TOWN OF MILLINGTON

RESOLUTION 2026-12 OF THE COUNCIL OF THE TOWN OF MILLINGTON APPROVING THE WILLOW AVENUE SIDE AGREEMENT BY AND BETWEEN THE TOWN OF MILLINGTON AND MILLINGTON SENIOR VILLAGE LLC IN CONNECTION WITH THE DEVELOPMENT OF MILLINGTON SENIOR VILLAGE

WHEREAS, the Town of Millington (the "Town") acquired certain real property from the Commissioners of Kent County, Maryland via deed dated the 1st day of November, 2022 recorded among the Land Records of Kent County, Maryland in Liber S.L.S. No. 1289, folio 63 (the "Deed"), which property includes 6.505 acres of land known as parcels 1 and 3 on the Plat entitled "Subdivision of the Lands of the Town of Millington" recorded in the Land Record of Kent County, Maryland at Liber 1289, folio 63 (the "Property"); and

WHEREAS, Millington Senior Village, LLC desires to obtain a seventy-five (75) year ground lease (the "Ground Lease") from the Town for the Property, to develop an apartment complex to be known as "Millington Senior Village" (the "Project"), which Project will consist of nine (9) one-story buildings containing fifty-one (51) age- and income-restricted rental apartment units (the "Units"), which Units shall be occupied by households in which at least one member is 62 years of age or older and whose incomes do not exceed the limits set forth in that certain Low-Income Housing Tax Credit Covenant (the "Regulatory Agreement") to be entered into by and between the Developer and the Community Development Administration, a unit of the Division of Development Finance of the Department of Housing and Community Development, a principal department of the State of Maryland (the "State"); and

WHEREAS, the development of the Property with the Project as identified above shall be conducted in substantial accordance with (i) that certain "Major Site Plan for Millington Senior Village" prepared by Atwell, LLC dated [_____] ("Site Plan"), which Original Site Plan was approved by the Town on April 14, 2025, the Town's Planning Commission on April 15, 2025, and the Kent Soil and Water Conservation District on April 30, 2026, and was attached to the PWUA as an exhibit, and (ii) all applicable federal, State, Kent County, and Town laws and regulations; and

WHEREAS, Developer has agreed to construct a public street to be known as "Willow Avenue" (the "Willow Avenue Improvements") in connection with the construction of the Project, which street is not subject to the Public Works and Utilities Agreement that otherwise governs development of the Property; and

WHEREAS, the Town and Millington Senior Village, LLC have determined that it is in their best interest to enter into an additional side agreement with respect to the Willow Avenue Improvements to expressly assign responsibilities to Developer and to assure compliance with all applicable laws and regulations.

NOW, THEREFORE BE IT RESOLVED by the Council of the Town of Millington that:

1. The Council of the Town of Millington finds that Willow Avenue is required to be built as part of the Project to ensure proper circulation through the Property, to provide appropriate access to emergency vehicles, and to ensure that Pine Street does not result in a cul de sac, which is not permitted in the Town of Millington.
2. The Council of the Town of Millington approves the Willow Avenue Side Agreement attached hereto as Exhibit A and authorizes Mayor Kevin Hemstock to sign such documents on behalf of the Town of Millington.

PASSED BY THE COUNCIL OF THE TOWN OF MILLINGTON THIS 10 DAY OF NOVEMBER, 2026.

ATTEST:

Jo Manning, Town Administrator

SEAL

THE TOWN OF MILLINGTON

Kevin Hemstock, Mayor

John Amado, Jr., Council

Shweta Dutta Sethi, Council

Zita Seals, Council

Wayne Starkey, Council

WILLOW AVENUE SIDE AGREEMENT

THIS WILLOW AVENUE SIDE AGREEMENT ("**Agreement**") is entered into this 10 day of November, 2026 ("**Effective Date**"), by and between The Town of Millington ("**Town**"), a municipal corporation of the State of Maryland, with an address of 402 Cypress Street, Millington, Maryland 21651, and Millington Senior Village LLC ("**Developer**"), a Maryland limited liability company, whose principal place of business is located at c/o Volunteers of America Chesapeake & Carolinas, Inc., 4601 Presidents Drive, Suite 300, Landham, MD 20706. Town and Developer, each a "**Party**" and collectively "**Parties**" hereto.

RECITALS

WHEREAS, the Town is the owner of certain real property commonly known as the Old Millington Elementary School located at 172 Sassafras Street, Millington, Kent County, Maryland (**"Owner's Property"**); and

WHEREAS, Developer desires to obtain a seventy-five (75) year ground lease (the "**Ground Lease**") from the Town for the Land (as defined below), to develop an apartment complex to be known as "Millington Senior Village" (the "**Project**"), which Project will consist of nine (9) one-story buildings containing fifty-one (51) age- and income-restricted rental apartment units (the "**Units**"), which Units shall be occupied by households in which at least one member is 62 years of age or older and whose incomes do not exceed the limits set forth in that certain Low-Income Housing Tax Credit Covenant (the "**Regulatory Agreement**") to be entered into by and between the Developer and the Community Development Administration, a unit of the Division of Development Finance of the Department of Housing and Community Development, a principal department of the State of Maryland (the "**State**"); and

WHEREAS, the portion of Owner's Property on which the Units will be constructed consists of approximately 6.505 acres of land known as Parcel 1 and Parcel 3 (the "**Land**"), as more particularly described in Exhibit A hereto; and

WHEREAS, the development of the Land with the Project as identified above shall be conducted in substantial accordance with (i) that certain "Major Site Plan for Millington Senior Village" prepared by Atwell, LLC (the "**Engineer**") dated August 28, 2024 ("**Site Plan**"), which Original Site Plan was approved by the Town on April 14, 2025, the Town's Planning Commission on April 15, 2025, and the Kent Soil and Water Conservation District on April 30, 2026, and was attached to the PWUA as an exhibit, and (ii) all applicable federal, State, Kent County, and Town laws and regulations; and

WHEREAS, Developer has agreed to construct a public street to be known as "Willow Avenue" (the "**Willow Avenue Improvements**") in connection with the construction of the Project; and

WHEREAS, the Parties have determined that it is in their best interest to enter into an additional side agreement with respect to the Willow Avenue Improvements to expressly assign responsibilities to Developer and to assure compliance with all applicable laws and regulations.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are by this reference incorporated into this Agreement as operative provisions hereof, and for such other good and valuable consideration, the sufficiency of which are hereby acknowledged, the Parties hereto covenant and agree as follows:

1. **Type of Development.**

Developer shall develop the Willow Avenue Improvements as set forth in this Agreement.

2. **Scope of Developer Obligations.**

A. Developer's Obligations.

1. Willow Avenue

i. Developer, at its sole cost and expense, shall construct and complete, to include final surfacing of the Willow Avenue Improvements, which shall be a public street. Developer agrees to advise the Town of the progress of its roadwork and when roadwork will be done on site so that the Town might be able to coordinate any of its roadwork with that of the Developer's roadwork so that the work required of both can be performed at the same time.

ii. The P&P Bonds (as defined in that certain Public Works and Utilities Agreement by and between the Town and the Developer dated on or about the date hereof (the "PWUA")) shall serve as a security with the Town, naming the Town of Millington as obligee, in a sum sufficient to cover the Willow Avenue Improvements and the additional public works described in the PWUA. The Town may demand payment under the security in the event Developer does not comply with the terms and conditions of this Agreement. In such event, the Town may complete all remaining work under the Agreement using the security.

iii. The Town agrees, upon successful completion and inspection of the roads, appurtenances and required drainage facilities, it will accept the Willow Avenue Improvements into the Town road system.

3. **Construction of Willow Avenue Improvements by Developer.**

A. Notwithstanding approval by the Town of any plans for the Project, the Developer agrees that it is solely and entirely responsible for the quality of design, construction, materials, installation, and workmanship of the Willow Avenue Improvements.

B. In accordance with applicable laws and regulations of the State, County and Town, Developer agrees to complete construction of the Willow Avenue Improvements required by the Agreement and documents referred to herein, said construction to be carried out in a workmanlike manner in accordance with the applicable laws and regulations of the State, Kent County, and Town.

C. Developer hereby grants Town (including Town's agents, contractors, officials, and employees) an irrevocable right to enter onto the Land containing the Willow Avenue Improvements during regular business hours and with at least 48 hours' written notice to Developer, except in the case of an emergency as determined by the Town, for the purpose of inspection, grading and construction activities, and for any and all other purposes contemplated by this Agreement.

D. The construction of all public improvements and work performed under this Agreement shall be performed in a workmanlike manner, in accordance with the applicable laws and regulations of the State, Kent County and Town.

4. **Financial Arrangements.**

A. Fees and Charges

Developer agrees to pay by cash, cashier's check or certified check all required fees and charges related to development of the Willow Avenue Improvements, including but not limited to review fees, inspection fees, sewer and water charges, permit fees, in accordance with the policies or regulations in effect at the time the invoice for those charges is issued by the Town to Developer.

B. Engineering Plans, Drawings and Plats

Developer is responsible for the cost of the design, redesign, and preparation of construction drawings, landscape plans, or other drawings or plans, and of easement plats and right-of-way plats related to the Willow Avenue Improvements, which shall be presented to the Town for its review, revision, and final approval. Easement plats, right-of-way plats and related documents related to the Willow Avenue Improvements shall conform to all applicable Town Code provisions, the

Town's road ordinance, and Design and Standards for New Streets and Roads within the Limits of the Town of Millington, Maryland.

C. Performance Security

The Town acknowledges and agrees that (i) the Developer, or the GC on behalf of the Developer, has submitted the P&P Bonds (as defined in the PWUA) to the Town; (ii) the P&P Bonds shall cover the costs of the Willow Avenue Improvements; and (iii) no further bond or surety is required to be provided to the Town to cover the Willow Avenue Improvements.

D. Nothing contained in this Agreement shall be construed in any manner to require Town to undertake, fund, or complete the required improvement for the benefit of Developer or any third party. However, in the event Town proceeds to complete the Willow Avenue Improvements, Developer agrees to reimburse Town for all costs of completion over and above the amount of any available security recovered by Town including without limitation Town administrative costs, attorney fees and pre-judgment interest at the rate of ten (10%) per annum. Developer further hereby authorizes Town to recover its costs by placing a lien on any properties of record owned by Developer.

5. Conveyance of Willow Avenue Improvements via Ground Lease.

Developer and Town acknowledge and agree that the interests in the Willow Avenue Improvements will be conveyed from the Developer to the Town via the Ground Lease and no further documentation or recordings are required to complete this conveyance.

6. Term.

This Agreement shall expire upon completion of the Project or five (5) years from the date of the Agreement, whichever shall first occur.

7. Notice.

All notices except as otherwise provided in this Agreement, shall be in writing and shall be delivered in person or transmitted by United States Postal Service, certified mail, return receipt requested. Notices shall be sent to the Town and Developer at the addresses identified in the opening paragraph of this Agreement. Additionally, for any notice to the Developer, the Town agrees to send a copy of such notice to each of the following addresses:

Klein Hornig LLP
1325 g Street NW, Suite 770
Washington, DC 20005
Attn: Jessica Glynn Worthington

Cinnaire Fund for Housing Limited Partnership 45
c/o Cinnaire 45, LLC, its general partner
1118 South Washington
Lansing, MI 48910

8. **Binding on Successors and Assigns.**

This Agreement shall be binding upon the parties hereto, their successors, personal representatives, and heirs and assigns.

9. **Remedies.**

Developer and Town agree that in the event that any obligation set forth under this Agreement is not fulfilled or completed, the failure to fulfill or complete the obligation shall constitute a default of this Agreement. In the event of a default by the Developer, Town shall provide notice describing the nature of the default to the Developer. The Developer shall cure the default within 30 days from the date of receipt of the notice, unless a longer period of time is otherwise specified by the Town. In the event that the Developer does not cure default, as set forth herein, the Town shall pursue the following actions: not issue an occupancy permit, submit a claim to the surety to complete the installation of the Willow Avenue Improvements or correct any defect; and/or pursue additional remedy under law or equity and by applicable law.

No remedy herein conferred upon or reserved to Town is intended to be exclusive of any other remedies provided for in this Agreement or by law and each and every such remedy shall be cumulative shall be in addition to every other remedy given under this Agreement, or now or hereafter existing law or in equity or by statute. Every right, power, and remedy given to Town may be exercised from time to time as often as may be deemed expedient by Town. If a lawsuit is required to be instituted due to the default of any party, Developer consents to be subject to the jurisdiction of the appropriate court of law located with Kent County, Maryland.

10. **No Assignment.**

This Agreement cannot be assigned to a separate person or entity without the prior written approval of the Town. As a condition of its approval, Town may require the execution of a new public works agreement.

11. Applicable Law.

This Agreement shall be given effect and shall be governed by and constructed in all respects in accordance with the laws of the State. Any action brought to enforce this Agreement shall be brought in the Courts of Maryland located in Kent County.

12. Execution of Agreement.

This Agreement may be executed in any number of counterparts and by different Parties hereto in separate counterparts, each of which, when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.

13. Warranty and Representation of Developer.

A. Developer warrants and represents that the party whose signature appears below is duly authorized to sign this Agreement on its behalf and to bind the Developer thereby.

B. Developer warrants and represents that it is the sole lessee under the Ground Lease of the Land.

14. Entire Agreement

This Agreement contains the entire agreement between the Town and Developer related to the Willow Avenue Improvements and supersedes all prior or contemporaneous communications, representations, understandings or agreements related to the Willow Avenue Improvements.

This Agreement may be modified only by a written amendment executed by the Parties.

15. Waiver.

A Party's failure to exercise or delay in exercising any right, power or privilege under this Agreement shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.

16. Severability:

If any term or provision of this Agreement shall be held invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be enforced to the fullest extent permitted by law.

17. Doing Business in Maryland:

Developer warrants and represents that it has paid or will pay when due all taxes, fees and charges owed by it to any governmental entity. The Developer warrants and represents that it (1) is either (a) incorporated in Maryland or (b) registered or qualified by the Maryland State Department of Assessments and Taxation (SDAT) as required by the Maryland Annotated Code, Corps. & Assocs. Article, to do business in Maryland and (2) are in good standing with SDAT.

AS WITNESS, the hands and seals of the parties to this Agreement on the day and year first written above.

WITNESS:

The Town of Millington, a municipal corporation of the State of Maryland and body politic

By:_____(SEAL)
Kevin Hemstock, Mayor

[Signature pages continue on next page]

DEVELOPER:

MILLINGTON SENIOR VILLAGE LLC,
a Maryland limited liability company

By: MSV MM LLC,
a Maryland limited liability company
its Managing Member

By: Volunteers of America Chesapeake & Carolinas, Inc.
a Maryland nonstock corporation
its Managing Manager

By: _____
Name: Candace F. Vanderwater
Title: President and Chief Executive Officer

WITNESS:

_____

EXHIBIT A

LEGAL DESCRIPTION

BEING KNOWN AND DESIGNATED as Parcels 1 and 3 as shown on subdivision plat entitled, "On the Lands of Town of Millington," dated July, 2023, and recorded among the Land Records of Kent County, Maryland in Plat Book SLK No. 6, page 230.

For Informational Purposes Only:
Tax Account Nos.:
01-338833 (Parcel 1)
01-338834 (Parcel 3)