Fees <sup>6</sup>	47,291
HDF Loan Fees <sup>7</sup>	20,127
Contingency (10%) <sup>8</sup>	504,525
Development Fee <sup>9</sup>	800,000 *
Relocation	166,205 *
Transitional Reserve	<u>400,000</u>
Total Uses:	<u>\$10,142,456</u>

<sup>1</sup> Based on developer receiving appx. \$.61 net on the dollar and contributing 30% of that amount at construction closing.

<sup>2</sup> Financing using proposed Tax Credit reservation amount.

<sup>3</sup> Based on buildings and sitework.

<sup>4</sup> Based on buildings, sitework and general requirements.

<sup>5</sup> Based on .5% of mortgage amount requested.

<sup>6</sup> Based on 1.5% of mortgage amount requested plus \$500.

<sup>7</sup> Based on 1% of highest mortgage amount requested.

<sup>8</sup> Based on cost of buildings, sitework, general requirements and general contractor's overhead and profit.

<sup>9</sup> 10% of TDC, excluding land cost and Development Fee up to \$8,000,000.

\* The General Partner, Developer, and Management Agent are related entities.

PERMANENT FINANCING  
West Center Village  
(Tax Credits Available for 55 Units)

<u>Sources</u>	<u>Final</u>
Cash Equity from Tax Credits	\$ 3,239,746
DCIC Mortgage (20 years at 5.5%)	1,600,000
HDF Mortgage (20 years at 5.5%)	1,421,400
City of Wilmington HOME (30 years at 1%)	750,000
HDF Mortgage (30 years at 1%)	1,856,657
Exchange Funds (Grant)	<u>1,274,653</u>
	<u>\$10,142,456</u>

Assumptions

A. Equity contribution of appx. \$.655 on the dollar (less DSHA approved expenses) of the \$531,106 annual Tax Credits allocated to the development.	\$ 3,239,746
B. DCIC/HDF mortgage, 5.5% interest, 20-year term, 30-year amortization	
Annual Rent	\$ 598,140
Less 5% Vacancy	<u>(29,907)</u>
Net Rental Income	\$ 568,233
Less Operating Expenses	<u>(321,040)</u>
Net Operating Income	\$ 247,193
Debt Service Coverage	<u>÷ 1.20</u>
Available for Debt Service	<u>\$ 205,994</u>
Amount that can be financed at 5.5% interest, 20-year term, 30-year amortization. (P&I - \$9,085/month).	\$1,600,000
C. HDF second mortgage at 5.5% interest, 20-year term, 30-year amortization. (P&I - \$8,081/month).	\$1,421,400
D. HDF deferred third mortgage 1% simple interest, 30-year term.	\$1,856,657
E. City of Wilmington HOME deferred fourth mortgage, 1% interest, 30-year term.	\$ 750,000

## KEY ASSUMPTIONS

1. *Section 8 Project-Based Subsidy for all units.*
2. Vacancy rate at 5%.
3. *Management fee is based on \$41 per unit per month per HUD regulations.*
4. *Proposed operating expense at \$5,837/unit.*
5. *Projected monthly rents for 55 units:*
  - *20 two-bedroom units at \$980 less \$204 utility allowance = \$776/month*
  - *8 three-bedroom units at \$1,233 less \$250 utility allowance = \$983*
  - *25 three-bedroom units at \$1,217 less \$236 utility allowance = \$981*
  - *2 four-bedroom units at \$1,248 less \$280 utility allowance = \$968*
6. Thirty percent of the net equity contribution coming in at construction loan closing in the amount of \$971,924. Balance of net equity to be provided at permanent loan closing and to pay for one half of development fee.
7. One half of development fee, \$400,000, will be paid from Tax Credit equity. The other half will be paid from construction loan proceeds. Disbursement of the fee will be 25% at 50% construction completion, 25% at permanent closing and the balance to be disbursed in accordance with the Limited Partnership Agreement. However, in no case will more than 50% of the development fee be disbursed prior to permanent closing.
8. WTC construction loan in the amount of \$4,604,567 at approximately 6% interest for twenty-four (24) months.
9. HDF construction loan in the amount of \$2,141,312 at 3% interest for twenty-four (24) months. HDF deferred permanent loan in the amount of \$1,856,657 at 1% interest for 30 years.
10. City of Wilmington HOME construction loan in the amount of \$750,000 at 1% interest for twenty-four (24) months converting to a deferred permanent loan at 1% interest for 30 years.
11. DCIC permanent loan in the amount of \$1,600,000 at 5.5% interest amortized over 30 years with 20-year term.
12. HDF permanent loan in the amount of \$1,421,400 at 5.5% interest amortized over 30 years with 20-year term.
13. Exchange Fund Grant of \$1,274,653 for construction and permanent.

Recommendation:

- HDF second mortgage construction loan in the amount of \$2,141,312 at 3% interest for twenty-four (24) months.
- HDF second permanent loan in the amount of \$1,421,400 at 5.5% interest amortized over 30 years with 20-year term.
- HDF third deferred permanent loan in the amount of \$1,856,657 at 1% simple interest with 30-year term.

Conditions to Funding:

1. *Purchase of existing 55-unit development with improvements known as West Center Village located in Wilmington, Delaware.*
2. *By October 15, 2009, Borrower must secure construction/permanent financing as follows: 1) WTC construction loan in the amount of at least \$4,604,567 at approximately 6% interest for twenty-four (24) months; 2) City of Wilmington HOME construction loan in the amount of \$750,000 at 1% interest for twenty-four (24) months converting to a deferred permanent loan at 1% interest for 30 years; DCIC funds for permanent financing in the amount of at least \$1,600,000 at approximately 5.5% interest amortized over 30 years with a 20-year term.*
3. *Borrower must comply with 2009 ARRA regulations and any amendment thereto by entering into a Tax Credit Exchange Agreement with DSHA.*
4. *Borrower, prior to construction closing, must receive U.S. Department of Housing & Urban Development ("HUD") and Section 8 contract administrator approval of conversion of unit structure for the proposed development.*
5. Borrower meets all Tax Credit requirements as required by DSHA in its reservation letter or amendments thereto.
6. *Thirty percent of the total required net equity contribution in the amount of \$971,924 received at construction loan closing. Balance of equity to be provided at permanent loan closing and to pay for one-half of development fee.*
7. Borrower annual equity distribution cannot exceed the lesser of 1.5% of its net cash contribution or the maximum amount allowed by HUD and shortfalls will be eligible for cumulative carryover. Distribution allowed only if required by the Limited Partnership Agreement. There shall be no equity distribution allowed for any period prior to permanent loan closing.
8. Mortgages will cross default.
9. Approval of all applicable permits necessary to rehabilitate property.
10. Borrower must submit to DSHA and DSHA must approve the Limited Partnership Agreement prior to execution of loan agreement.

11. Development is to remain low income for 20 years from the date of permanent loan closing or until the HDF loan is paid in full, whichever is longer.
12. ***For all current units 81% (45 units) of the units in the development shall be rented to families whose incomes do not exceed 50% of median income and 19% (10 units) of the units in the development may be rented to families whose income does not exceed 60% of median income; however, all new tenants must be at 50% or less of median income. All units in the development shall receive Section 8 project-based rental assistance. Should HUD terminate the Section 8 project-based rental assistance for reasons beyond the control of borrower, DSHA may consider alternate rent and occupancy structures in compliance with all applicable laws and regulations to maintain the financial feasibility of the development.***
13. Appraisal which is acceptable to DSHA, WTC and DCIC.
14. ***Borrower agrees that an equity contribution of at least \$.61 on the dollar of the assumed Tax Credit allocation net of expenses approved by DSHA will be contributed to the development.***
15. Fifty percent of development fee to be paid from Tax Credit equity contribution in accordance with the Limited Partnership Agreement. The balance of the development fee shall be paid from the construction loans and dispersed 25% at 50% construction completion and 25% at permanent loan closing. However, in no case will more than 50% of the total development fee be dispersed prior to permanent loan closing.
16. Borrower to provide acceptable environmental audit and/or other environmental tests or surveys as required by DSHA.
17. ***Borrower to provide or cause to be provided all social services to the residential tenants as detailed in its LIHTC application and as approved by DSHA. The Social Service Plan and proposed payments to related entities must be pre-approved by DSHA.***
18. Borrower meets all HDF Program requirements as required by DSHA.
19. Borrower submits an acceptable Affirmative Marketing Plan to DSHA.
20. Satisfactory subsidy layering review must be performed by DSHA to insure the amount of Tax Credits committed to the development are necessary to provide affordable housing.
21. Borrower must enter into a management agreement with a management company acceptable to DSHA. The management company and Section 8 Contract Administrator shall approve the proforma of operational income and expenses prior to construction closing. The management agent shall submit to DSHA the Monthly Report for Establishing Net Income during the term of any DSHA loan and/or LIHTC compliance period.
22. ***Borrower to fund no later than construction closing, an operating reserve as required by DSHA in an amount at least equal to the greater of \$175,678 or four months of operational expenses including debt service. Funding of the operating reserve shall be from gross equity.***



23. Lien reports, credit reports and financial statements of the general partners (or in the case of a limited liability company, the members), the principals and spouses of the general partners (or spouses of the members) and/or other guarantors, developer, contractors, management entities or affiliates which are satisfactory to DSHA.
24. Guarantees of the Borrower, developer, general partners and/or members or such other persons or entities as required by DSHA which are satisfactory to DSHA.
25. Borrower, general partners, developer, members or their affiliates will advise DSHA of all identities of interest in connection with the development.
26. DSHA approval of final plans and specifications.
27. Borrower's selection of management agent, architects, surveyors, engineers and/or contractors is subject to approval by DSHA.
28. DSHA shall maintain all reserve and/or escrow accounts for the benefit of the development and deduct 100 basis points off the annual interest earned on the reserve and/or escrow accounts as a service fee for maintaining all reserve and/or escrow accounts in connection with the development.
29. In the event Borrower requests an extension of the term of the HDF construction loan, DSHA may, at its sole discretion, change the interest rate during the term of the extension period to the then current Wilmington Trust Company Prime Interest Rate plus one percent (1%).
30. Within sixty (60) days following (i) the construction loan closing and (ii) the permanent loan closing, mortgagee title insurance policies (policy) shall be issued to DSHA in form and content acceptable to DSHA (i) insuring DSHA's (a) construction loan or (b) permanent loan, as the case may be, to be second mortgage liens upon the development (ii) providing affirmative coverage for mechanic's liens and removal of bankruptcy conditions acceptable to DSHA and (iii) containing only such other exceptions as shall be acceptable to DSHA.

In the event a title policy in a form acceptable to DSHA is not furnished to DSHA within sixty (60) days following the construction loan closing, DSHA may, in its sole discretion, (i) withhold disbursement of the next draw due to Borrower, and/or (ii) withhold amounts due to the developer and/or the Borrower at the time of the permanent loan closing until such time as a title policy acceptable to DSHA is furnished.

31. Borrower agrees to pay all of the DSHA's legal fees and costs associated with the loans whether or not the loans are closed.
32. Borrower and developer agree that the following documents will be submitted to DSHA's offices in Dover and/or to the office of DSHA's counsel, as appropriate, by January 18, 2010: (1) copy of title binder and copies of all listed restrictions or easements; additionally, any new easements with accompanying legal descriptions must be submitted; (2) land survey; (3) plans/specifications; (4) subdivision plan, if applicable;

(5) site plan; (6) organizational documents of the ownership entity and the general partner or managing member, as appropriate; (7) identification of all members of the development team, i.e. bonding company, insurance company, architect, engineer, surveyor, attorneys, general contractor, management agent, consultant, etc; and (8) Affirmative Marketing Plan, Relocation Plan and all required HUD approvals. Failure to submit all documents by January 18, 2010 will result in a penalty of \$250.00 per day until all documents have been submitted. Penalty payments cannot be paid from any development funds including operating funds, equity or construction proceeds. Documents must be in a "settlement ready" format. Construction closing will not be scheduled until DSHA is satisfied with the completeness and accuracy of submitted documents. DSHA also requires that the draft Partnership Agreement and/or limited liability company agreement be submitted at least 15 working days before construction closing or closing will automatically be postponed. In addition, DSHA will charge a loan closing extension fee of \$250 per day on any and all extensions requested once construction/permanent closing dates are agreed upon. Such fee may not be funded from development funds including operating funds, equity or loan proceeds.

33. *Borrower shall obtain HUD's consent to transfer the development and is required to make application to renew the Section 8 project-based rental subsidy for the longest period available as long as the development is subject to restrictive covenants imposed by DSHA or the LIHTC Program.*
34. *A Transitional Subsidy Reserve in the amount of \$400,000 to be funded no later than permanent closing. Once Development receives a new 20-year renewal, Lender may, at its sole discretion, reduce its permanent financing for the Development.*
35. *All current development reserves and escrow accounts will be transferred at construction closing to the new owners and used to fund required reserves and escrows. Borrower to obtain approval from HUD and/or the Section 8 Contract Administrator, as applicable, for transfer and use of reserves and escrow accounts.*
36. *Current replacement reserve to be transferred with the development and used by borrower to fund a replacement reserve in the minimum amount of \$1,500 per unit (\$82,500). If there is a shortfall in the transferred reserve, such replacement reserve may not be funded from loan proceeds or LIHTC equity, but may be funded from surplus operating funds of the development during construction with the prior consent of HUD, the Section 8 Contract Administrator and DSHA, as applicable.*
37. *Surplus operating funds during the construction period may only be used to fund approved and required reserves or such other costs as approved by HUD, Section 8 Contract Administrator and DSHA.*
38. Borrower must enter into a regulatory agreement acceptable to DSHA and will execute such other documents and make such other disclosures as required by DSHA.
39. No current resident or residents of the development will be permanently displaced on the basis of failing to meet LIHTC income eligibility requirements unless the resident(s)

consents to permanent displacement contingent upon receiving relocation assistance approved by DSHA. After approval of the DSHA loans, should a tax credit equity shortfall be realized due to loss of tax credits for those units that have unanticipated tenants over eligible income for the Tax Credit Program, Borrower must provide for loss of tax credit equity.

40. All tenants shall be relocated and receive assistance as required by the more stringent of DSHA Residential Anti-displacement and Relocation Plan or the Uniform Relocation Assistance and Real Property Acquisition Policies Act and current HUD handbooks. Management Agent shall submit an acceptable Relocation Plan to DSHA prior to construction closing.
41. ***Borrower acknowledges that DSHA is claiming all or a part of the funds constituting the HDF construction and HDF permanent loans as a matching contribution under the HOME Investment Partnerships Program ("HOME Program"), and as such, will comply with the requirements that apply to the development for recognition of matching contributions made to affordable housing not financed in whole or part from funds drawn from the State of Delaware HOME Program.***
42. ***Borrower shall obtain a minimum of three competitive bids for the construction work on the development which are subject to the review and approval of DSHA.***
43. Borrower must meet all terms and conditions expressed in the resolution, loan agreement and other applicable documents required by DSHA.
44. All terms and conditions of the loans between Borrower and DSHA shall be set forth in a fully executed Loan Agreement in standard form between Borrower and DSHA within 120 days of this date or any extension thereof approved by DSHA or the loan approvals shall be null and void.

COUNCIL ON HOUSING

RESOLUTION NO. 388

WEST CENTER VILLAGE ASSOCIATES, L.P.

WEST CENTER VILLAGE

WHEREAS, West Center Village Associates, L.P. ("Borrower") will be a limited profit sponsor of a 55-unit housing development located on scattered parcels of land located in Wilmington, Delaware, for low- and moderate-income families known as West Center Village (the "Development"); and

WHEREAS, Borrower is a housing sponsor and will be approved by the Delaware State Housing Authority ("Lender") as an organization meeting the prescribed requirements for financial responsibility and stability of Lender and intends to make the Development available as housing for persons and families of low and moderate income; and

WHEREAS, Borrower is to be formed as a Limited Partnership for syndication of Low Income Housing Tax Credits ("Tax Credits"); and

WHEREAS, Borrower is expected to receive a 2009 Tax Credit allocation of approximately \$531,106 per year for 10 years; and

WHEREAS, Borrower agrees to provide an equity contribution to the Development of at least 66 cents on the dollar of the final amount of Tax Credits allocated to the Development, which shall represent all monies, net of expenses approved by Lender, received by the Borrower through syndication of the Tax Credits; and

WHEREAS, Lender requires at least \$971,924 or 30% of Borrower's minimum required Tax Credit equity contribution, whichever is greater, to be made available at construction closing; and

WHEREAS, Borrower has applied for: 1) first mortgage construction financing in the amount of \$4,604,567 for 24 months at an approximate interest rate of 6% from Wilmington Trust Company ("Bank"); 2) HOME Investment Partnerships Program ("HOME Program") funds from the City of Wilmington ("City") for construction financing in the amount of \$750,000 at 1% interest for 24 months converting to a deferred fourth permanent loan at 1% interest for 30 years; and permanent first mortgage financing in the amount of \$1,600,000 for 20 years amortized over 30 years at an interest rate of approximately 5.5% from the Delaware Community Investment Corporation ("DCIC"); and

WHEREAS, Borrower has requested Tax Credit Exchange funds from Lender to assist in the financing of the Development in the amount of \$1,274,653 and Lender has agreed to grant this funding request per Section 1602 of the American Recovery and Reinvestment Act (ARRA) of 2009, PL 111-5; and

WHEREAS, Borrower has applied for Lender second mortgage construction financing in the amount of \$2,141,312 at a 3% interest rate for 24 months and Lender second mortgage permanent financing in the amount of \$1,421,400 at 5.5% interest for 20-year term, 30-year amortization and Lender deferred third mortgage permanent financing in the amount of \$1,856,657 at 1% interest for 30 years.

NOW, THEREFORE, the Council on Housing advises approval to the Director of Housing: 1) a construction loan to Borrower in the amount of \$2,141,312 from the Housing Development Fund (HDF) at a 3% interest rate for a period of 24 months structured as a second mortgage with the Bank providing a first mortgage construction loan in the amount of \$4,604,567 for 24 months at an approximate interest rate of 6% and 2) a permanent loan to Borrower structured as a second mortgage in an amount not to exceed \$1,421,400 at 5.5% interest for 20-year term, 30-year amortization and 3) a permanent loan to the Borrower structured as a deferred third mortgage in an amount not to exceed \$1,856,657 from the HDF at a 1% simple interest rate for 30 years. DCIC will provide a first permanent mortgage in the amount of \$1,600,000 at an approximate 5.5% interest rate amortized for 30 years with a 20-year term. The City will provide HOME Program funds for fourth mortgage construction financing in the amount of \$750,000 at 1% interest for 24 months converting to a deferred fourth mortgage permanent loan at 1% interest for 30 years.

Principal and interest can be deferred on Lender's permanent second mortgage subject to funds available for debt service after cash distribution, as required by the limited partnership agreement, of up to an accumulated amount that is the lesser of 1.5% or the maximum allowed by HUD has been paid to investors. The exact amount of Lender's permanent mortgage is to be determined after total amount of cash equity contribution is known. In no case shall the total of the three permanent loans exceed \$5,628,057. The loans shall be subject to terms and conditions fixed by Lender including, but not limited to, the following:

1. Purchase of existing 55-unit development with improvements known as West Center Village located in Wilmington, Delaware.
2. By October 15, 2009, Borrower must secure construction/permanent financing as follows: 1) WTC construction loan in the amount of at least \$4,604,567 at approximately 6% interest for twenty-four (24) months; 2) City of Wilmington HOME construction loan in the amount of \$750,000 at 1% interest for twenty-four (24) months converting to a deferred permanent loan at 1% interest for 30 years; DCIC funds for permanent financing in the amount of at least \$1,600,000 at approximately 5.5% interest amortized over 30 years with a 20-year term.

3. Borrower must comply with ARRA regulations and any amendments thereto by entering into a Tax Credit Exchange Agreement with Lender for ARRA funding in the amount of \$1,274,653.

4. Borrower, prior to construction closing, must receive U.S. Department of Housing and Urban Development ("HUD") and Section 8 Contract Administrator approval of conversion of unit structure for the proposed Development.

5. Borrower meets all Tax Credit requirements as required by Lender in its reservation letter or amendments thereto.

6. Thirty percent of the total required net equity contribution in the amount of \$971,924 received at construction loan closing. Balance of equity to be provided at permanent loan closing and to pay for one-half of development fee.

7. Borrower annual equity distribution cannot exceed the lesser of 1.5% of its net cash contribution or the maximum amount allowed by HUD and shortfalls will be eligible for cumulative carryover. Distribution allowed only if required by the Limited Partnership Agreement. There shall be no equity distribution allowed for any period prior to permanent loan closing.

8. Mortgages will cross default.

9. Approval of all applicable permits necessary to rehabilitate property.

10. Borrower must submit to Lender and Lender must approve the Limited Partnership Agreement prior to execution of loan agreement.

11. Development is to remain low income for 20 years from the date of permanent loan closing or until the HDF loan is paid in full, whichever is longer.

12. For all current units, a minimum of 81% (45 units) of the units in the Development shall be rented to families whose incomes do not exceed 50% of median income; and 19% (10 units) of the units in the Development may be rented to families whose incomes do not exceed 60% of median income; however, all new tenants must be at 50% or less of median income. All units in the Development shall receive Section 8 project-based rental assistance. Should HUD terminate the Section 8 project-based rental assistance for reasons beyond the control of Borrower, Lender may consider alternate rent and occupancy structures in compliance with all applicable laws and regulations to maintain the financial feasibility of the Development.

13. Appraisal which is acceptable to Lender, Bank and DCIC.

14. Borrower agrees that an equity contribution of at least \$.66 on the dollar of the assumed Tax Credit allocation net of expenses approved by Lender will be contributed to the Development.

15. Fifty percent of development fee to be paid from Tax Credit equity contribution in accordance with the Limited Partnership Agreement. The balance of the development fee shall be paid from the construction loans and dispersed 25% at 50% construction completion and 25% at permanent loan closing. However, in no case will more than 50% of the total development fee be dispersed prior to permanent loan closing.

16. Borrower to provide acceptable environmental audit and/or other environmental tests or surveys as required by Lender.

17. Borrower to provide or cause to be provided all social services to the residential tenants as detailed in its LIHTC application and as approved by Lender. The Social Service Plan and proposed payments to related entities must be pre-approved by Lender.

18. Borrower meets all HDF Program requirements as required by Lender.

19. Borrower submits an acceptable Affirmative Marketing Plan to Lender.

20. Satisfactory subsidy layering review must be performed by Lender to insure the amount of Tax Credits committed to the Development are necessary to provide affordable housing.

21. Borrower must enter into a management agreement with a management company acceptable to Lender. The management company and Section 8 Contract Administrator shall approve the proforma of operational income and expenses prior construction closing. The management agent shall submit to Lender the Monthly Report for Establishing Net Income during the term of any Lender loan and/or LIHTC compliance period.

22. Borrower to fund no later than construction closing, an operating reserve as required by Lender in an amount at least equal to the greater of \$175,678 or four months of operational expenses including debt service. Funding of the operating reserve shall be from gross equity.

23. Lien reports, credit reports and financial statements of the general partners (or in the case of a limited liability company, the members), the principals and spouses of the general partners (or spouses of the members) and/or other guarantors, developer, contractors, management entities or affiliates which are satisfactory to Lender.

24. Guarantees of the Borrower, developer, general partners and/or members or such other persons or entities as required by Lender which are satisfactory to Lender.

25. Borrower, general partners, developer and members or their affiliates will advise Lender of all identities of interest in connection with the Development.

26. Lender approval of final plans and specifications.

27. Borrower's selection of management agent, architects, surveyors, engineers and/or contractors is subject to approval by Lender.

28. Lender shall maintain all reserve and/or escrow accounts for the benefit of the Development and deduct 100 basis points off the annual interest earned on the reserve and/or escrow accounts as a service fee for maintaining all reserve and/or escrow accounts in connection with the Development.

29. In the event Borrower requests an extension of the term of the HDF construction loan, Lender may, at its sole discretion, change the interest rate during the term of the extension period to the then current Bank Prime Interest Rate plus one percent (1%).

30. Within sixty (60) days following (i) the construction loan closing and (ii) the permanent loan closing, mortgagee title insurance policies (policy) shall be issued to Lender in form and content acceptable to Lender (i) insuring Lender's (a) construction loan or (b) permanent loan, as the case may be, to be second mortgage liens upon the Development (ii) providing affirmative coverage for mechanic's liens and removal of bankruptcy conditions acceptable to Lender and (iii) containing only such other exceptions as shall be acceptable to Lender.

In the event a title policy in a form acceptable to Lender is not furnished to Lender within sixty (60) days following the construction loan closing, Lender may, in its sole discretion, (i) withhold disbursement of the next draw due to Borrower, and/or (ii) withhold amounts due to the developer and/or the Borrower at the time of the permanent loan closing until such time as a title policy acceptable to Lender is furnished.

31. Borrower agrees to pay all of the Lender's legal fees and costs associated with the loans whether or not the loans are closed.

32. Borrower and developer agree that the following documents will be submitted to Lender's offices in Dover and/or to the office of Lender's counsel, as appropriate, by January 18, 2010: (1) copy of title binder and copies of all listed restrictions or easements; additionally, any new easements with accompanying legal descriptions must be submitted; (2) land survey; (3) plans/specifications; (4) subdivision plan, if applicable; (5) site plan; (6) organizational documents of the ownership entity and the general partner or managing member, as appropriate; (7) identification of all members of the development team, i.e. bonding company, insurance company, architect, engineer, surveyor, attorneys, general contractor, management agent, consultant, etc; and (8) Affirmative Marketing Plan, Relocation Plan and all required HUD approvals. Failure to submit all documents by January 18, 2010 will result in a penalty of \$250.00 per day until all documents have been submitted. Penalty payments cannot be paid from any Development funds including operating funds, equity or construction proceeds. Documents must be in a "settlement ready" format. Construction closing will not be scheduled until Lender is satisfied with the completeness and accuracy of submitted documents. Lender also requires that the draft Partnership Agreement and/or limited liability company agreement be submitted at



least 15 working days before construction closing or closing will automatically be postponed. In addition, Lender will charge a loan closing extension fee of \$250 per day on any and all extensions requested once construction/permanent closing dates are agreed upon. Such fee may not be funded from Development funds including operating funds, equity or loan proceeds.

33. Borrower shall obtain HUD's consent to transfer the Development and is required to make application to renew the Section 8 project-based rental subsidy for the longest period available as long as the Development is subject to restrictive covenants imposed by Lender or the LIHTC Program.

34. A Transitional Subsidy Reserve in the amount of \$400,000 to be funded no later than permanent closing. Once Development receives a new 20-year renewal, Lender may, at its sole discretion, reduce it to permanent financing for the Development.

35. All current Development reserves and escrow accounts will be transferred at construction closing to the new owners and used to fund required reserves and escrows. Borrower to obtain approval from HUD and/or the Section 8 Contract Administrator, as applicable, for transfer and use of reserves and escrow accounts.

36. Current replacement reserve to be transferred with the Development and used by borrower to fund a replacement reserve in the minimum amount of \$1,500 per unit (\$82,500). If there is a shortfall in the transferred reserve, such replacement reserve may not be funded from loan proceeds or LIHTC equity, but may be funded from surplus operating funds of the Development during construction with the prior consent of HUD, the Section 8 Contract Administrator and Lender, as applicable.

37. Surplus operating funds during the construction period may only be used to fund approved and required reserves or such other costs as approved by HUD, the Section 8 Contract Administrator and Lender.

38. Borrower must enter into a regulatory agreement acceptable to Lender and will execute such other documents and make such other disclosures as required by Lender.

39. No current resident or residents of the Development will be permanently displaced on the basis of failing to meet LIHTC income eligibility requirements unless the resident(s) consents to permanent displacement contingent upon receiving relocation assistance approved by Lender. After approval of the Lender loans, should a tax credit equity shortfall be realized due to loss of tax credits for those units that have unanticipated tenants over eligible income for the Tax Credit Program, Borrower must provide for loss of tax credit equity.

40. All tenants shall be relocated and receive assistance as required by the more stringent of "DSHA Residential Anti-displacement and Relocation Plan" or the Uniform Relocation Assistance and Real Property Acquisition Policies Act and current HUD handbooks. Management Agent shall submit an acceptable Relocation Plan to Lender prior to construction closing.

41. Borrower acknowledges that Lender is claiming all or a part of the funds constituting the HDF construction and HDF permanent loans as a matching contribution under the HOME Program, and as such, will comply with the requirements that apply to the Development for recognition of matching contributions made to affordable housing not financed in whole or part with funds drawn from the State of Delaware HOME Program.

42. Borrower shall obtain a minimum of three competitive bids for the construction work on the development which are subject to the review and approval of Lender.

43. Borrower must meet all terms and conditions expressed in the resolution, loan agreement and other applicable documents required by Lender.

44. All terms and conditions of the loans between Borrower and Lender shall be set forth in a fully executed Loan Agreement in standard form between Borrower and Lender within 120 days of this date or any extension thereof approved by Lender or the loan approvals shall be null and void.

clb  
9/8/09