

**MEMORANDUM OF UNDERSTANDING
BETWEEN
KILLEEN PUBLIC FACILITY CORPORATION
AND
CRIMSON BULLDOG DEVELOPMENT, INC.
(AVANTI LEGACY PARKVIEW)**

This Memorandum of Understanding (the “**MOU**”) is between the Killeen Public Facility Corporation, a Texas public facility corporation organized under Chapter 303 of the Texas Local Government Code (“**PFC**”), and Crimson Bulldog Development, Inc., a Texas corporation (“**Developer**”), and is dated effective as of March 19, 2024.

Developer is a developer of affordable housing in the State of Texas. PFC is a public housing facility corporation that, as a part of its mission, provides safe, decent and sanitary housing for low-income persons and manages resources efficiently and effectively. PFC or its affiliate will be the owner of certain real property located in the City of Killeen, Bell County, Texas as more particularly described below. Developer and PFC hereby agree to work cooperatively to develop and operate affordable housing in accordance with the terms of this MOU:

A senior multifamily development in Killeen, Texas to be known as “Avanti Legacy Parkview,” expected to contain approximately 108 residential units (the “**Project**”). The Project is intended to be financed, in part, with low-income housing tax credits (“**Tax Credits**”) under Section 42 of the Internal Revenue Code of 1986, as amended (the “**Code**”). The Project will be located at the 51 N W S Young Drive, Killeen, Texas, 76541. as more particularly described on **Exhibit A** attached hereto and made a part hereof (the “**Land**,” collectively with the Project, the “**Property**”).

In order to accomplish this purpose, the parties agree as follows:

AGREEMENTS:

1. **Ownership Structure.**

1. The Developer has formed Avanti Legacy Parkview, LP, a Texas limited partnership (the “**Partnership**”) for the purpose of owning the fee interest in the Project leasehold interest in the land on which the Project is located. PFC will form a single-member limited liability company to serve as the General Partner (herein so called) of the Partnership after Closing (as defined herein). Under no circumstances will the PFC execute documents on behalf of the Partnership that are effective prior to PFC’s admission to the General Partner. An affiliate of the Developer will own a special limited partner (herein so called) interest (“**Special Limited Partner**”) in the Partnership, and the Special Limited Partner (as hereinafter defined) shall be the special limited partner of the Partnership as set forth in Section B.3 below. In recognition of the guaranties to be provided by the Developer and its affiliates, the Special Limited Partner will be delegated authority to enter into and execute documents on behalf of the Partnership after meaningful consultation with General Partner (provided, however, that if General Partner has not responded within 10 business days after notice by Special Limited Partner, the Special Limited

Partner shall be entitled to proceed based upon such authority) and be delegated primary decision-making authority for matters that could impact the financial obligations of the Developer or its affiliates under any guarantees. Such rights shall be set forth in the Partnership Agreement (as hereinafter defined). In addition, the Special Limited Partner shall have consent rights over major decisions regarding the Partnership and the Project. A low-income housing tax credit investor will have an investor limited partner (“**Investor Limited Partner**”) interest in the Partnership and will have certain consent and approval rights as are customary for such low-income housing tax credit investors. The full duties of the General Partner and the Developer Partner shall be set forth in the Partnership Agreement, including without limitation those terms included on Schedule 2, attached hereto and incorporated herein for all purposes.

The Partnership, General partner, the Special Limited Partner and Investor Limited Partner have been formed or will be formed before Closing (as hereinafter defined).

2. PFC (or its designee) will receive a Right of First Refusal (herein so called) to acquire the Property at the end of the 15th year of the LIHTC compliance period (the “**Compliance Period**”) for the statutory minimum price in accordance with Section 42(i)(7) of the Internal Revenue of 1986, as amended (the “Code”). No consent from any other partners will be required for PFC to either (a) market the Project for sale or (b) subsequently acquire the property at the end of the Compliance Period pursuant to the Right of First Refusal. The Partnership will be structured to minimize or eliminate potential exit taxes at the end of the Compliance Period. For clarity, the statutory minimum price referenced above is intended to include the industry-standard price amounts as follows: (i) the amount of outstanding indebtedness secured by the Project, (ii) the amount of federal, state and local tax liability projected to be imposed on the partners in the Partnership as a result of the sale pursuant to the Right of First Refusal, including federal income tax liability incurred due to the payment of amounts pursuant to this clause (ii), (iii) the amount of any unreimbursed deficiency in tax credits owed to the Investor Limited Partner, and (iv) reimbursable guaranty obligations or other loan amounts owed to the Investor Limited Partner or the Special Limited Partner pursuant to the Partnership Agreement.

3. Long Term Ownership and Project Disposition: In addition to the aforementioned Right of First Refusal, throughout the life of the Partnership, PFC or its designated affiliate shall have the following purchase option (collectively, the “**Purchase Option**”) as follows:

a. throughout the life of each Partnership, PFC shall have an option to acquire the Property (the “**Project Option**”) for a price equal to the greater of (i) 100% of the then fair market value of the Partnership's leasehold interest in the Land and fee simple title in the Project (subject to the then existing rent and other restrictions on the Project), reduced by customary costs of sale, including customary sales commissions, as determined by an appraisal and taking into account (1) the existence of continued income and rent restrictions on the Property, (2) any deferred maintenance and capital need requirements set forth in a physical needs assessment, or (3) the existence of the right of first refusal requirements; or (ii) the sum of (i) all then outstanding amounts under all of the Partnership's, (ii) plus the amount of all federal, state and local taxes which Investor Limited Partner and Special Limited Partner would be obligated to pay arising out

of such sale, (iii) repayment of other amounts owing pursuant to the Partnership Agreement, including loans or advances made by a partner or its affiliate, (iv) the amount necessary to obtain an [12]% internal rate of return for Investor Limited Partner and Special Limited Partner, (v) all costs and expenses incurred in connection with the exercise of the Project Option. In addition, if the Project Option is exercised during the Compliance Period, the purchase price for the Property will be calculated to include a full return of all investment capital, payment of any Tax Credit recapture, penalties, interest, and repayment of all indebtedness, including repayment of reimbursable guaranty obligations to the Special Limited Partner and its Affiliates and any other indebtedness owed to the Investor Limited Partner and the Special Limited Partner or their respective affiliates, payment of Deferred Development Fee (as hereinafter defined), and payment of projected cash flow to the Investor Limited Partner and Special Limited Partner; and

b. upon the expiration of the Compliance Period, an option to acquire the collective interests of the Investor Limited Partner and the Special Limited Partner and any other limited partner interests in each Partnership (the “**Interest Option**”), if applicable, for an amount equal to the greater of (i) 100% of the then fair market value of such interest, determined by an appraisal and based on a going concern basis and taking into account (1) the existence of continued income and rent restrictions on the Property, (2) any deferred maintenance and capital need requirements set forth in a physical needs assessment, (3) the existence of the right of first refusal requirements, (4) the lack of control rights inherent in the limited partner's interest, or (ii) the amount of any income tax which Investor Limited Partner (or other limited partner, if applicable) would be obligated to pay arising out of such sale. The purchase price with respect to the interest of the Special Limited Partner shall also include repayment of all guaranty obligations and other loans advanced by the Special Limited Partner or its affiliates to the extent not already covered by the foregoing calculation.

c. The Purchase Option and the Right of First Refusal are all subject to PFC or its designated affiliate assuming all remaining guarantes in favor of third-party lenders and causing a release of Special Limited Partner and its affiliates from such guarantes (or providing an indemnity to the Special Limited Partner and its affiliates if a release is not permitted).

d. The parties acknowledge that PFC's long-term ownership of the Property is partially in consideration for the Exemption (as hereinafter defined), and they agree to work together to achieve these goals. Notwithstanding any of the foregoing, if the Exemption terminates or is not obtainable as to the Property and/or General Partner is removed as the general partner of the Partnership for an act or omission of General Partner or its affiliate, the Right of First Refusal, the Project Option, the Interest Option, and any other rights of PFC and General Partner with respect to long-term ownership of the Project will terminate, along with PFC's interest in the Ground Lease for the Project. In such event, all of PFC's interest in the Project and the Land will be transferred to a party designated by the Special Limited Partner.

e. In addition, if PFC has not acquired the Project through the exercise of either the Project Option or the Right of First Refusal, the Project Option, the Right of First Refusal, and the Interest Option will all terminate upon the sale of the Project to a third party. PFC shall cooperate, at no expense to PFC, with the Special Limited Partner and the buyer as necessary in order to facilitate the sale to such third party, including but not limited to, executing a release

or termination of the Project Option, the Right of First Refusal, the Interest Option, and the Ground Lease, and executing any conveyance documents related to the transfer of the Land to the third party, at the Partnership's sole cost and expense, including any expenses of PFC counsel.

f. Notwithstanding anything to the contrary set forth herein, Developer shall remain responsible for providing certain development and asset management services relating to the Project and shall earn the fees set forth in Exhibit 4 attached hereto. Upon the end of the Compliance Period, the PFC shall have a put option, subject to any Right of First Refusal set forth herein, to require Developer to acquire (i) the General Partner's interest in the Partnership and (ii) fee title to the Property in exchange for an amount equal to the portion of property taxes abated during the Compliance Period that would have otherwise been payable (such amount to earn simple interest throughout the Compliance Period at a rate of prime at the time of Closing plus 1%), currently expected to be approximately \$600,000 plus interest (the "**Abated Taxes**").

g. Developer shall procure title insurance for the Project, including a fee owner policy on behalf of PFC from a reputable title company authorized to operate in Bell County, Texas.

B. **Financing.**

1. Prior to closing, Developer intends to obtain either debt or equity pre-development financing. Developer shall notify PFC of any such financing within five business days of obtaining any commitment for such financing and at least five business days prior to closing on such financing.

2. The development of the Project will be financed using 9% low-income housing tax credits ("**Tax Credits**"), and/or other sources of affordable housing financing as mutually agreed upon by PFC and the Developer.

3. The Tax Credits will be utilized to obtain equity investment for the construction of the Project. Partnership has received a housing tax credit commitment from TDHCA in program year 2022 for 9% Tax Credits, as supplemented by a force majeure requested granted by TDHCA on June 5, 2023. It is anticipated that an affiliate of RBC Community Investments, LLC, will be admitted as the equity investor (the "**Investor Limited Partner**") with an up to 99.99% limited partner interest in the Partnership pursuant to an Amended and Restated Agreement of Limited Partnership (the "**Partnership Agreement**"). PFC will have the right to meaningfully review and approve the financing arrangements and the terms and conditions of any equity financing documents, which review and approval shall not be unreasonably withheld, conditioned, or delayed.

4. On behalf of the Partnership, Developer will apply for construction and permanent debt financing for the Project, as well as other financing as may be necessary, which may include, without limitation, leveraged funds from private, non-governmental sources (collectively, the "**Loans**"). It is anticipated that Churchill Stateside Group will provide the construction and permanent Loans for the Project. PFC will have the right to meaningfully review and approve the

financing arrangements and the terms and conditions of any debt financing documents, which review and approval shall not be unreasonably withheld, conditioned, or delayed.

5. Subject to the terms and conditions hereof, the parties anticipate that the Partnership will enter into documents for the Loan(s) and the equity financing (including the Partnership Agreement). The execution of such documents and the funding of the Loans and the equity financing is collectively referred to herein as the “**Closing.**”

7. Developer and/or its affiliates shall provide all required guaranties for the Loans and Equity. Developer and its affiliates shall have sole discretion in their consent to the terms of any such guaranties.

8. Developer and PFC (at Developer’s sole cost and expense) will cooperate as reasonably necessary and appropriate with respect to responding to due diligence and underwriting requirements for the Loans and equity financing.

C. **Ground Lease; Ad Valorem Tax Exemption.**

1. Ground Lease. An affiliate of Developer purchased the Land, which shall be conveyed to PFC or its affiliate at Closing. At Closing, fee simple title to the buildings and other improvements constituting the Project that are to be constructed on the Land will be owned by the Partnership and fee simple title to the Land will be owned by PFC, or an affiliate of PFC, and concurrently with the acquisition of the Land such party will, as ground lessor, enter into a 99-year ground lease (the “**Ground Lease**”) with the Partnership, as ground lessee of the Property. Funding for the development of the Property will come from the Loan(s), and the Equity financing, and will be paid to PFC or its affiliate in the form of an up-front Ground Lease payment, the amount of which will be equal to the purchase price of the Land. In addition to the up-front rental payment, which PFC or its affiliate will use to pay the costs to purchase the Land, the Ground Lease will provide for nominal \$100.00 annual rent that will be deferred so long as the Property is used for affordable housing purposes, provided such deferral does not have an adverse impact for federal income tax purposes. Upon termination of the Ground Lease, ownership of the Property will revert to PFC or its affiliate. The terms and provisions of the Ground Lease will be subject to the approval of Developer.

2. Ad Valorem Tax Exemption. The contemplated ownership structure is expected to generate an ad valorem tax exemption for the Project (the “**Exemption**”). Prior to entering into the Ground Lease, PFC, on behalf of the Partnership, will use commercially reasonable efforts to work with the applicable appraisal district to obtain a pre-determination letter confirming the availability of the Exemption; provided, however, that failure to obtain such letter shall not constitute a breach or default of PFC hereunder. The Ground Lease, combined with PFC’s service as the general partner of the Partnership and the Right of First Refusal and a Purchase Option described above are intended to establish PFC’s equitable ownership of the Project in order for the Project to qualify for the Exemption. PFC shall not have any right to terminate the Ground Lease during the 15-year Tax Credit compliance period without the approval of the Investor Limited Partner, the Special Limited Partner, and any third-party Lender(s); provided, however, that PFC shall have the right to enforce certain remedies against Tenant,

including rights to indemnification, reimbursement and enforcement of any use restrictions via specific performance.

D. Design and Construction.

1. Developer and the Partnership will enter into a development agreement for the Project that will cover all aspects of the development of the Project but will follow this MOU as an essential guide.

2. Reserved.

3. PFC shall have the right to review and reasonably approve in writing any construction contract relating to the Project prior to the execution thereof. PFC shall have the right to review, comment upon and approve the form of general contract which shall be provided with a reasonable amount of time to allow for meaningful review by PFC or its advisors.

4. Developer shall be responsible for the development of the Project, including obtaining all governmental approvals and permits needed in order to construct and operate the Project, including without limitation any entitlements and permits required in connection with the Project. PFC shall reasonably cooperate with Developer at Developer's sole cost and expense (unless otherwise reimbursed or paid by Partnership) in obtaining all such approvals as needed and shall respond to any requests for assistance from Developer by no later than five business days of receiving such request.

5. The Project shall be constructed so as to comply with applicable ADA and section 504 requirements, as well as any other federal, state or local requirements applicable to the Property.

E. Management and Operation.

1. Asset Living shall be designated as the initial property manager for the Project and shall remain in such capacity so long as any affiliate of Developer has guarantees related to the Project. Accordingly, Asset Living may only be removed for cause. Following Closing, any change of property manager will require the approval of PFC, General Partner, the Special Limited Partner (unless the Management Company is removed for cause), Project Lender(s) and Investor Limited Partner.

2. Provisions will be negotiated to help the PFC assure that the Project remains a Well-Maintained Tax Credit Project throughout the Term of the Lease, including conducting periodic physical needs assessments by an engineer experienced in such assessments at seven (7) year intervals, and at any point in time when there is a change in occupancy below the 85% level. For avoidance of doubt, the parties agree that maintaining the Project as a Well-Maintained Tax Credit Project means keeping the Project as originally designed and constructed in appropriate condition to compete with other Well-Maintained Tax Credit Projects of the same age as the Project, but does not mean adding amenities, making structural or other changes to the exterior or interior of the Project to make it consistent with newly constructed Projects at a future date. Furthermore, in

order for the Project to be a Well-Maintained Tax Credit Project, the Developer shall complete the items identified as needing repair or replacement in the physical needs assessment; if such items are not repaired or replaced, the Partnership shall be in default under the Lease and shall not make any distributions or other payments to its partners except to pay deferred developer fee.

3. Subject to termination for reasonable cause, Developer shall provide accounting services (including but not limited to: (i) bookkeeping, monitoring reporting requirements and processing construction loan draws and change orders, and (ii) preparation of and/or coordinating preparation of cost certification, carryover, 10% test, tax returns and the Partnership's audit and audited financial statements for filing or certification by the Partnership's outside accountants,) to the Project and (iii) preparing and filing General Partner and Partnership federal income tax returns and franchise tax filings. Partnership shall be responsible for paying any costs incurred by PFC in connection with compliance or filings (including, without limitation, tax returns) related to the Project.

Upon a reasonable request, the General Partner shall have access to all records and financial reports and budgets within a reasonable time after such documents have been prepared. Specifically with respect to financial reports of the Project, such reports shall be provided as reasonably requested by the General Partner and in a manner that PFC prescribes.

F. **Fees and Expenses.**

1. For its development of the Project, Developer shall be entitled to receive a Developer's Fee of 15% of the Project's actual total development cost as calculated pursuant to TDHCA guidelines. The Developer Fee shall be split 5% to PFC and 95% to Developer. At the Closing, the Partnership shall establish the amount of developer's fee that is expected to be paid from debt and equity financing proceeds (the "**Current Portion**") and the amount of the developer's fee that is expected to be deferred and paid out of the Partnership's net cash flow (the "**Deferred Development Fee**").

2. Neither party shall enter into any contractual relationship or agreement relating to the Property that would cause either financial or legal liability to the other, without the other party's prior written consent. The parties acknowledge and agree that Developer has no authority to execute documentation on behalf of PFC.

3. All expenses and costs incurred by PFC and Developer for the Project in reliance upon this MOU (including reasonable legal fees) shall be paid out of the Property budget at the Closing; provided, that if Closing does not occur, Developer shall pay any expenses of the PFC, including without limitation, legal fees of PFC counsel based on actual hours worked to the time it is communicated that Closing will not occur.

4. After payment of any other priority net cash flow payments established in the Partnership Agreement, cash flow or proceeds from sale or refinance of the Project shall be paid to 5% to PFC (or its affiliate) and 95% to Developer. All Operating Deficit Loans or partner loans shall be repaid prior to payment of incentive or management fees.

5. Any amounts of Developer Fee (whether cash or deferred), cash flow or proceeds from sale or refinance of the Project that are due and payable to the PFC or any of its affiliates shall be deposited in an escrow account at an institution chosen by PFC. Such amount shall be applied toward the Abated Taxes and interest thereon payable to the PFC upon its exercise of the put option as set forth in Section 1.3(f), or shall be paid to PFC upon its determination to exercise its Right of First Refusal set forth in Section 1.2.

G. **Community Support.**

PFC and Developer will be responsible for interfacing with the local governmental officials in connection with garnering support for the Project. Developer will consult with PFC and coordinate the response to any media inquiries and/or public opposition to the Project that may arise.

H. **Termination.**

This MOU shall continue until terminated upon the occurrence of one of the following conditions:

- (i) PFC and Developer sign a mutual consent to terminate this MOU, effective as of the date set forth in such consent;
- (ii) Any consent or approval required hereunder is specifically denied, including but not limited to the consent of TDHCA to the documents of the transactions described herein;
- (iii) Either party breaches its obligations under this MOU, the non-breaching party provides the breaching party notice of such fact and a 30-day opportunity to cure, and the breaching party fails to do so;
- (iv) Either party files for bankruptcy protection, makes an assignment for the benefit of creditors, has a receiver appointed as to its assets, or generally becomes insolvent;
- (v) If Developer determines that the transactions contemplated by this MOU are not economically feasible;
- (vi) If Developer determines that that the Project is unlikely to qualify for the Exemption;
- (vii) A party is ineligible to participate in the Tax Credit program pursuant to TDHCA's rules, then the other part may terminate this MOU by providing written notice thereof to the party being found ineligible; or
- (viii) Any legal, administrative or governmental action (including without limitation, a failure of the PFC Board of Directors to approve the

transaction) prohibits a party from consummating the transactions contemplated herein.

Upon termination of this MOU for any of the reasons above, neither party shall have any ongoing obligations to the other with respect to this MOU and the Project, except as set forth in Section F.3.

If not earlier terminated, this MOU shall terminate upon the Closing when PFC and Developer and their affiliates, as applicable, enter into definitive agreements with respect to the governance of the Partnership and the development, construction, financing, and operation of the Project as contemplated herein. The terms in such agreements, once finalized, shall control over any inconsistent or conflicting provisions in the MOU.

In the event this MOU is terminated prior to Closing or the transaction fails to close as contemplated herein, the Developer shall retain the sole right to control of the Land and any future development thereof.

I. Miscellaneous.

1. Developer represents and warrants it is a limited liability company duly organized, validly existing and in good standing under the laws of the state of Texas, and has all requisite limited liability company power and authority to carry on its business. The execution, delivery and performance of this MOU by Developer and the consummation by Developer of the transactions contemplated hereby, have been or will be duly authorized by all requisite action and no further action or approval will be required in order to permit Developer to consummate the transactions contemplated hereby, except the consents contemplated herein. This MOU constitutes the legal, valid and binding obligation of Developer, enforceable in accordance with its terms. The making and performance of this MOU, and the consummation of the transactions contemplated hereby are in accordance with the terms hereof and will not (i) conflict with the organizational and governance documents of Developer, or (ii) result in the violation of any provisions of law applicable to the Developer, the violation of which could have an adverse effect upon the business of Developer, the Partnership, or the Project. Developer has not received any notice to indicate that it is or may be ineligible to apply for any of the proposed financing for the Project.

2. PFC represents and warrants that it is duly organized and validly existing under the laws of the state of Texas, with all requisite power and authority to carry on its business. Subject to approval by the Board of Directors of PFC, the execution, delivery and performance of this MOU by PFC will be duly authorized by all requisite action and no further action or approval will be required in order to permit PFC to consummate the transactions contemplated hereby, except the consents contemplated herein. This MOU constitutes the legal, valid and binding obligation of PFC, enforceable in accordance with its terms. The making and performance of this MOU, and the consummation of the transactions contemplated hereby are in accordance with the terms hereof and will not (i) conflict with its organizational and governance documents, or (ii) result in the violation of any provisions of law applicable to it, the violation of which could have an adverse effect upon the ability of PFC to perform its obligations hereunder. PFC has not received any notice to indicate that it is or may be ineligible to apply for any of the proposed financing for the

Project.

3. THIS MOU SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF TEXAS, EXCLUSIVE OF CONFLICT OF LAWS PRINCIPLES. THE PARTIES HERETO EXPRESSLY CONSENT AND AGREE THAT ANY DISPUTE, CONTROVERSY, LEGAL ACTION OR OTHER PROCEEDING THAT ARISES UNDER, RESULTS FROM, CONCERNS OR RELATES TO THIS MOU MAY BE BROUGHT IN THE FEDERAL AND STATE COURTS IN AND OF THE COUNTY OF BELL, STATE OF TEXAS. THE PARTIES HERETO HEREBY ACKNOWLEDGE THAT SAID COURTS HAVE JURISDICTION OVER ANY SUCH DISPUTE OR CONTROVERSY, AND THAT THEY HEREBY WAIVE ANY OBJECTION TO PERSONAL JURISDICTION OR VENUE IN THESE COURTS OR THAT SUCH COURTS ARE AN INCONVENIENT FORUM. ALL REMEDIES AT LAW, IN EQUITY, BY STATUTE OR OTHERWISE SHALL BE CUMULATIVE AND MAY BE ENFORCED CONCURRENTLY OR FROM TIME TO TIME AND, SUBJECT TO THE EXPRESS TERMS OF THIS AGREEMENT, THE ELECTION OF ANY REMEDY OR REMEDIES SHALL NOT CONSTITUTE A WAIVER OF THE RIGHT TO PURSUE ANY OTHER AVAILABLE REMEDIES.

4. This MOU reflects the entire understanding between the parties and may only be amended in writing, signed by both parties. This MOU shall be binding upon and inure to the benefit of each party hereto and is not merely an "agreement to agree."

5. The parties hereto are each prohibited from assigning any of its interests, benefits or responsibilities hereunder to any third party or related third party, without the prior written consent of the other party. The terms and conditions of this MOU shall inure to the benefit of and be binding upon any permitted successors and assigns. Nothing in this MOU, express or implied, is intended to confer upon any party, other than the parties hereto and their permitted successor and assigns any rights, remedies, obligations or liabilities.

6. In case any one or more of the provisions contained in this MOU for any reason are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision hereof, and this MOU will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

7. (Reserved.)

8. Any subject headings contained in this MOU are for reference purposes only and do not affect in any way the meaning or interpretation hereof.

9. Any terms or conditions of this MOU may be waived in writing at any time by the party which is entitled to the benefits thereof, and this MOU may be modified or amended by a written instrument executed by the parties hereto. No supplement, modification or amendment of this MOU shall be binding unless executed in writing by all of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

10. All notices of communication required or permitted hereunder shall be in writing and shall be effective (a) three (3) business days after deposit when sent by United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested, or (b) the following business day when sent by a nationally recognized overnight delivery service to the addresses set forth below:

PFC:	Killeen Public Facility Corporation c/o City of Killeen 101 N. College Street Killeen, Texas 76541 Attention: City Manager
With a copy to:	Bracewell LLP 300 Convent Street, Suite 2700 San Antonio, Texas 78205 Attn: Summer B. Greathouse
Developer:	Crimson Bulldog Development, Inc. c/o Madhouse Development Services 3933 Steck Ave, Suite B-120 Austin, Texas 78759 Attention: Henry Flores, Sr.
With copies to:	Locke Lord LLP 600 Colorado Street, Suite 2100 Austin, Texas 78701 Attn: Cynthia L. Bast

or at such other address or counsel as any party hereto shall specify in writing from time to time and provide notice of such address change as set forth above for other notices. In the event a notice or communication delivered in accordance with this provision is not accepted by the recipient or is not received because the recipient failed to properly notify of a change of address, the notice shall be deemed delivered hereunder, nonetheless.

11. This MOU may be executed in counterparts and all such counterparts shall constitute one single MOU. An electronic copy of a signature attached to this MOU shall be deemed to be an original signature.

12. In each instance in which PFC or its affiliate has the right to approve or consent to the item set forth in each respective paragraph, such approval or consent shall not be unreasonably withheld, delayed or conditioned, and PFC or its affiliate will have fifteen (15) business days following receipt of notice of the item requiring approval or consent in which to review the matter and to make comments. If PFC or its affiliate fails within such fifteen (15) business days to approve or consent or make comments with respect to the subject matter in which approval or consent is required, then approval or consent shall be deemed given with respect to such matter. **Any matter**

requiring PFC Board approval shall not be subject to the 15-business day approval requirement.

13. The parties agree that to the maximum extent allowed by the law including the rules and regulations governing the funding applications contemplated in this MOU, to keep this MOU and all terms and conditions of the development strictly confidential. Parties acknowledge that the development, design, financing structure and details of this Project have significant value and are to be treated as a confidential and valuable resource of both PFC and Developer. This MOU may be expressly shared with the Investor Limited Partner and/or prospective construction and permanent lender(s) and professionals providing legal, accounting, or similar services to either PFC or Developer provided that the engagement of such professionals is subject to confidentiality requirements. Notwithstanding the foregoing, Developer acknowledges that PFC is subject to the Texas Public Information Act, Texas Government Code Section 552 and PFC may be compelled to disclose all or part of this MOU pursuant thereto.

Any challenges to such disclosure shall be the sole responsibility, and at the sole cost and expense, of the Developer.

14. Neither Developer nor PFC shall enter into any contractual relationship or agreement relating to the Project that would cause either financial or legal liability to the other without the other party's prior written consent.

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EXECUTED to be effective as of the date above shown.

KILLEEN PUBLIC FACILITY CORPORATION,
a Texas public facility corporation

By: _____
Name: _____
Title: _____

CRIMSON BULLDOG DEVELOPMENT, INC.,
a Texas corporation

By: _____
Name: _____
Title: _____

SCHEDULE 1

LIMITED PARTNERSHIP AGREEMENT TERMS

The following is a preliminary summary of provisions that Killeen Public Facility Corporation (“PFC”) will require in any Limited Partnership Agreement (“Limited Partnership Agreement”) creating the Partnership (the “Partnership”) which is to involve a PFC-affiliated entity. The following list is not intended to be exhaustive and is intended to supplement and not limit the terms of the Memorandum of Understanding (“MOU”) entered into relating to the subject project(s) (the “Residential Development”).

Representations

- The General Partner (the “General Partner”) will make representations only as to its own existence and due authorization and execution of Partnership documents or such other items personal to and actually known by the General Partner. To the extent the Organizational Documents require the General Partner to give any representations not actually known by it, Developer Partner shall make such representations to the General Partner in the assignment of memberships interests of the General Partner to the PFC and shall indemnify the General Partner and PFC for any breaches, costs, expenses or losses based upon such representations.
- The General Partner is not performing due diligence on the Residential Development. Therefore, any representations regarding the Residential Development must be provided by the Developer Partner.
- Any General Partner’s representations are only as to its own knowledge. The knowledge of the General Partner may not be qualified by phrases such as “after due inquiry.” The General Partner will make no inquiry.

Covenants

- The General Partner may covenant not to take affirmative actions, but the General Partner cannot covenant not to permit or allow others to take actions. The General Partner cannot covenant to maintain the property tax exemption, but the General Partner may agree to cooperate with the Developer Partner in making any required filings.
- Any covenants relating to the operation of the Partnership, or the construction or operation of the Residential Development should be made by the Developer Partner (including, but not limited to, qualification for tax credits).
- The General Partner will not covenant to maintain adequate capital.

Indemnities and Guaranties

- The General Partner and PFC shall be indemnified by the Partnership and by the Developer Partner for all losses, costs, damages, expenses and liability of any nature (including but not limited to attorneys’ fees, litigation and court costs,

amounts paid in settlement and amounts paid to discharge judgments) directly or indirectly resulting from, arising out of or related to the design, construction, installation, operation, use, occupancy, maintenance or ownership of the Residential Development, other than those caused by its gross negligence or willful misconduct.

- The General Partner's indemnification shall not be conditioned on a court determination.
- The General Partner will not indemnify for actions or inactions of the Developer Partner. Any indemnification by the General Partner will be limited to losses caused directly and exclusively by the General Partner's own gross negligence or willful misconduct, and will be further limited as follows which shall be set forth in the Limited Partnership Agreement:

“Limitation of Liability of the General Partner and the Owner of the General Partner.

The Partners acknowledge and agree that the General Partner has been adequately capitalized to fulfill its obligations under the documents governing the Partnership. The obligations and liabilities of the General Partner under this Agreement are solely the obligations and liabilities of the General Partner and not of the owner of the General Partner, which shall have no liability under this Agreement. The clawback of payments made to the General Partner prior to the time a liability of General Partner accrues shall be prohibited. The liability of General Partner under this Agreement shall be limited to the positive balance of its Capital Account, provided, however, that in all events, the full amount of the insurance policy maintained by Partnership on General Partner's behalf shall apply and be accessible and subrogated as necessary to cover the liability of General Partner, to the extent such liability is covered by the applicable policy.”

- Neither the General Partner nor PFC will provide completion guaranties, environmental guaranties, credit guaranties, or covenant to make up for cash flow short falls.
- The General Partner will not be required to make loans to the Partnership.
- If the Partnership is required to provide a guaranty, the guaranty should either be limited to the assets of the Partnership or should explicitly state that the guaranty is not intended to be recourse to the General Partner.

INSURANCE

- The Developer Partner will be responsible for obtaining any insurance required by the Limited Partnership Agreement or other Partnership documents and will name PFC, General Partner and any contractor as additional insured parties where applicable.
- The Partnership or the Developer Partner shall obtain and maintain a liability insurance policy covering the Development with umbrella coverage covering PFC and the General Partner with a policy limit of \$5,000,000 and the Partnership shall pay the premium for the same each year.

Duties and Obligations for Administration of Partnership

- PFC or its affiliate will only become the sole member of the General Partner at the closing of the transaction, therefore pre-closing items must be addressed by the Developer Partner or another affiliate of the Developer. Under no circumstances will the General Partner execute documents on behalf of the Partnership that are effective prior to PFC's admission to the General Partner. Developer and Developer Partner shall indemnify the General Partner and PFC for any actions taken prior to the admission of the General Partner or PFC into the ownership structure, and such indemnification obligations shall be set forth in the assignment of ownership interest and any major agreement or similar agreement between Developer and PFC.
- The General Partner will approve changes to the Project budget and plans and specifications for the Project except for Minor Field Changes and change orders under \$200,000 per incident and \$600,000 cumulatively; otherwise, the General Partner will make a broad delegation to the Developer Partner with respect to the administration of the Partnership and the operation of the Residential Development which shall include, but not be limited to, the right of the Developer Partner to execute any documents related to construction draws, trust requisitions, and capital contributions.
- The Developer Partner will be responsible for ensuring any requirements for maintaining the ad valorem tax exemption are met other than those requirements related to the qualification of PFC as a public facility corporation under Texas law, which shall be the sole responsibility of PFC. The General Partner will agree to provide reasonable cooperation at the direction of the Developer Partner with respect to the ad valorem tax exemption.
- All reports that are required shall be made by the Developer Partner, and any penalties imposed for late reports shall be imposed only on the Developer Partner.

Limitations on Transfers of Partnership Interests

- The Investor will be prohibited from selling its interest to a Prohibited Actor. "Prohibited Actor" means any party, or their affiliates, who (a) is listed as a prohibited/debarred party by any state finance agency as a result of its interactions with respect to year 15 issues; or (b) the General Partner can provide evidence acceptable to the Investor that the party has attempted to impede, failed to permit, or unreasonably delayed the exercise, pursuant to the terms of the documents as drafted, of the Section 42(i)(7) ROFR in an agreement with a non-profit sponsor/grantee.
- The Developer Partner will have to obtain the consent of the General Partner to sell its interest. The Developer Partner will be prohibited from selling its interest to any entity with whom PFC, the Issuer or General Partner or an Affiliate of any of the foregoing has actively engaged in litigation.

Taxes and Allocations

- Losses in excess of capital accounts are allocated to the Developer Partner rather than the General Partner.
- The Developer Partner will be responsible for the preparation, organization, and filing of the tax return and tax filings including the General Partner's, if any. The General Partner will cooperate with the Developer Partner to the extent its signature is required. Any fees relating to the preparation or filing of the tax return or other tax filings will be the sole responsibility of the Partnership.
- The General Partner will not have a deficit restoration obligation either annually or on liquidation.
- The Developer Partner will be the "Partnership representative" for the purposes of tax audits.
- If the Partnership has an adjustment on audit, the General Partner will pay its allocated share out of future distributions but will not put additional funds into the Partnership.

Removal

- Unless a removal is caused by its own gross negligence or willful misconduct, the General Partner will not be liable for the costs related to removal or replacement.
- Notwithstanding the removal or replacement of the General Partner, (i) any indebtedness resulting from a loan by the General Partner or PFC to the Partnership shall remain outstanding and subject to the terms of the documents evidencing such loans and (ii) the Partnership will remain obligated to repay any loan(s) made to the Partnership by the General Partner or PFC.
- The General Partner will not be liable for events after removal.
- Any indebtedness resulting from a loan by the General Partner or PFC to the Partnership or Project shall remain outstanding and subject to the terms of the documents evidencing such loans, notwithstanding the removal of the General Partner for any reason.

Miscellaneous

- PFC may require the entering of a master agreement between the general partner and the special limited partner relating to the further division of duties and responsibilities.
- Developer Partner is responsible for communicating the terms of the Memorandum of Understanding and this Schedule to any proposed lenders or equity investors for the Project.

The governing law, jurisdiction, and venue will be Bell County, Texas.