

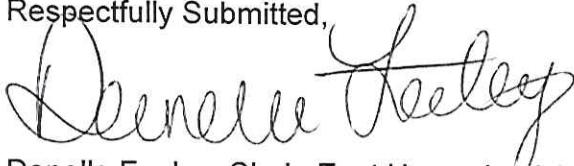
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TOWN CLERK'S OFFICE
EAST HAVEN, CONN.

Stacy Gravano, CT EAST HAVEN TOWN COUNCIL
TOWN CLERK SPECIAL MEETING AGENDA
THURSDAY, SEPTEMBER 29, 2016

The East Haven Town Council will hold a special meeting Thursday, September 29, 2016, at 7:00PM at the East Haven Senior Center, 91 Taylor Avenue, East Haven, CT 06512 in order to transact the following:

1. Roll Call.
2. Presentation regarding the proposed "Development and Property Disposition Agreement" between WinnDevelopment Limited Partnership and the Town of East Haven regarding 200 Tyler Street.
3. Public Comment/Question & Answer Session regarding the proposed "Development and Property Disposition Agreement" between WinnDevelopment Limited Partnership and the Town of East Haven regarding 200 Tyler Street.
4. To consider and act upon a Resolution Approving and Authorizing Mayor Joseph Maturo, Jr. to sign a Development and Property Disposition Agreement between WinnDevelopment Limited Partnership and the Town of East Haven regarding 200 Tyler Street.
5. To consider and act upon a Resolution Waiving the Town Charter's Competitive Bidding Requirements in Connection with the proposed sale of 200 Tyler Street, East Haven, Connecticut.
6. Adjournment of Special Meeting.

Respectfully Submitted,



Danelle Feeley, Clerk, East Haven Legislative Town Council

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Town of East Haven should contact the Mayor's Office at 203-468-3205. Accommodation requests should be made as soon as possible. Requests should be made no later than five (5) business days before the hearing/meeting.

A Resolution Approving and Authorizing Mayor Joseph Maturo, Jr. to sign a Development and Property Disposition Agreement between WinnDevelopment Limited Partnership and the Town of East Haven regarding 200 Tyler Street.

BE IT RESOLVED that the Town Council hereby approves a Development and Property Disposition Agreement between WinnDevelopment Limited Partnership and the Town of East Haven regarding 200 Tyler Street;

BE IT FURTHER RESOLVED that Mayor Joseph Maturo, Jr., or his designee, is authorized to sign the aforementioned agreement and any other documents necessary to give effect to the same;

BE IT FURTHER RESOLVED that the ultimate sale of said property, as dictated by the Town Charter, shall be contingent upon the passage, by the Town Council, of a disposition ordinance approving the sale of the 200 Tyler Street property.

This resolution shall be effective in accordance with the provisions of the East Haven Town Charter.

A Resolution Waiving the Town Charter's Competitive Bidding Requirements in Connection with the proposed sale of 200 Tyler Street, East Haven, Connecticut

WHEREAS, the Town of East Haven is the present owner of real property located at 200 Tyler Street, East Haven, Connecticut and identified by the following map, block, and lot number: "180/2313/001."

AND WHEREAS, by memorandum dated January 20, 2014, the Town's Ad-Hoc "Land Disposition Committee" issued an opinion finding that the highest and best use for the property, given the responses to the aforementioned RFQ/RFP, would be to sell the property to WinnDevelopment Company Limited Partnership or an affiliate (hereafter, "Winn") for development as mixed income, affordable senior rental housing, with the twin goals of preserving the historic nature of the building and renovating, modernizing, and retaining the gymnasium and pool facilities as two separate projects located at the property for use by the Town's residents;

AND WHEREAS, by memorandum dated February 11, 2016, the ad hoc Blue Ribbon Commission issued a recommendation to Mayor Joseph Maturo, Jr. to dispose of and/or redevelop the property as a mixed-use project and identifying a number of development objectives;

AND WHEREAS, on March 22, 2016, the East Haven Planning and Zoning Commission issued a favorable 8-24 Referral to the Town Council for a general "mixed use" disposition plan for the property.

AND WHEREAS, since March, the Town has reviewed existing proposals for the property and identified the WinnDevelopment Company Limited Partnership as the developer most qualified to undertake the envisioned redevelopment and restoration of the property;

AND WHEREAS, Chapter 6, Section 4(C) of the East Haven Town Charter provides that all sales of real property by the Town shall be by competitive bidding;

AND WHEREAS, since the Town has exercised due diligence in marketing said property and has expended significant resources vetting and identifying a qualified developer, selling the property via the competitive bidding process would be financially wasteful and duplicative of the Town's efforts to-date;

AND WHEREAS, the Finance Director recommends that the Council waive the competitive bidding requirement to allow the Town to effectuate said conveyance;

AND WHEREAS, the assessor has reviewed the land and building to be conveyed and is of the opinion that the potential selling price for the property is within the range of estimated values for the property;

AND WHEREAS, the Town Charter's bidding requirements may be waived by two-thirds of the members present and voting;

NOW THEREFORE, be it **RESOLVED** by the Town Council of the Town of East Haven that any competitive bidding requirements associated with the Town's proposed and/or eventual conveyance of certain real property located at 200 Tyler Street, East Haven, Connecticut are hereby waived.

The Law Offices of
Zullo & Jacks, LLC

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Alfred J. Zullo
Joseph H. Zullo

Kenneth M. Jacks
of Counsel

Roseann M. Zullo
Legal Assistant

September 24, 2016

Honorable Legislative Town Council
c/o Chairman Fred Parlato
250 Main Street
East Haven, CT 06512

SENT VIA E-MAIL ONLY

Re: 200 Tyler Street Redevelopment Presentation

Dear Chairman Parlato and Honorable Council Members:

I. Introduction

As many of you know, the Town has spent the past several months collaborating with a chosen developer to finalize plans for the redevelopment of the 200 Tyler Street property. I am pleased to report that the Town is now ready to begin moving forward with those plans, beginning with a Special Town Council Meeting to be held this Thursday, September 29, 2016.

At this meeting (as with prior projects like the old Apizza Grand property), the Town will be seeking approval of:

1. A resolution approving and authorizing Mayor Maturo to execute a "Development and Property Disposition Agreement," which marks the first step in the Town Council's review of the proposed development plan for this property;
2. A resolution waiving the Town Charter's competitive bidding requirements with respect to the proposed sale of the 200 Tyler Street property.

Before I explain the nature of the presentation which will take place Thursday, I want to emphasize that your approval of the attached resolution will not constitute approval to sell the property. Subsequent to this meeting, the Town will be required to hold at least one public hearing and come back before the Town Council for approval of a final disposition ordinance approving the sale of the property.

Rather, the attached agreement will simply grant the proposed developer a limited degree of site control that will allow it to make a grant application to the State of Connecticut for "Connecticut Housing and Financing Authority" (CHFA) tax credits to help offset the cost of performing the proposed historical rehabilitation of the property. The application period for these credits is open only once per year and the deadline to apply this year is November 9, 2016.

In addition, the attached agreement will serve as the springboard for a 180-day "due diligence" period in which the proposed Developer will perform inspection and environmental testing, secure financing, obtain local zoning approval, and perform other due diligence. In that same due diligence period, the Town will work with the Developer to draft and finalize a multitude of documents including a Property Subdivision Agreement, a Pool and Gym Revitalization Plan/Budget, and an Age-Restriction Agreement.

As you might imagine, all of this leg work will take significant time. The attached agreement lays out the rules and terms that the Town and the Developer are agreeing to abide by while we continuing working to finalize a plan for the 200 Tyler Street property.

II. The 9/29/2016 Presentation

This Thursday, representatives from "WinnDevelopment Company" will make a presentation to your board and to the public about their company, their past projects across the country, and their vision for the 200 Tyler Street property. Enclosed please find a PowerPoint presentation which provides the highlights of the company's presentation.

Following Winn's presentation, both Sal Brancati and I will walk you through the proposed " Development and Property Disposition Agreement" and discuss the timeline for development that both the Town and Winn envision. Finally, both representatives from Winn along with Mr. Brancati and I will address other key topics including the development timetable, financing plans for the proposed development, and the Town's efforts to minimize disruptions to Town groups and residents arising from the proposed development.

Given the immense public interest in this project, it is the Town's request that the Town Council afford members of the public in attendance at this meeting the opportunity to comment on the presentations made and pose questions to both Winn and to Town staff. If acceptable, the Town would request a specific agenda item entitled "Public Comment/Question & Answer Session" to be included on the special meeting agenda so that members of the public understand that both comments and questions will be encouraged and permitted.

III. Attachments

Attached to this letter, please find the following documents for your review in advance of this Thursday's meeting:

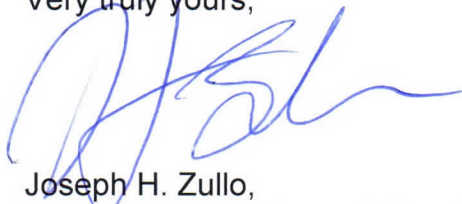
1. Special Meeting Agenda for the 9/29/2016 meeting;
2. Proposed Resolution Approving and Authorizing Mayor Joseph Maturo, Jr. to sign a Development and Property Disposition Agreement regarding 200 Tyler Street;
3. Proposed Resolution Waiving the Town Charter's Competitive Bidding Requirements in Connection with the proposed sale of 200 Tyler Street, East Haven, Connecticut.
4. WinnDevelopment Powerpoint Presentation;
5. Estimated Budget and Financing Overview for the Proposed Redevelopment;
6. Proposed Development and Property Disposition Agreement.

Please note that these documents are being provided to you over the weekend and in advance of the 9/29/2016 meeting in order to give you ample time to review them. However, given that the meeting is still six days away, the attached documents are still subject to change slightly I would advise holding off on printing any of them until you receive either final documents or notification from the Council Clerk that you are safe to print what is attached hereto.

IV. Conclusion

Approval of the enclosed agreement is a vital and time-sensitive first step in kicking off the development of the 200 Tyler Street property. As a result, if you have any questions regarding this letter or any of the attached documents in advance of this Thursday's meeting, please do not hesitate to contact me.

Very truly yours,



Joseph H. Zullo,
Town Attorney - Town of East Haven,

*on behalf of Sal Brancati,
Director of Administration and Management*

**DEVELOPMENT AND PROPERTY DISPOSITION AGREEMENT FOR 200 TYLER
STREET, EAST HAVEN, CONNECTICUT**

WINNDEVELOPMENT COMPANY LIMITED PARTNERSHIP (the “**Developer**” or “**Buyer**”) and the TOWN OF EAST HAVEN (the “**Town**” or “**Seller**”), hereby enter into this Development and Property Disposition Agreement (this “**Agreement**” or “**DPDA**”) to memorialize certain business terms, conditions and agreements regarding the final disposition, future redevelopment, and historic preservation of 200 Tyler Street in East Haven, Connecticut (the “**Property**”) more particularly known by Map/Block/Lot Number 180/2313/0001. Such redevelopment and historic preservation of the Property, all as more particularly described in this Agreement is referred to as the “**Redevelopment**.” The Developer and the Town are also referred to herein singularly as each “**Party**” or collectively, as the “**Parties**.”

1. Developer Designation

- a. The Town of East Haven and Buyer are engaged in carrying out the terms and provisions of the Memorandum of Understanding (the “MOU”) between the Town of East Haven and WinnDevelopment Company Limited Partnership, executed by the Town on June 14, 2016. The MOU provided guidance, as derived from the Town’s Ad-Hoc “Land Disposition Committee” and the Town’s Blue Ribbon Commission to facilitate the disposition and development of the Property; with the goals of preserving the historic nature of the building; creating mixed income affordable senior rental housing; and renovating, modernizing, and retaining the existing gymnasium (the “**Gym**”) and pool (the “**Pool**”) facilities for use by Town residents. The MOU further guides for the designation of an exclusive Developer and outlines the terms for the Disposition of the Property.

- b. The Town hereby exclusively designates WinnDevelopment Company Limited Partnership as the Developer for the Property for the term of this Agreement. The Parties understand that the Redevelopment contemplated in this Agreement, subject to the availability of financing and required government approvals, will be owned by a single purpose entity formed in Connecticut (the “Winn CT Entity”), either a limited partnership or a limited liability company, in which an affiliate of the Developer shall serve as the managing general partner or managing member and an affordable housing tax credit investor(s) will be the limited partner(s) or non-managing member(s). In addition, the Town understands that Developer intends to assign its rights as Buyer under this Agreement to the Winn CT Entity and that Developer further intends that WinnResidential Connecticut LLC will serve as Management Agent and WCredit LLC, a Delaware limited liability company, will act as the guarantor of the obligations which the Developer and/or the Winn CT Entity, as its assignee upon completion of the assignment described herein, is required to provide under Section 15 of this Agreement. Upon the assignment by Developer to the Winn

CT Entity as contemplated herein, Developer shall be released from its obligations under this Agreement. The Town reserves the right to review the documentation creating the Winn CT Entity, as well as the assignment of Developer's obligations under this Agreement, to confirm consistency of the documentation with this Agreement.

2. Agreement to Sell and Purchase

- a. The Town currently owns the Property with building and improvements thereon located 200 Tyler Street in East Haven, Connecticut more particularly known by Map/Block/Lot Number 180/2313/0001. The Property is more particularly described in the recorded Deed, a copy of which is attached hereto and incorporated herein as Exhibit A. At the Closing (as defined below), it is the intention of the Parties that the Town shall convey the Property, excluding the Pool and Gym facilities, and all fixtures, equipment and tangible and intangible personal property currently located thereon or used in connection with the land, building or improvements, together with all site plans, surveys, soil and substrata studies, architectural drawings, engineering, structural or physical inspection reports, feasibility studies and other plans and reports of any kind in the Town's possession or control relating to the Property excluding the Pool and Gym facilities, leasehold rights, leasehold improvement and accessions, if any (all of the foregoing is referred to collectively herein as the "**Premises**") The Premises shall be explicitly defined by a mutually agreeable survey and site plan, conducted by the Developer.
- b. The Town has determined that the Buyer possesses significant qualifications and financial resources to acquire the Premises and redevelop the Property in accordance with the intentions of the Request for Qualifications/Proposals dated November 21, 2014; the MOU executed by the Town on June 14, 2016; and the Town of East Haven Plan of Conservation and Development.
- c. Expressly conditioned upon the other terms and conditions of this Agreement and upon approval of a disposition ordinance by the Legislative Town Council, the Town hereby agrees to sell and to convey to Buyer at Closing (as defined below), and Buyer agrees to purchase and take from the Town, the Premises. To the extent any terms of this Agreement and the offer or any other prior communications between the parties are inconsistent or conflict, the terms of this Agreement shall govern the enforceability of such provisions unless otherwise specifically stated herein.

3. Purchase Price, Deposit and Mode of Payment

- a. The Purchase Price for the Premises ("**Purchase Price**") shall be determined based on a third party appraisal, which shall be ordered by the Town at the Town's expense within twenty-eight (28) days of the signing of this Agreement by both Parties. A draft of the appraisal will be submitted to the Developer to review the assumptions and valuation methodology prior to the appraisal being finalized. The Town and Buyer agree that should the final appraisal evidence a value of the Premises of less than \$1,250,000.00, the Parties shall meet and discuss in good

faith alternative options. In the event the Parties cannot agree on alternative options within thirty (30) days following receipt of the appraisal, either Party shall have the option to terminate this Agreement. Upon such termination, the Deposit referenced in subparagraph (b) herein shall be returned to the Buyer.

- b. Upon execution of this Agreement, Buyer will deposit Ten Thousand Dollars (\$10,000) (the "Initial Deposit"), in an interest-bearing escrow account, to be administered by Buyer's counsel, Murtha Cullina LLP (the "Escrow Agent"). The Initial Deposit plus, if paid, the Extension of Closing Deposit (as defined herein and, collectively with the Initial Deposit, the "Deposit") shall be non-refundable, subject to Buyer's right to the return of the Deposit as provided in this Agreement. If Closing occurs, the Deposit shall be returned to Buyer at Closing together with any interest accrued on the Deposit. If Closing does not occur and this Agreement terminates, the Deposit shall be delivered to the Town unless the Closing has not occurred as a result of any default by the Town under this Agreement or the failure of the Town or of any board or commission of the Town to give its approval as and when required as described in this Agreement for the Redevelopment, in which case the Deposit shall be returned to Buyer together with any interest accrued on the Deposit.

4. Term of Agreement

- a. This Agreement commences as of the date this Agreement has been executed by both Parties and shall continue for thirty (30) months from said date, it being the intent of the parties to allow the Buyer enough time to submit applications for three (3) CHFA 9% tax credit award rounds and to allow for the closing on such tax credit awards, unless sooner terminated pursuant to this Agreement. In the event Buyer does not obtain funding for the Redevelopment acceptable to Buyer during the time period permitted under this Agreement, the Parties agree to meet and discuss in good faith the terms under which Buyer shall be entitled to further extend the term of Agreement and submit an application to CHFA. The Parties agree that the documents executed at Closing shall thereafter govern the relationship of the Parties (and/or, as applicable, the relationship between the Town and the applicable Owner Entity, as such term is defined below) and this Agreement will no longer apply. The Parties acknowledge that if any subject matter of this Agreement relates to activities that are intended to survive the term hereof, the Parties acknowledge and agree to effectuate such matters in the documents executed at Closing. If after any extensions of this Agreement, Buyer has exercised good faith efforts and been unable to obtain funding for the Redevelopment acceptable to Buyer or if Buyer reasonably determines that such funding is not likely to be forthcoming during any such extension, Buyer may terminate this Agreement upon notice to Town in which case Buyer shall be entitled to the return of the Deposit.

5. Nature of Agreement

- a. This Agreement sets the principal terms that have been agreed to by the Parties concerning the Redevelopment. The Parties are executing this Agreement to

establish the principal terms of the transaction in order to enable the Parties to proceed with an understanding of their obligations and agreements with regard to the Redevelopment, and to set the foundation of negotiations between the Parties for any additional matters regarding the Redevelopment.

6. Redevelopment Conditions, Definition of Scope of Redevelopment, and Time for Commencement of Redevelopment

a. Renovation of Pool/Gym Facilities, Ownership by the Town

The parties agree that the Gym and Pool facilities shall be renovated and modernized pursuant to terms to be negotiated by the parties (detailed below). The Parties agree to work together to develop a thoughtful rehabilitation plan to address the agreed upon rehabilitation work and outline a process and scope of work for the Pool and Gym areas, as well as the specific details concerning the timeline of work. The Parties acknowledge and agree their intention is that Buyer and Town shall contract to obtain the Developer's services to complete the improvements to the Gym and Pool facilities. However, this is not a requirement and the work may be completed by Town or a third-party contractor if Seller so desires. Once such renovation and modernization is complete, those facilities will be owned and operated exclusively by the Town in a manner consistent with their present use. The cost of the improvements to the Gym and Pool facilities will be borne by the Town, it being the intent of the parties to utilize the funds from the purchase price for the Premises to finance the renovation of the pool and gym facilities. The Parties further acknowledge and agree that in order for the Gym and Pool facilities to be owned by the Town and the remainder of the Property to be owned by Buyer, the Parties will need to subdivide the Gym and Pool facilities from the remainder of the Property and to apportion parking areas on the Property between the two subdivided parcels all in a manner and on terms acceptable to the Parties (the "Subdivision"). The Parties agree to negotiate and cooperate in good faith with respect to completing the Subdivision prior to Closing and negotiating any licenses and easements necessary or appropriate to effectively redevelop, own, manage and operate the Gym and Pool facilities on one hand and the Premises on the other. Further, the Parties shall negotiate in good faith and document prior to the Inspection Contingency Expiration Date the Use Restriction (as defined below).

b. Necessary Approvals by Town Boards and Commissions

The Parties understand that, at a minimum, the following shall be necessary for a successful funding application and/or the Closing and agree to work in good faith, as applicable, prior to November 9, 2016, which is the next application deadline for funding from Connecticut Housing Finance Authority ("**CHFA**"), to obtain/accomplish the same:

- i. Passage of a resolution by the Legislative Town Council approving this DPDA, said resolution to be the subject of a public hearing or an equivalent public comment session;
- ii. Grant of authority, in connection with the resolution approving the DPDA, to the Mayor to execute the DPDA between the Parties by the Legislative Town Council;

- iii. Issuance of a Bid Waiver by the Town Council with respect to the prospective sale and the DPDA for the disposition of the Property;
 - iv. Passage of a disposition ordinance by the Town Council authorizing the sale of the property and granting authority to the Mayor to execute any and all documents necessary to effectuate the sale of the property to the Buyer.
 - v. Special exception, variance, or other zoning approval of any eventual mixed-use plan from the Planning and Zoning Commission and/or Zoning Board of Appeals;
 - vi. Agreement between the Parties, at least in principal, regarding a form of tax deferral consistent with existing town tax incentive programs, evidencing local financial support and contribution to the Redevelopment as required for successful financing.
- c. The Parties understand that additional meetings may be required in addition to those stated herein and that, should any necessary approval not be issued by a board or commission of the Town as and when required, either Party shall have the option to terminate this DPDA upon written notice to the other Party by registered mail.

The Parties further contemplate and agree that the Town will exercise best efforts to support Buyer's application to CHFA, DOH, and other State and Federal housing agencies in its efforts to obtain tax credits or other incentives (state and/or local) aimed at promoting the development, preservation, and renovation of the facilities at the Property, including without limitation adopting a Local Revitalization Plan (as defined by DOH) that includes the Property.

- d. The Parties further contemplate and agree that, if the Town contracts for the Developer's services to complete the improvements to the Gym and Pool facilities, Buyer shall be responsible for all development services at the Property, including but not limited to, design, financing (including guarantees), hiring of development team members, construction, occupancy, and management of the age-restricted rental housing facility on the Premises after completion of the Redevelopment.
- e. Definition of Scope of Redevelopment
- i. The term "Redevelopment" as used throughout this agreement shall mean the historically sensitive renovation, construction, re-construction, and restoration of the Property (except with respect to the Gym and Pool facilities which will be rehabilitated for use by the Town) for use as age-restricted housing. The Redevelopment shall be designed and constructed to finally contain a minimum of sixty (60) units of such housing on the Premises. The Redevelopment shall be designed and constructed to preserve and restore, to the fullest extent possible, the façade and all other historical elements of the Property, except the Parties acknowledge that the

proposed Redevelopment involves the demolition of the east wing of the Premises.

- ii. The Buyer agrees that no part of the Redevelopment shall be constructed on, over, or within the boundary lines of any easement for public utilities as of record may appear, unless such construction is provided for in such easement or has been approved by the Town, such approval not to be unreasonably withheld.
 - iii. The parties acknowledge that certain modifications to the Redevelopment may be necessary from time to time to increase the feasibility or economic viability of the Premises. If either Party believes any such modifications are necessary or desirable, the Parties will meet to discuss in good faith such potential modifications.
- f. Time for Commencement/Completion of Redevelopment
- i. The undertaking and construction of the improvements constituting the Redevelopment shall commence no later than six (6) months from the date of Closing and shall be completed within twenty-four (24) months thereafter in accordance with the Preliminary Redevelopment Schedule attached hereto as Exhibit C. Buyer shall have the right to request consent from the Seller for extensions of the deadlines contained in this subsection, such consent not to be unreasonably withheld.
 - ii. Subsequent to the conveyance of the Premises and until completion of the Redevelopment, as evidenced by the issuance of a certificate of occupancy by the Town, the Buyer shall make reports in such detail and at such time intervals as may reasonably be requested by the Town as to the actual progress of the construction of the Redevelopment.
- g. Revesting of Title in Town Upon Happening of Event Subsequent to Conveyance to Buyer
- i. Title shall revert in the Town in the event that subsequent to the conveyance of the Premises or prior to completion of the Redevelopment as certified by the Town in the event the Buyer fails to commence construction of the
 - ii. Upon the reverting in the Town of title to the Premises pursuant to this subsection, the Town shall have all right to resell the Property or any part thereof as soon as and in such manner as the Town shall find feasible.

Redevelopme

7. Buyer's Due Diligence

a. License to Enter

Upon the execution of this Agreement and proof of insurance by Buyer reasonably acceptable to the Town, the Town shall grant the Buyer a License to Enter the Property (the "License to Enter"), which License shall entitle the Buyer and its agents, architects, engineers, surveyors and market analysts as well as prospective lenders and investors to enter upon the Property from time to time at Buyer's discretion until Closing for the purposes of conducting the due diligence described herein and preparing for the potential redevelopment of the Property.

Such due diligence shall include, but not be limited to, such studies, analyses,

searches and surveys that may include, but need not be limited to, environmental phase studies, wetlands delineations, traffic studies, market studies, geotechnical studies, utility availability surveys, water studies, structural, interior and other studies and engineering analyses that Buyer shall determine to be necessary or prudent. Buyer shall have the right to disturb the soil and drill borings thereon. Buyer shall indemnify and hold Seller harmless of, from and against any claims, liens, liabilities or lawsuits, including reasonable attorneys' fees, to the extent directly caused by inspection activities engaged in by the Buyer, Buyer's agents, and/or Buyer's subcontractors and further, in the event the Property is materially disturbed or damaged in any way as a result of inspection activities engaged in by Buyer, Buyer's agents, and/or Buyer's subcontractors and the Closing does not occur for any reason, Buyer shall at its cost immediately restore the condition of the Property as near as reasonably possible to that existing prior to entry by Buyer, which obligation shall survive the termination of this Agreement.

Upon the execution of this Agreement, Seller will make available any/all due diligence materials, including studies, reports, surveys, etc. and copies of any leases currently affecting the Property.

b. **Feasibility Period**

Buyer, in Buyer's sole discretion, shall have until the one hundred eightieth (180th) day following the Effective Date to terminate this Agreement as a result of Buyer's inspection by delivering written notice of termination to Seller. Said one hundred eightieth (180th) day shall be referred to herein as the "Inspection Contingency Expiration Date". In the event Buyer delivers a written notice of termination with respect to this Agreement on or before the third business day following the Inspection Contingency Expiration Date, Buyer shall be entitled to the return of the Deposit plus any accrued interest and this Agreement shall have no further force or effect, and the parties shall have no further rights or obligations hereunder (except for Buyer's indemnification and restoration obligations described in Section 7.1a, which shall survive the termination of this Agreement). In addition, in the event Buyer delivers a written notice of termination, Seller shall be entitled to receive copies of all written third-party reports of all development studies and surveys of the Premises completed by the Buyer at no cost to the Seller.

8. Financing Contingency

- a. Buyer shall submit to Seller, at the time of signing on this agreement, a Financing Plan and Preliminary Redevelopment Budget (incorporated herein as Exhibit B) outlining with particularity the budget and estimated costs of the proposed Redevelopment as of the date of signing of this Agreement and identifying with particularity the types, terms, and amounts of all funding and/or financing to be utilized in completing the Redevelopment. Buyer's obligations under this Agreement shall be contingent upon Buyer's ability to obtain financing and necessary approvals from the respective agencies and sources and on the terms as specified in the Financing Plan. In the event Buyer does not obtain funding for the Redevelopment in accordance with the Financing Plan during the time periods

permitted under this Agreement or in the event alternate, previously unanticipated funding sources become available, the Parties agree to meet and discuss in good faith the terms under which Buyer shall be entitled to further extend the term of Agreement to take advantage of said funding sources or obtain alternate funding.

- b. Seller hereby authorizes Buyer to pursue any and all means of financing for the Premises, including, without limitation, public and/or private funding mechanisms, 4% or 9% tax credits, historic tax credits and/or tax-exempt bond financing in the name of the Town and Town funding support. Buyer shall be entitled to use this Agreement as evidence of site control in any application for financing. Seller agrees to reasonably cooperate with Buyer in connection with Buyer's pursuit of financing including without limitation signing applications and other documents reasonably necessary or appropriate in connection such pursuit of financing.
- c. The Parties agree that they will explore all viable funding options for the Redevelopment. The Developer shall use reasonable efforts to secure all other financing necessary to complete the Redevelopment and assure its long term viability. The Developer shall bear all related costs of obtaining such financing. The Developer will make every reasonable effort to complete and submit a winning tax credit application (the "**Application**") to CHFA for the Development. The Town will work with the Developer to secure necessary documentation for submission of the Application to CHFA. Should any of the financing become unavailable, it is Developer's responsibility to use reasonable efforts to obtain equivalent funds from other sources in a timely manner and to prevent any delay in the schedule or increase in cost to the Town. The Town shall assist the Developer in securing additional funds committed to the Redevelopment and will cooperate with and assist the Developer in its efforts to obtain or replace funding commitments; however, obtaining such financing shall be the Developer's obligation.

9. Representations, Warranties and Certain Covenants of Seller and Buyer

- a. Seller makes no warranty or representation whatsoever as to its title or the condition of the Premises, except as provided below. Buyer shall accept the Premises on a strictly "**as-is**" basis. Prior to the Inspection Contingency Expiration Date, Buyer shall provide a list of all historical elements, fixtures, furniture and equipment which must remain at the Premises per Historic Tax Credit standards and regulations ("Historic FFE"). Seller shall take reasonable measures to not remove, alter or repair or allow the removal, alteration or repair of any items of Historic FFE which could negatively impact Buyer's ability to receive Historic Tax Credits. The Premises (including improvements, appliances, equipment and fixtures, and all operating systems thereon) is being sold in its "as is" condition as of the date hereof, reasonable wear and tear accepted. At Closing the Premises will be delivered by Seller vacant and free of all leases and occupants.
- b. Each of the parties to this Agreement represents and warrants to the other party that it has full power and authority to make, execute and deliver this Agreement and to perform its obligations hereunder. At the time of execution of this

Agreement Buyer shall provide certificates of legal existence and good standing evidencing the authority of Buyer to transact business in Connecticut confirming the authority of Buyer to enter into and carry out the obligations of this Agreement.

- c. Each of the parties to this Agreement represents and warrants to the other party that any and all actions necessary to authorize the undersigned to execute and deliver this Agreement have been completed and that this Agreement is enforceable against each party in accordance with the terms hereof. Each of the parties to this Agreement further represents and warrants to the other party that the execution and delivery of this Agreement, the consummation of the transactions provided for herein and the fulfillment of the terms hereof will not result in a breach of any of the terms or provisions of, or constitute a default under, any agreement of such party or any instrument to which such party is a party or by which such party or, as to Seller only, the Premises is bound, or any judgment, decree or order of any court or governmental body, or any applicable law, rule or regulation.
- d. Seller represents and warrants to Buyer as follows:
 - i. To its knowledge, there is no pending or threatened condemnation, eminent domain, or similar proceeding affecting all or any portion of the Property.
 - ii. To its knowledge, there are no management, service, equipment, supply, maintenance or other contracts with respect to or affecting all or any portion of the Property.
 - iii. To its knowledge, all licenses, permits, authorizations, consents and approvals required by all governmental or quasi-governmental authorities having jurisdiction, if any, have been issued for the buildings, structures, and other improvements which are a part of the Property, have been paid for in full, and are in full force and effect.
 - iv. To its knowledge, no portion of the Property is subject to or is affected by any special assessment or special taxing district that is not disclosed on the real estate tax bills and, to each of their knowledge, no such assessment has been proposed.
 - v. To its knowledge, no default or breach exists under any of the covenants, conditions, restrictions, rights-of-way or easements, if any, affecting the Property which are to be performed or complied with by the owner of the Property.
 - vi. To its knowledge, as of the date hereof there is no action, suit or proceeding pending or, to the knowledge of either of them, threatened against Seller or the Property relating to or arising out of the ownership, management or operation of the Property, in any court or before or by any federal, state, county or municipal department, or other governmental instrumentality.

- vii. To its knowledge, except as specifically identified on Exhibit D, no
- Hazardous Materials (hereinafter defined) exist on or have been placed on the Property or have been released into the environment, or discharged, placed or disposed of at, on or under the Property (except minor quantities of substances used by the Seller in the ordinary course of the operation of the Property and in compliance with applicable laws);
 - no storage tanks have been placed on the Property;
 - the Property has not been used as a dump for waste material; and
 - the Property complies with applicable federal, state or local governmental laws, regulations, ordinances, codes, statutes or requirements relating to the emission, discharge, release, or threatened release of Hazardous Material into the environment, and to environmental and occupational health and safety matters and Hazardous Materials.
- e. The term “Hazardous Materials” shall mean and include the following, including mixtures thereof; any hazardous substance, pollutant, contaminant, waste, by-product or constituent; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel; pesticides; asbestos and asbestos-containing materials, PCBs; source material, special nuclear material, by-product material and any other radioactive materials or radioactive wastes, however produced; and chemicals regulated under federal, state or local law, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et. Seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 et. seq.; regulated under the Toxic Substances Control Act, 15 U.S.C. Section 2601 et. seq.; the Atomic Energy Act or the Nuclear Waste Policy Act of 1982; the OSHA Hazard Communication Standard, 29 C.F.R. 1910.1200 et. seq.; and industrial process and pollution control wastes, whether or not hazardous within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.
- f. No person or entity has an option, right of first refusal or other similar right to acquire any interest in all or any portion of the Property. Upon execution of this Agreement, the Town shall cease discussions with all other prospective developers and purchasers, and will not solicit or accept any offers, whether or not binding regarding the Property until and unless this Agreement is terminated.
- g. Seller on one hand and Buyer on the other hand each represents and warrants to the other that as of the Closing each of the representations and warranties set forth in this Section shall be true, complete and correct in all material respects at the time of the Closing, except for reasonably anticipated changes in the ordinary course of the ownership of the Property, and all representations and warranties shall survive the Closing or the termination of this Agreement.

10. Use of the Premises; Covenants until Closing

- a. The Buyer agrees for itself, and its successors and assigns, and every successor in

interest to the Premises, or any part thereof, that the Buyer and such successors and assigns, shall develop and use the Premises in accordance with the Use Restriction (as defined below). In the event Buyer is in material default under the terms of the Use Restriction and such default continues for ninety (90) days following written notice from the Town (or such additional period as may be reasonably necessary for Buyer to cure such default, then Town may thereafter assess a fine against Buyer of up to \$250/day until the default is cured.

- b.** Between the Effective Date and the Closing Seller hereby agrees as follows:
- i.** Seller will not take or allow any action which might affect the structural integrity or façade of any building or other improvement included in the Property or cut, clear, excavate, fill, dump or dispose of any materials, or allow any Hazardous Material to be brought on to the Property or engage in or allow any development activity of any kind on the Property in each case without Buyer's prior written consent;
 - ii.** any assessment imposed on the Property which relates to the period ending on the date of Closing and does not relate to periods after the Closing shall be the obligation of Seller and shall be paid in full on or before the Closing;
 - iii.** Seller will perform all material obligations required of Seller with respect to the Property under all easements, covenants, restrictions and contracts of record and will not, without the prior written consent of Buyer, amend the terms of any such easement, covenant, restriction or contract of record or waive any obligation of any other party to any such easement, covenant, restriction or contract of record;
 - iv.** Seller will not, without the prior written consent of Buyer, apply for, consent to or process any applications for zoning, re-zoning, variances, site plan approvals, subdivision approvals or development for the Property or any portion thereof or amend any existing permits or initiate or otherwise participate in any condemnation action with respect to the Property, provided, however, that Seller shall reasonably cooperate with Buyer at Buyer's request regarding any applications for zoning, re-zoning, variances, site plan approvals, or subdivision approvals in connection with the development or future use of the Property consistent with the Use Restriction; Seller will notify the Buyer of any attempt to modify the building or zoning laws applicable to the Property.
 - v.** Seller will not, without the prior written consent of Buyer, sell, assign or transfer all or any portion of the Property to any party or otherwise dispose of all or any part of the Property or any right to do any of the foregoing;
 - vi.** Seller shall at all times provide Buyer with access to all books, records, plans, building specifications, capital needs assessments and similar reports and studies, environmental reports, studies or other documentation relating to the Property including any related to testing or other investigation of

environmental conditions at the Property or any adjoining property or to any attempt to remediate environmental conditions or to the potential redevelopment of the Property, as well as any other contracts, agreements or other instruments or documents in Seller's possession or control relating to the Property, including its potential redevelopment;

vii. Seller will not enter into any mortgages, operating contracts, ground leases, space leases, easements, encumbrances or any other contract or instrument encumbering the Property, or any portion thereof, including, without limitation, Mandatory Cure Liens, in each case without the prior written consent of Buyer; and

viii. Seller will promptly notify Buyer if it discovers, determines or is notified that any warranty or representation made by it hereunder is not (or is no longer) true.

c. Seller and Buyer shall negotiate in good faith prior to the Inspection Contingency Expiration Date the terms of a use restriction agreement (the "**Use Restriction**") which will run with the Property, become effective upon Closing, and will provide for the development, maintenance, operation, management, use and the timing of the ownership of the age-restricted rental facility intended to be developed on the Premises and the Pool and Gym facilities. The Use Restriction shall include language giving the respective owners of the Premises and of the Pool and Gym facilities the right to approve, which approval shall not be unreasonably withheld, any material change in the use of or any improvements on the other property from that contemplated by the Redevelopment. Further, in the event Buyer obtains historic tax credits as part of the Redevelopment, the Use Restriction shall include language giving Buyer or any other owner of the Premises the right to review and approve during the five-year historic tax credit period any proposed change to the improvements at the Property during the five-year historic tax credit period.

11. The Closing

a. Time and Place of Closing

The transfer of title to the Premises and payment of the Purchase Price ("Closing") shall take place, subject to extension as provided herein on October 15, 2017. The Closing shall take place at the law office of the East Haven Town Attorney or such other location if required by Buyer's Title Company, as may be mutually agreed upon by the parties.

b. Buyer shall have the right to extend Closing for one (1) additional period of up to eighteen (18) months upon written notice to Seller at no cost and thereafter for two (2) additional six (6) month periods upon written notice to Seller from Buyer and by making a payment to Seller of Ten Thousand Dollars (\$10,000) for each such extension (collectively, the "**Extension of Closing Deposit**"). The Extensions of Closing Deposit, if paid, and any accrued interest shall be nonrefundable to Buyer, except as provided herein.

12. Obligations of the Parties At Closing

- a. At Closing, Seller shall deliver to Buyer:
 - i. A release deed in the form attached hereto as Exhibit E, conveying fee title to the Premises free from all encumbrances except:
 - 1. Building lines; any and all provisions of any ordinances, municipal regulations (including without limitation zoning, inland-wetland, and coastal flood plain regulations), or state or federal laws affecting the Premises, provided there are no violations of the same as of the date of the Closing and so long as the same do not affect the present or intended use of the Premises or the marketability of title;
 - 2. The lien of real property taxes on the Premises to the extent not yet due and payable as of the Closing;
 - 3. Such state of facts as an accurate survey and/or inspection of the property should disclose, provided this state of facts does not render title unmarketable (this provision will not appear on the final release deed);
 - 4. Riparian or littoral rights of others in or to any water course or body of water on or adjacent to the Premises;
 - 5. Any liens for municipal betterments assessed after the date of this Agreement to the extent not yet due and payable as of the Closing;
 - 6. All exceptions to title, covenants, easements, or restrictions, if any, as of record appear provided the same do not affect marketability of title or unreasonably interfere with the current use of the property;
 - 7. Permitted Encumbrances, if any.
 - ii. A bill of sale for all personal property to be conveyed to Buyer pursuant to this Agreement;
 - iii. Such other documents and certificates as are required by this Agreement, or as may reasonably be required by Buyer's counsel, title insurance company or lender(s) to transfer title to the Premises in accordance with this Agreement or to otherwise effectuate the Closing of the transaction herein contemplated.
- b. At Closing Buyer shall deliver to Seller:
 - i. The Purchase Price required by Section 3 above;
 - ii. A written certification, under the pains and penalties of perjury, that Buyer has complied with all laws of the State of Connecticut relating to the payment of taxes. Such certification shall be made and executed as of the time of Closing;
 - iii. Any such documents and instruments as may be reasonably required by Seller to effectuate the Closing of the transaction herein contemplated.

c. Pro-rations

Buyer and Seller shall pro-rate, as of the date of Closing, all items for the Premises customarily pro-rated and adjusted in connection with the closing of real estate in Connecticut similar to the Premises, including all taxes, assessments, charges and other income or charges, as the case may be, assessed against or derived from the Premises. The cost of the Owner's Title Policy and the cost of recording the deed and any other necessary recordables shall be paid by the Buyer. The pro-rated portion of the real estate taxes for the real estate tax year in which the Closing occurs payable by the Buyer shall be computed by applying the tax rate for the then-current grand list year to that portion of the assessed value of the Property reasonably allocable to the Premises as agreed upon by the Parties.

- d. Full possession of the Premises shall be given to Buyer on the date of the Closing free of all occupants and any rights of occupancy.

13. Broker

- a. Seller and Buyer each represents that it dealt with no broker or real estate agent in connection with this transaction. The Buyer and Seller each agrees to indemnify and hold harmless the other from all loss, cost, damage or expense arising out of or as a consequence of claims for brokerage commissions asserted by third parties arising out of a breach of its representation. The indemnity set forth herein shall survive Closing.

14. Indemnification

- a. Buyer agrees to protect, defend, hold harmless and indemnify Seller, its officers, employees or other principal, agent or representative against, and in respect of any and all claims, losses, liabilities, damages (whether special, consequential, or otherwise) to the extent directly caused by the actions of Buyer which may be suffered or incurred by any of them relating to any federal, state or local law (including common law) regulation, order, decree relating to pollution control, environmental protection, health, welfare, public safety, personal injury, property damage or any other type of claim arising from: (1) the handling, storage, use, transportation or disposal of any Hazardous Materials in or from the Premises by Buyer; (2) any intentional or unintentional emission, discharge or release by Buyer of pollutant into or upon the air, surface water, ground water or land; or (3) the introduction by Buyer of any toxic, flammable or hazardous building material (including but not limited to asbestos or similar substances) in any portion of the Premises, including but not limited to the exterior, and interior walls, floors, ceilings, tile, insulation or any other portion of the building structures.
- b. Seller agrees to protect, defend, hold harmless and indemnify Buyer, its affiliates, their respective officers, employees or other principal, agent or representative against, and in respect of any and all claims, losses, liabilities, damages (whether special, consequential, or otherwise) to the extent directly caused by the actions of Seller which may be suffered or incurred by any of them relating to any federal, state or local law (including common law) regulation, order, decree relating to pollution control, environmental protection, health, welfare, public safety, personal

injury, property damage or any other type of claim arising from: (1) the handling, storage, use, transportation or disposal of any Hazardous Materials in or from the Property by Seller; (2) any intentional or unintentional emission, discharge or release by Seller of pollutant into or upon the air, surface water, ground water or land; or (3) the introduction by Seller of any toxic, flammable or hazardous building material (including but not limited to asbestos or similar substances) in any portion of the Property, including but not limited to the exterior, and interior walls, floors, ceilings, tile, insulation or any other portion of the building structures

- c. Each Party shall (a) comply with the requirements of all federal, state, and local environmental laws relating to its use of the Property, and (b) immediately notify the other Party upon becoming aware of any material spill, pollution or contamination affecting the Property from any Hazardous Materials.

15. Assignment

- a. Developer shall have the right to form the Winn CT Entity with such partners or members as determined by Developer in its sole discretion and assign its rights under this Agreement to the Winn CT Entity by giving notice to Seller at least seven (7) days prior to Closing. Upon such assignment, Developer shall be relieved of its obligations under this Agreement.
- b. Any other assignment by Buyer of its right, title and interest in and to this Agreement shall require the consent of the Seller, in writing, which consent shall not be unreasonably withheld.

16. Default

a. Buyer's Default

If the Buyer breaches any material term of this Agreement and fails to substantially cure such breach within thirty (30) days following written notice of such breach from Seller detailing the breach, unless such breach is of a nature which cannot be reasonably cured within a period of thirty (30) days, then within such longer period of time as may be necessary provided Buyer proceeds promptly and with due diligence to cure such breach, then Seller shall be entitled to terminate this Agreement as a result of such breach. Following such termination, Seller shall be entitled to the Deposit together with any accrued interest and to receive the results and reports of all written development studies and surveys of the Premises completed by the Buyer, plus reasonable attorney's fees, court costs, and expenses incurred by the Seller in any collection action necessary to obtain such studies. The parties agree that the foregoing constitutes a reasonable liquidated measure of the Seller's damages and not a penalty, and shall be Seller's sole and exclusive remedy in the event of a default by Buyer and the termination of this Agreement.

- b. **Seller's Default.** If Seller is obligated but fails or refuses to proceed with Closing or to otherwise perform its respective obligations under this Agreement, Seller shall be in default. In the event of such default, Buyer shall be entitled at Buyer's discretion to either i) terminate this Agreement upon written notice to Seller, in

which event the Buyer shall be entitled to the return of the Deposit and any accrued interest earned thereon, which shall be released to the Buyer as total liquidated damages, and Buyer shall have no obligation remedy to Seller, at law or in equity, except for Buyer's indemnity obligations and obligations to repair physical damage to the Premises, which shall survive the termination or ii) the remedy of specific performance of Seller's obligations under this Agreement.

17. Clear Title

- a.** Seller shall convey good, clear, record, marketable and insurable title to the Premises by the release deed subject only to the matters described in Section 12a., which includes Permitted Encumbrances.
- b.** Prior to the Inspection Contingency Expiration Date, the Buyer (i) shall order a title commitment or preliminary title report of the Premises (the "Title Commitment"), and (ii) may, at its discretion, obtain an ALTA/ACSM as-built survey or other survey of the Premises (the "Survey" and together with the Title Commitment, the "Title/Survey Materials"). Buyer shall provide Seller with a copy of the Title/Survey Materials.
- c.** In the event Buyer objects to any matters shown in the Title/Survey Materials, Buyer shall notify Seller in writing of the nature thereof ("Title Objection Notice") on or before the fifth (5th) business day before the Inspection Contingency Expiration Date. For the purposes of this section, title matters will be evaluated according to the latest edition of the "Connecticut Standards of Title" as promulgated by the Connecticut Bar Association. Seller shall then have ten (10) business days from the receipt of such notice to notify Buyer in writing (the "Title Objection Response Notice") whether or not Seller is willing to cure any or all of the matters or defects set forth in the Title Objection Notice. With respect to title or survey matters first appearing on an updated Title Commitment or Survey issued after the earlier of the Inspection Contingency Expiration Date or the date of the Title Objection Notice, if any, delivered by Buyer to Seller, then upon Buyer's discovery of same, Buyer may send a supplemental Title Objection Notice (any such notice, a "Supplemental Title Objection Notice"), setting forth Buyer's objection to such matters. Seller shall have ten (10) business days after receipt of a Supplemental Title Objection Notice to notify Buyer in writing (the "Supplemental Title Objection Response Notice") of which matters Seller is willing to cure on or before the Closing date.
- d.** If Seller indicates its intention in a Title Objection Response Notice or a Supplemental Title Objection Response Notice, as applicable, not to cure one or more matters identified in the Title Objection Notice or a Supplemental Title Objection Notice, as applicable, or if Buyer does not receive a Title Objection Response Notice or Supplemental Title Objection Response Notice from Seller within ten (10) business days of the delivery to Seller of the Title Objection Notice or a Supplemental Title Objection Response Notice, as applicable, Buyer shall have the option, within ten (10) business days of receipt of the Title Objection Response Notice or Supplemental Title Objection Response Notice (or upon

expiration of the applicable ten (10) business day period if Seller fails to timely deliver such notice), to either (i) terminate this Agreement by providing written notice of termination to Seller, whereupon all deposits shall be returned to Buyer, and this Agreement shall terminate and become null and void and the parties shall be released and discharged from all claims and obligations each to the other hereunder except as otherwise specifically provided in this Agreement; or (ii) accept title to the Premises as Seller is required to convey in accordance with the terms of this Agreement, provided however that Seller shall remove prior to the Closing date those matters which Seller has agreed to cure as well as all Mandatory Cure Liens.

- e. Notwithstanding anything to the contrary herein, Seller is expressly obligated to remove prior to or as part of the Closing (a) all liens or other encumbrances against the Premises caused by Seller as well as all monetary liens such as, without limitation, any lien securing debt as well as any judgment, mechanics lien or other non-voluntary monetary lien encumbering the Premises (the “Mandatory Cure Liens”), and (b) any matters Seller agreed to cure in the Title Objection Response Notice or a Supplemental Title Objection Response Notice. Buyer shall have no obligation to object to Mandatory Cure Liens and the same shall not be deemed Permitted Encumbrances. Seller, at its option, shall be permitted to use any portion of the Purchase Price to remove any Mandatory Cure Liens and/or matters described in (b) above at the time of Closing provided that a title company acceptable to Buyer is willing to issue owner’s and lender’s title insurance policies on the Closing date without any exceptions therefore. If Seller fails to comply with the foregoing obligations, Buyer shall have the right to cure the same and any amount required to be expended shall be credited against the Purchase Price payable at Closing.
- f. “Permitted Encumbrances” means all matters appearing on the Title/Survey Materials or any updated Title/Survey Materials which were (i) not included in Buyer’s Title Objection Notice or a Supplemental Title Objection Notice; or (ii) included in Buyer’s Title Objection Notice or a Supplemental Title Objection Notice but with respect to which Seller has not agreed to cure in the Title Objection Response Notice or a Supplemental Title Objection Response Notice, as applicable, except for Mandatory Cure Liens, which shall in no event be deemed to be Permitted Encumbrances

18. Confidentiality

- a. The parties agree to keep this Agreement confidential to the extent allowed by law. The parties recognize that upon execution, this Agreement is a public record and will be provided to any person in accordance with appropriate Connecticut FOIA. The parties further recognize that other documents provided by the Buyer to the Seller in connection with this transaction will also be subject to the Connecticut FOIA. Notwithstanding the foregoing, Buyer may provide a copy of the Purchase Agreement to Buyer’s current or prospective lenders with respect to a loan or loans secured or to be secured with a mortgage on the Premises as well as to prospective investors and others whom Buyer deems appropriate. If an appraisal is completed

by Buyer it shall be deemed confidential and is to be used only by Buyer and its prospective lenders and investors and is not for public distribution. A copy of appraisal, if any, will be sent to Seller at its request upon completion of the redevelopment at which time the appraisal, if any, shall no longer be deemed confidential.

19. Insurance

Seller shall maintain, at its expense, the following insurance coverages, or the suitable equivalent thereof if self-insured, provided Seller hereby recognizes and agrees to abide by the provisions of this Agreement as if Seller were carrying the insurance required by this Agreement to the extent of any such self insurance maintained by Seller, at all times through Closing (and if Seller maintains ownership of the Pool and/or Gym facilities during Redevelopment then shall continue to maintain such coverages on such facilities after Closing and in accordance with insurance requirements to be set forth by Buyer if the Town contracts for the Developer's services as provided in this Agreement):

- (a) Commercial general liability insurance on an occurrence form including premises/operations liability, protective liability, contractual liability, products/completed operations liability and personal and advertising liability coverages. The ISO CG 00 01 commercial general liability policy form or its equivalent should be utilized. The following minimum limits of liability shall be maintained: \$1,000,000 each occurrence; \$1,000,000 personal and advertising injury; \$1,000,000 products/completed operations aggregate; \$2,000,000 general policy aggregate.
- (b) Excess umbrella liability insurance providing following form coverage over the underlying general liability insurance policy described above with minimum per occurrence limits of \$4,000,000 and aggregate limits of \$4,000,000.
- (c) So called "All-risk" property insurance to cover physical loss or damage to the Premises in an amount equal to the 100% replacement cost of the Premises. Except as provided herein, Seller shall provide evidence of the foregoing insurance coverages to Buyer within (5) business days of the Effective Date and thereafter at Buyer's reasonable request. Seller assumes all risk of loss or damage to the Premises by fire or other casualty until the release deed is properly recorded among the appropriate public records with respect to the Premises. . Waiver of Subrogation. Seller releases and waives any right of recovery against Buyer for any claims for loss or damage to the Premises, if such loss or damage is insured against under a property insurance policy carried by the Seller and in force at the time of such loss or damage. Seller also agrees that the required property insurance shall contain a clause whereby the insurer waives its right to subrogation against the Buyer, and shall indemnify the Buyer against any loss or expense, including reasonable attorneys' fees, resulting from the failure to obtain such waiver.

20. Environmental Conditions and Site Investigation

a. Property and Pre-existing Conditions

Developer and Town acknowledge and agree that the Town, after Closing, will not be liable to Buyer for any pre-existing conditions on the Property, unless such pre-existing conditions were caused by the Town's violation of Section 20(f) below and except that the Town shall remain liable for any pre-existing conditions relative to the Pool and/or Gym facilities and this concept shall be further documented at Closing as appropriate.

b. Site Investigation

The Town is responsible for submitting on a timely basis all documents to HUD and any other governmental entity required or advisable, as required by applicable law and regulation, for review of the environmental impact of the Redevelopment on the Property in accordance with 24 CFR Part 58. The Town shall provide to the Developer all testing performed to date on the Property of which the Town has knowledge, and the Developer shall cause its environmental and engineering consultants to perform environmental, hazardous materials and geo- environmental investigations and to prepare remediation estimates as well as any additional reports required for compliance with 24 CFR Part 58 (all of which shall be eligible as a Redevelopment expense).

c. Remediation Costs and Responsibilities

The Parties will work in good faith to develop a preliminary redevelopment budget, (and revise from time to time as appropriate), as required to budget for any remediation costs (excluding those arising from a breach of any Section of this DPDA) provided that the Buyer reserves the right to consider and give notice to the other Party prior to Inspection Contingency Expiration Date that any such costs make the Redevelopment infeasible and therefore such Party elects to terminate this Agreement, in which event the Deposit and any interest shall be returned to the Buyer. If Closing occurs, Buyer will be responsible for carrying out demolition and remediation activities on the Property that each Party agrees based upon recommendations from relevant professionals to be reasonably necessary prior to Closing, provided that the Town consults with Buyer with regard to the consultants, contractors and specifications for such activities and provided further that Buyer, in its sole discretion, determines it has adequate funds to pay such remediation costs.

d. Discovery of Prohibited Substances Prior to Closing

Prior to Closing, in the event that Buyer or the Town knowingly encounters any Prohibited Substances on the Property not previously identified through testing or disclosure by the Seller, the discovering party shall promptly notify the other party in writing and shall comply with all laws, ordinances, regulations and orders of all governmental, regulatory and other public and quasi-public agencies, authorities and entities having jurisdiction over the same with respect to required notifications.

e. Environmental Insurance

Buyer will obtain environmental insurance effective as of the Closing, the cost of which shall be a project expense.

f. Covenant Regarding Prohibited Substances

Neither Buyer nor the Town shall bring onto the Property, or permit its agents, contractors or employees to bring onto the Property any (i) Hazardous Materials, or (ii) soil containing volatile organic compounds (collectively (i)-(ii) are the "**Prohibited Substances**"). Buyer and the Town shall be liable for the consequences of, and responsible for proper removal and lawful disposal, at its sole expense, of any Prohibited Substances brought onto the site resulting from a violation by such Party of this Section 21(f) and shall be responsible for any conditions caused by the negligent failure of such Party or its agents, contractors or employees to protect against any further harm caused by any Prohibited Substances already on the Property. Buyer and the Town further covenants and agrees to indemnify, defend and hold the other Party and its respective affiliates free and harmless from and against any and all losses, liabilities, penalties, claims, fines, litigation, demands, costs, judgments, suits proceedings, damages, disbursements or expenses, including reasonable attorneys' fees which may at any time be imposed upon, reasonably incurred by or asserted or awarded against the other Party in connection with or arising from a violation of this Section 21(f). The provisions of this Section 21(f) shall survive the Closing and the termination of this Agreement.

g. Town Responsibilities after Closing

- i. After the Closing, with respect to environmental matters, the Town shall only be liable for and shall protect, defend, hold harmless and indemnify Buyer, its affiliates, their respective officers, employees or other principal, agent or representative against the following environmental conditions on the Property: (i) environmental conditions caused by Town or its agents, contractors or employees after the Closing, (ii) pre-existing environmental conditions which the Town had actual knowledge of but failed to disclose the same to Buyer in writing before the Closing, (iii) Prohibited Substances brought onto the Property by the Town or any of its agents, contractors or employees after the Closing, (iv) environmental conditions at the Pool and Gym facilities except for Prohibited Substances brought on to the Pool or Gym facilities by Buyer.
- ii. After the Closing, the Town will work in good faith with Buyer to identify third-party funding sources to pay for any unforeseen remediation costs (without limiting the responsibilities of the Town, or Buyer under otherwise applicable provisions of this Section 20).

h. Buyer Responsibilities after Closing

At the Closing, Buyer will covenant and agree to indemnify, defend and hold the Town free and harmless from and against any and all losses, liabilities, penalties, claims, fines, litigation, demands, costs, judgments, suits, proceedings, damages, disbursements or expenses, including reasonable attorneys' fees which may at any time be imposed upon, reasonably incurred by or asserted or awarded against the Town (excluding those matters for which the

Town is responsible in accordance with Section 20(g)(i) in connection with or arising from:

- i. The existence of any Prohibited Substance first placed on, in, or under all or any portion of the Premises on or after the Closing; or
- ii. Any violation of any federal, state or local environmental laws by Buyer at or relating to the Property that arises out of Buyer's acts or negligence after the Closing.

21. Warranties

a. Developer's Warranties

The Developer represents and warrants to the Town that

(i) the Developer is and will continue to be duly organized, and is in good standing under the laws of and qualified to do business in Connecticut, (ii) the Developer has and will have all necessary power and authority, licenses and staff resources for the undertaking of its obligations under this Agreement, (iii) this Agreement has been duly entered into and is the legally binding obligation of the Developer, (iv) this Agreement will not violate any judgment, law, or agreement to which the Developer is a party or is subject, and (v) there is no claim pending, or to the best knowledge of the Developer, threatened, that would impede the Developer's ability to perform its obligations under this Agreement. The Developer shall not hereafter enter into any agreement which would, or modify any existing agreement in a manner that would, impair its ability to perform its obligations hereunder, and will notify the Town if any suit is threatened or law proposed which would impair its ability to perform its obligations hereunder.

b. Town's Warranties

The Town represents and warrants to the Developer that (i) the Town has and will have all necessary power and authority under applicable law for the undertaking of its obligations under this Agreement, (ii) this Agreement has been duly entered into and is the legally binding obligation of the Town, (iii) this Agreement will not violate any judgment, law, consent decree, or agreement to which the Town is a party or is subject to and will not violate any law or ordinance under which the Town is organized and (iv) there is no claim pending, or to the best knowledge of the Town, threatened, that would impede the Town's ability to perform its obligations under this Agreement. The Town shall not hereafter voluntarily enter into any agreement or consent decree which would, or modify any existing agreement or consent decree in a manner that would impair its ability to perform its obligations hereunder, and will notify the Developer if any suit is threatened or law proposed which would materially impair its ability to perform its obligations hereunder.

22. Miscellaneous

a. Completeness; Modification

This Agreement constitutes the entire agreement between the parties hereto with respect to the transaction contemplated herein and it supersedes all prior discussions, undertakings or agreements between the parties. This Agreement shall not be modified or amended except by a written agreement executed by both parties.

b. Binding Effect

This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective officers, directors, members, partners, heirs, devisees, personal representatives, successors and assigns.

c. Governing Law

Connecticut law shall govern the interpretation and enforcement of this Agreement.

d. Time is of the Essence

Both parties hereto specifically agree that time is of the essence to this Agreement with respect to the performance of the obligations of the parties under this Agreement.

e. Counterparts

This Agreement may be executed in two or more counterparts via electronic mail and/or facsimile, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

f. Notices

Whenever notice must be given in writing under the provision of this Agreement, such notice must be either hand delivered or sent by certified mail, return receipt requested, postage prepaid and addressed to the party at the following;

If to Seller:

Town of East Haven
Salvatore Brancati
c/o Mayor Joseph Maturo, Jr.
250 Main Street
East Haven, CT 06512

With a copy to: Zullo and Jacks, LLC
ATTN: Atty. Joseph Zullo
83 Main Street
East Haven, CT 06512
Email: jzullo@zulloandjacks.com

If to Buyer:

Adam Stein
c/o Winn Development
6 Faneuil Hall Marketplace
Boston, MA 02109

With a copy to: WinnDevelopment
Dan Willert
6 Faneuil Hall
Boston, MA 02109
Email: Dwillert@winnco.com

Notice will be deemed to have been given when delivered by hand or on a date which is three (3) business days from the date of mailing when notice is sent via certified mail as provided above.

g. Equal Employment Opportunity/Non-Discrimination

The Buyer, for itself and its successors, heirs, and assigns, agrees that throughout the term of this agreement and in connection with the Redevelopment:

- i. The Buyer will not discriminate against any employee, applicant for employment, and/or applicant for housing based on race, color, creed, religion, gender identification, or national origin. Buyer will take affirmative action to ensure that applicants are employed without regard to the aforementioned factors. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Buyer agrees to post in conspicuous places at the Premises, available to all qualified employees and applicants for housing notices to be provided by the Town setting forth the provision of this non-discrimination clause and the Town's non-discrimination policies with respect to housing, rental, and affirmative action.
- ii. The Buyer will, in all solicitations or advertisements for employees and prospective tenants, state that all qualified applicants will receive consideration for employment and tenancy without regard to race, color, creed, religion, gender identification, or national origin. This affirmative obligation shall run with the land and apply to Buyer and any successors, heirs, or assigns.

h. Disclosure of Beneficial Interests

Prior to the execution of this DPDA, (a) Buyer will execute a "Disclosure of Beneficial Interests in Real Property Transactions" certificate as required by State law. Buyer will file this form with the appropriate state agencies, and (b) Buyer will deliver a date-stamped copy of said form to Seller within three (3) business days of receipt from the appropriate state agencies.

i. Invalid Provisions

In the event any one or more of the provisions contained in this Agreement shall be for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

j. Condemnation

If, between the date of this Agreement and the Closing, any portion of the Property is or becomes subject to a pending or threatened condemnation action by any governmental agency, Seller shall give written notice of such occurrence to Buyer and Buyer shall have the option of terminating this Agreement and having the Deposit and accrued interest refunded to Buyer, whereupon the parties hereto shall have not further rights, obligations or liabilities with respect to each other hereunder. Buyer must elect within thirty (30) days after the date on which Buyer is notified by Seller of the pending or threatened condemnation action whether to so terminate this Agreement. If Buyer does not so elect to terminate this Agreement, Buyer shall proceed to close the transaction contemplated herein (subject to the other terms and provisions of this Agreement), will have the right to control any condemnation proceeding and receive an assignment of all of Seller's right, title and interest in and to any condemnation award relating to the Premises (or, if previously awarded, a credit against the Purchase Price in the amount of such award made to Seller). If Buyer elects to proceed to Closing, Seller shall fully cooperate with Buyer in any condemnation action.

k. Casualty Loss

In case of any damage to the Property by fire or other casualty after the signing and delivery of this Agreement by all parties hereto and prior to the Closing date, and unless the Property shall have been restored to its former condition by the Seller prior to the Closing, the Buyer may, at the Buyer's option, either cancel this Agreement and recover the Deposit plus accrued interest or require as a part of this Agreement that the Seller pay over and assign to the Buyer, at the Closing, all sums recoverable on any and all insurance covering such damage.

l. Effective Date

The Effective Date of this Agreement (the "Effective Date") shall be the date of the signature of the last party to execute this Agreement.

m. Authorization

Each Party hereto further represents and warrants to the other party that the person whose signature appears below is duly authorized and empowered, on behalf of the party for whom he or she signs, to execute and deliver this Agreement as a binding instrument under seal, and the signature of no other person or party is required in order to bind such Party.

n. Conflicts of Interest; Town Representatives not Individually Liable

No member, official, or employee of the Town shall have any personal interest, direct or indirect, in this Agreement nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interest or interests of those of any corporation, partnership, or association in which he or she is directly or indirectly interested. Further, no member, official, or employee of the Town shall be personally liable to the Buyer, or any successor in interest, in the event of any default or breach by the Town or for any amount which may become due to the Redeveloper, of any successor in

interest, on account of any obligations of the Town under the terms of or in relation to this agreement.

Approved as to Form:

Joseph H. Zullo,
Town Attorney - Town of East Haven

Seller/Town:
TOWN OF EAST HAVEN

Buyer/Developer:
WINN DEVELOPMENT COMPANY
LIMITED PARTNERSHIP

By: _____
Joseph Maturo, Jr.
Mayor - Town of East Haven.

BY: _____
Lawrence H. Curtis,
President

Dated:

Dated:

Exhibit A
Legal Description as Contained in Current Deed

Exhibit B
Financing Plan and Preliminary Redevelopment Budget

Exhibit C
Preliminary Redevelopment Schedule

Exhibit D
Schedule of Hazardous Materials at Property

Exhibit E
Form of Release Deed

Eash Haven High School
 Estimated Development Budget
 200 Tyler Street, East Haven, CT

WinnDevelopment

70 units

20	Market
50	LIHTC

SOURCES AND USES OF FUNDS and LIHTC ANALYSIS

Sources of Funds			
Source	Construct'n Amount	Permanent Amount	Per Unit
LIHTC Equity	5,655,434	14,138,586	201,980
Federal Historic Equity	1,777,159	4,442,897	63,470
State Historic Equity	1,001,250	4,005,000	57,214
1st Mortgage	0	1,000,000	14,286
Construction Loan	13,948,811	0	0
Developer Loan	3,210,000	1,106,171	15,802
DOH FLEX	5,100,000	6,000,000	85,714
Other/Energy/FHLB	-	-	
	-	-	
	-	-	
	-	-	
	0	0	
		-	
TOTAL SOURCES	30,692,654	30,692,654	438,466

Uses of Funds			
Use		Amount	Per Unit
Acquisition		1,250,000	17,857
Direct Construction		22,018,781	314,554
A&E		1,044,670	14,924
Soft Costs		2,801,537	40,022
Fees and Reserves		3,577,666	51,110
TOTAL USES		30,692,654	438,466
Gap Between Sources and Uses		0	0

200 Tyler Street Redevelopment

Development Overview 9/29/2016



WinnCompanies – At a Glance

Winn has been a **private, family-owned** company since 1971.

WinnCompanies is a **long term-owner stakeholder**, which has owned many properties for 30+ years.

WinnResidential is the **5th largest** multifamily housing management company in the United States.

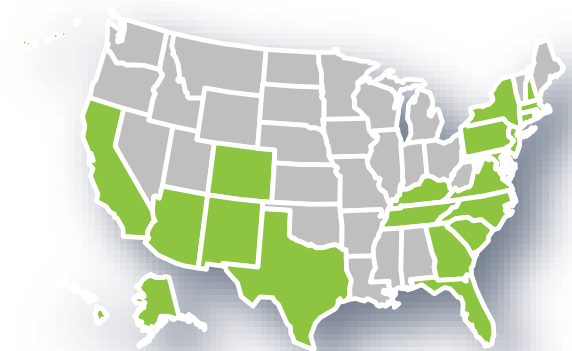
We operate every type of multi-family housing, including market rate, mixed-use, affordable and senior housing, managing more than **98,000 apartments** in more than **570 properties**.

WinnResidential is **the largest manager of privatized military housing** and **affordable housing** in the United States.

WinnCompanies **owns** more than **80 properties in 11 states** – more than 14,000 apartments, including the residential properties that gave the company its start in the early 1970s.

Almost **300,000 people** sleep each night under roofs managed by WinnResidential.

WinnCompanies has **never** missed a mortgage payment or defaulted on a loan since its founding in 1971.



How We Are Organized

WinnCompanies is comprised of three divisions:

WinnDevelopment

WinnDevelopment specializes in housing creation by rehabilitating properties and transforming vacant, historic buildings.

WinnResidential

WinnResidential manages every type of residential property, from public housing to market rate apartments, in 22 states and Washington, DC.

WinnResidential Military Housing Services

WinnResidential Military Housing Services manages 40,000 homes for members of the U.S. Armed Forces and their families.

WinnDevelopment Expertise

- Currently own or manage 50 properties and 4,700 units throughout Connecticut
- Innovative financing for complex projects
- Property rehabilitation and turnaround
- Age restricted housing
- Mixed Income Housing
- Successful experience with CHFA and DOH
- Historic redevelopment
- Onsite property management
- Green development and utilization



Leaders in Historic Adaptive Reuse



WinnCompanies has transformed 30 historic properties into **more than 3,300 units of mixed-income housing** in mixed-use communities **valued at \$550 million**.

Leaders in Historic Adaptive Reuse



No other company in the United States has developed more award-winning historic adaptive reuse properties

Leaders in Green Housing

WinnDevelopment and affiliates oversee sustainability efforts across **multiple states and over 100,000 units** of rental housing.

We **integrate sustainability** early in the design and planning phases, establishing practical goals, and maximizing potential incentives.

We utilize a range of green building frameworks, including:

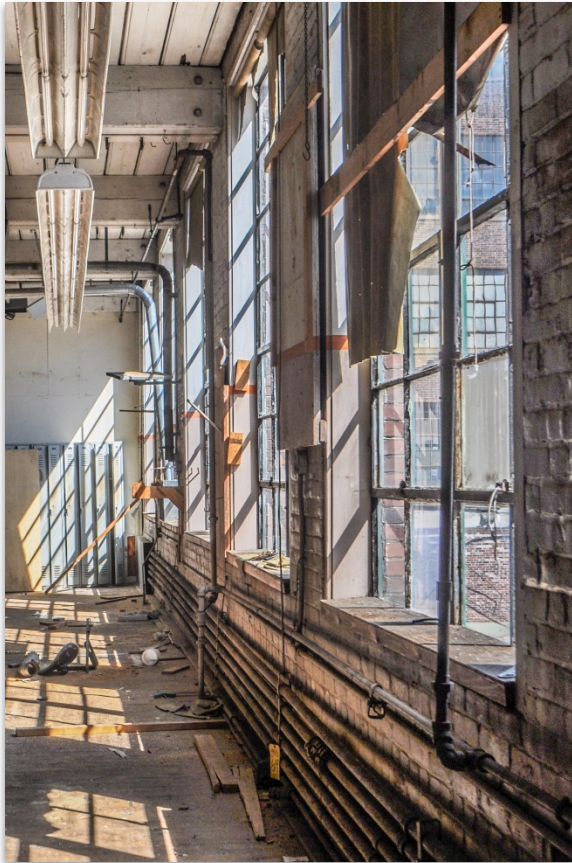
- LEED certification
- CHFA green standards
- Enterprise Green Communities certification
- Passive House
- ENERGY STAR v3 and Home Performance with ENERGY STAR
- Solar deployment
- Energy benchmarking



Sample Developments



Voke Lofts Worcester, MA



before



84-unit adaptive reuse of a former vocational school, completed by WinnDevelopment in 2014

Voke Lofts Worcester, MA



after

Voke Lofts Worcester, MA



after

Boott Mills Lowell, MA



before

232 mixed income apartments and 15,000 square feet of corporate uses in a National Historic District

Boott Mills Lowell, MA



after

Malden Mills

Lawrence, MA



before

137 affordable apartments in 5 separate mill buildings part of a larger 1 million square foot mill complex

Malden Mills

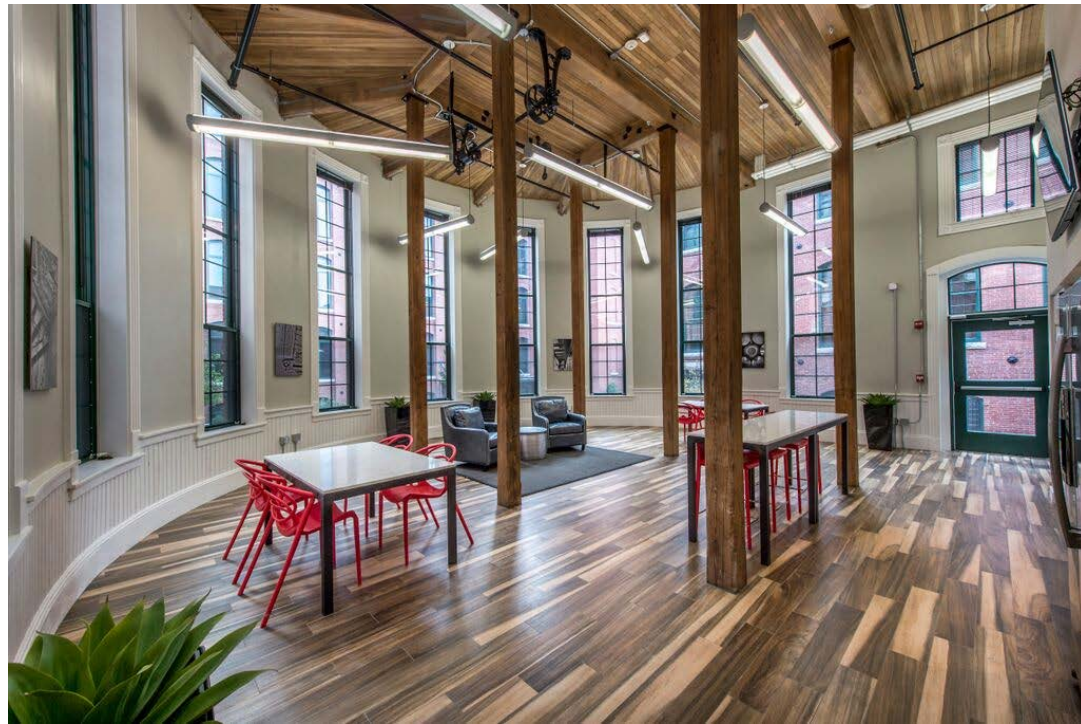
Lawrence, MA



after

Malden Mills

Lawrence, MA



after

Model Development Livingston Apartments

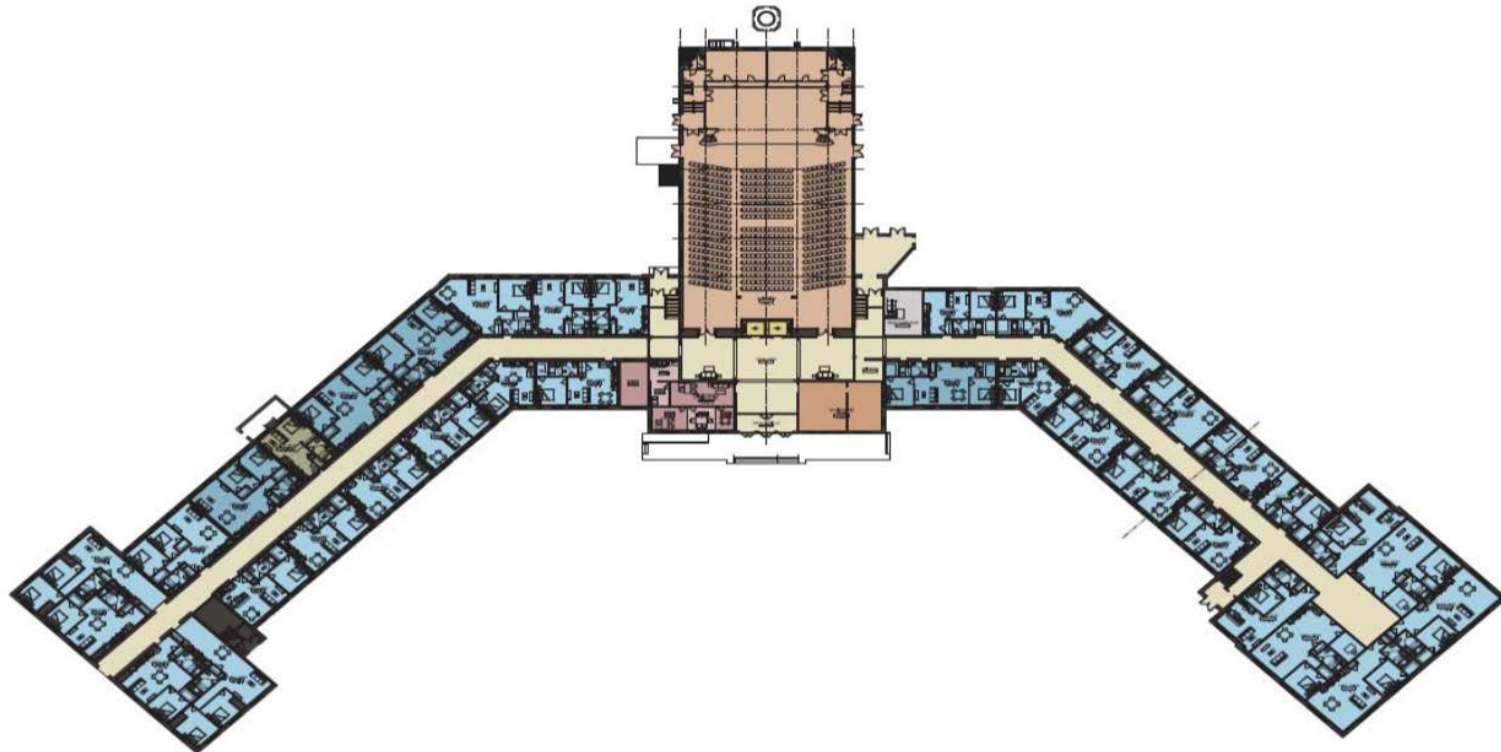


Livingston School Apartments Albany, NY



- 260,000 SF Historic former Philip Livingston Academy
- Vacant since 2007, would not be redeveloped or re-used but for affordable housing tax credits
- Required registering with the National Park Service to secure historic tax credits
- Converted into 103 units of seniors housing
- Completed in 2015
- Similar program as presented at 200 Tyler Street

Livingston School Apartments Albany, NY



Philip Livingston School
Albany NY

First Floor Plan



November 15, 2012

DEVELOPER : Winn Developments

ARCHITECT : The Architectural Team

12/12

tat | the architectural team

Livingston School Apartments Albany, NY



Livingston Apartments



Livingston School Apartments Albany, NY



Livingston Apartments



Community Goals Achieved

- Revitalized an underutilized and dilapidated former landmark
- Preserved the historic nature of the Philip Livingston Magnet School
- Created 140 construction jobs and 4 permanent jobs
- Built and maintained 103 units of much needed affordable age 55+ housing
- Brought the vacant structure back on to municipal tax roll
- 84 percent of all labor hours were performed by workers from the Albany area
- Included resident Amenities such as a Fitness area, Library, Computer Room, Resident Lounge/community space, Wellness Center, Common Area Laundries, Outdoor Gardens
- Provided Resident Services Through WinnResidential, Catholic Charities and the Albany Housing Authority



200 Tyler Street

The Proposed Redevelopment



Key Development Priorities

- Preserve the **historic nature** of former East Haven High School and reengage into Community
- Honor the findings of the **Blue Ribbon Commission**
- Create and maintain the highest quality **age-restricted housing**
- Respect the project's engagement with the **surrounding neighborhood**
- Accomplish long term priorities of the Town of East Haven including contributing an **acquisition price** the Town can utilize to upgrade the pool and gym facilities or other capital improvements, which will remain under municipal ownership
- Develop and plan a project that can be **successfully financed** and awarded by CHFA and DOH



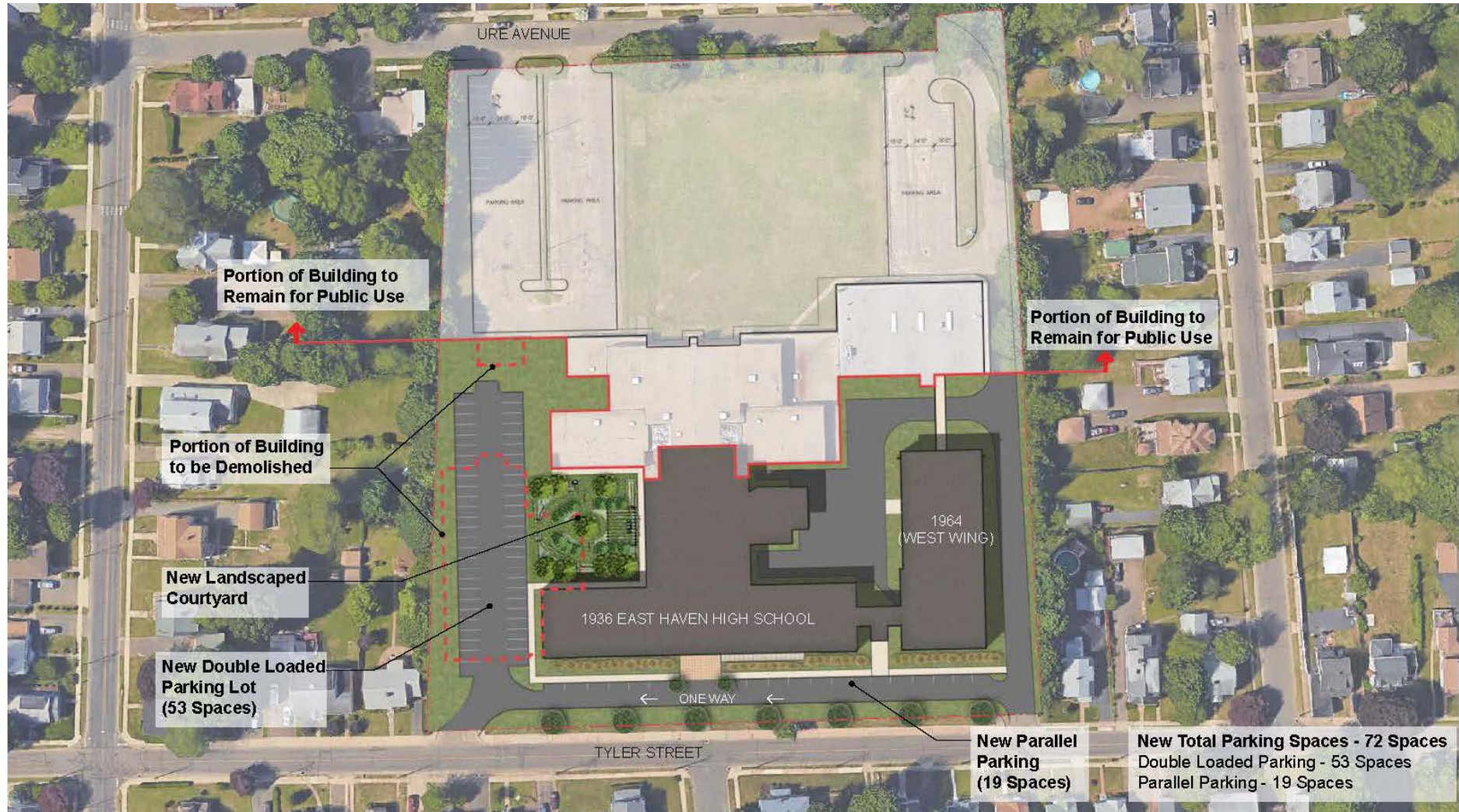
image source: patch.com

200 Tyler Street- Rendering

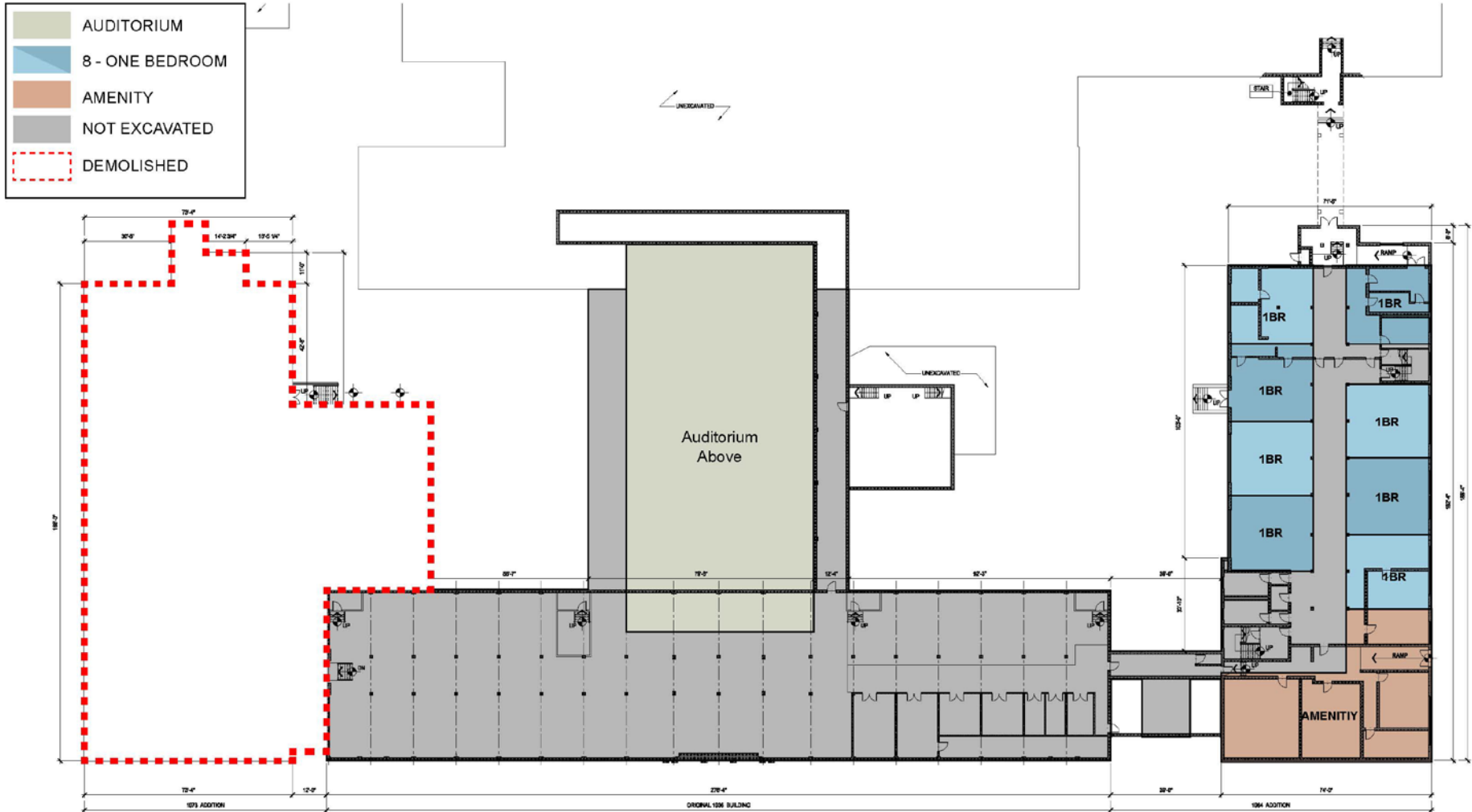


Unit Type	1BR	2 BR	Total
Market Rate Units	19	1	20
Affordable Units	49	1	50
Total	68	2	70

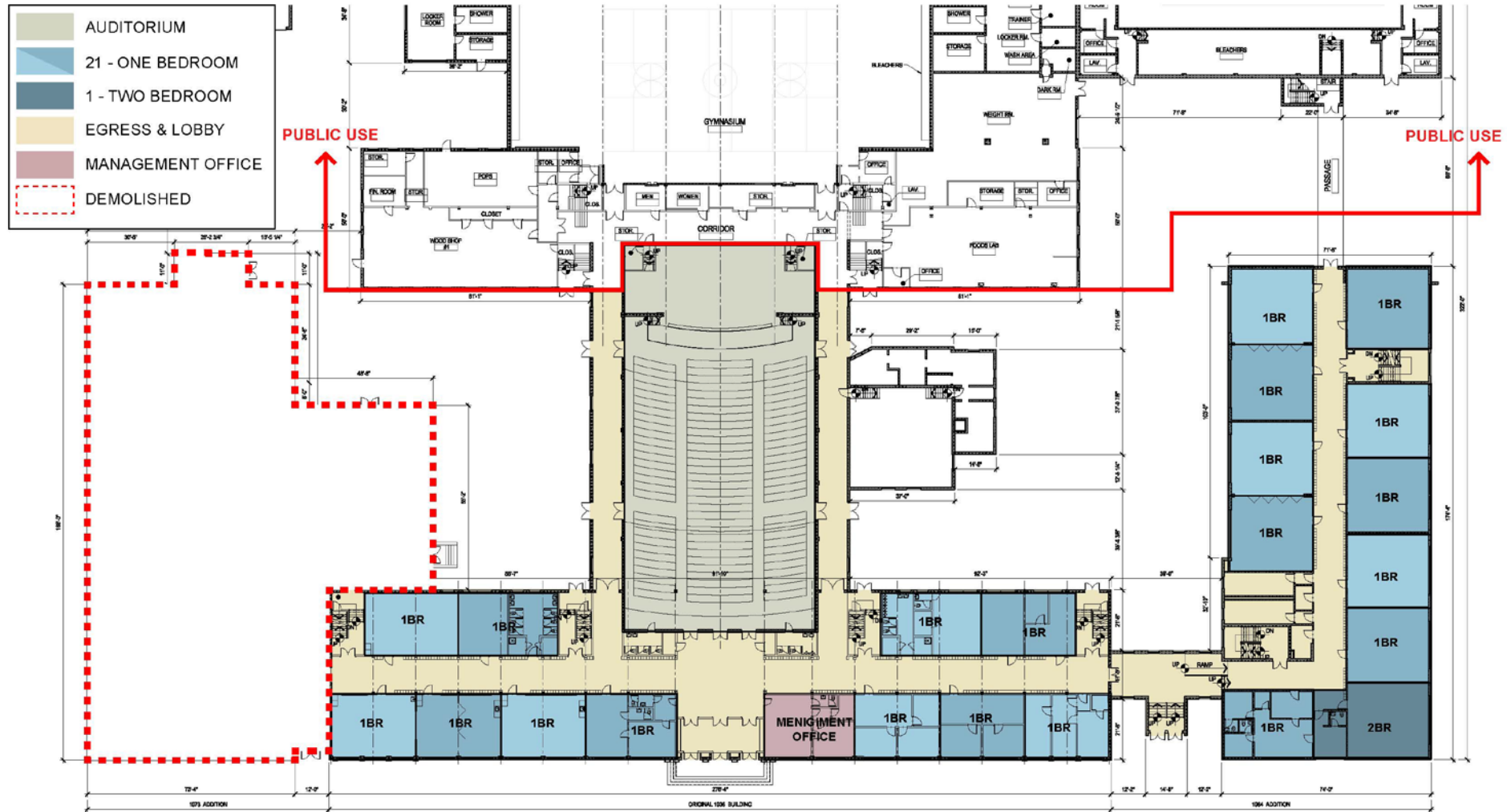
Site Plan Proposal



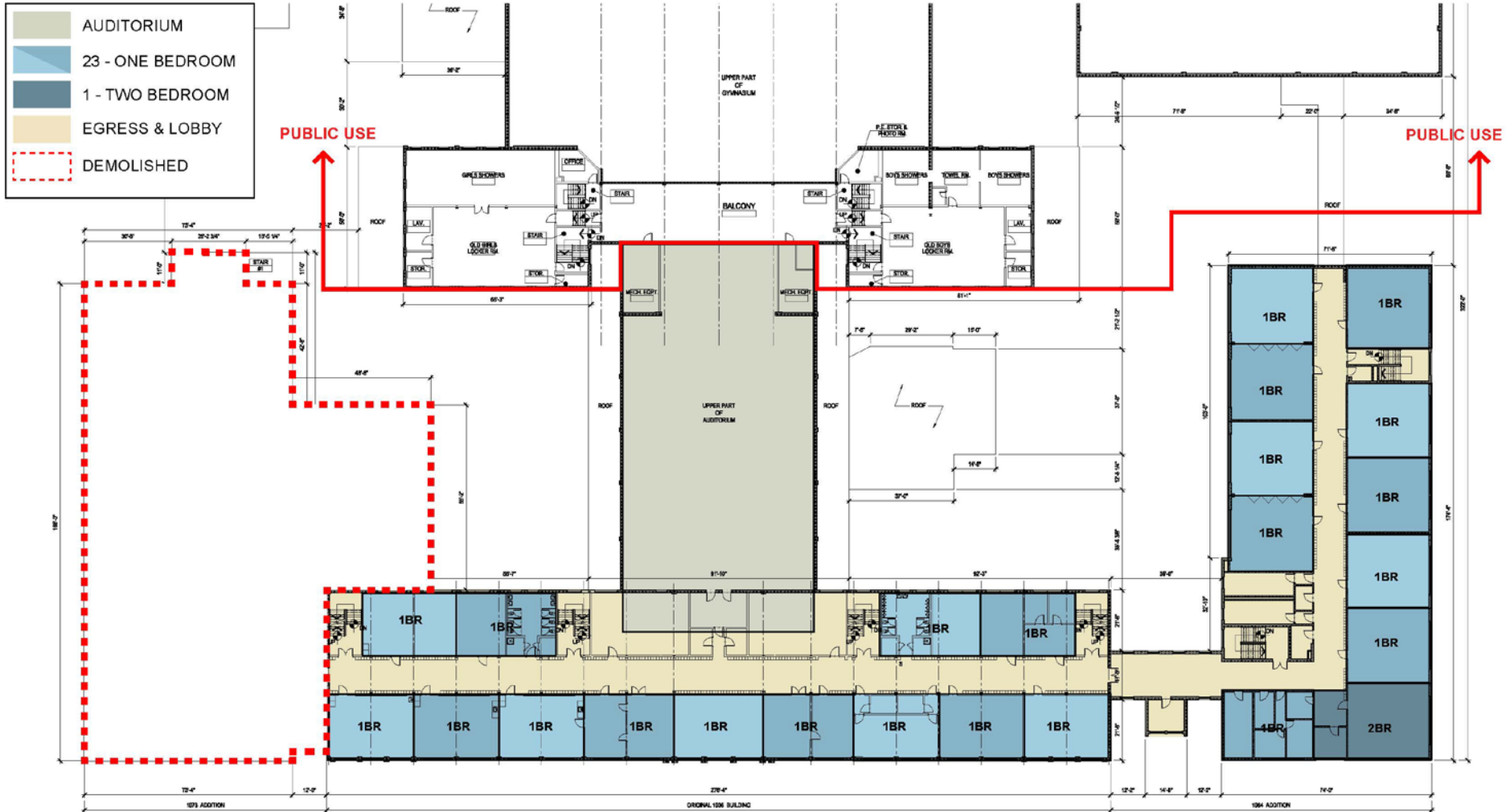
Interior Layout (basement)



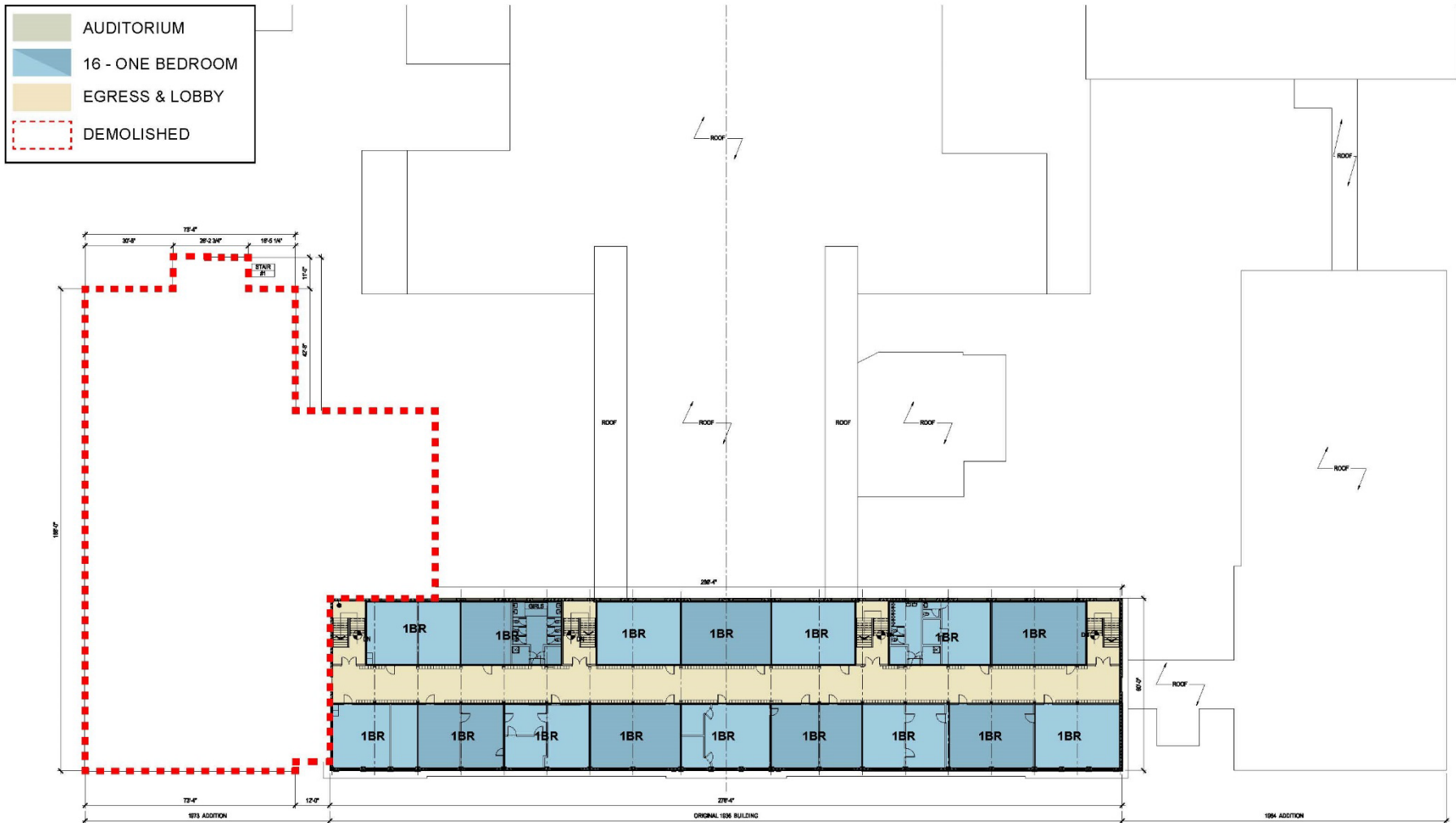
Interior Layout (first floor)



Interior Layout (second floor)



Interior Layout (third floor)



Proposed Development

- 70 units of 55+ independent living in the former High School building and auditorium. Pool and gym to be retained under town ownership and maintenance.
- A mix of incomes including a market rate component
- Estimated \$22 million of direct construction costs.
- Approximately \$30 million of total development costs.



Affordable Senior Housing

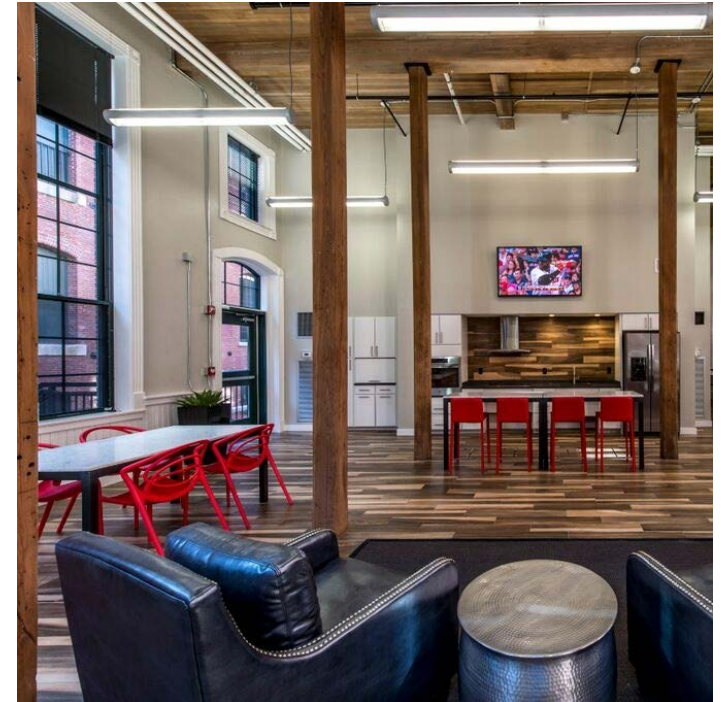
- WinnResidential currently manages 57 properties and 8,000+ units nationwide that are age restricted to 55+ or 62+ independent living
- 50% Area Median Income (East Haven region)
 - \$30,650 per 1 person household
 - \$35,000 per 2 person household
- Rental limits:
 - \$820 for 1 Bedroom
 - \$985 for 2 bedroom
- Estimated 6,130 people over 62+ years of age currently living in East Haven*
- Approximately 26.1% of the total East Haven population makes at or below \$35,000 per year, the target income for the affordable units*

*US Census Data



Building Program

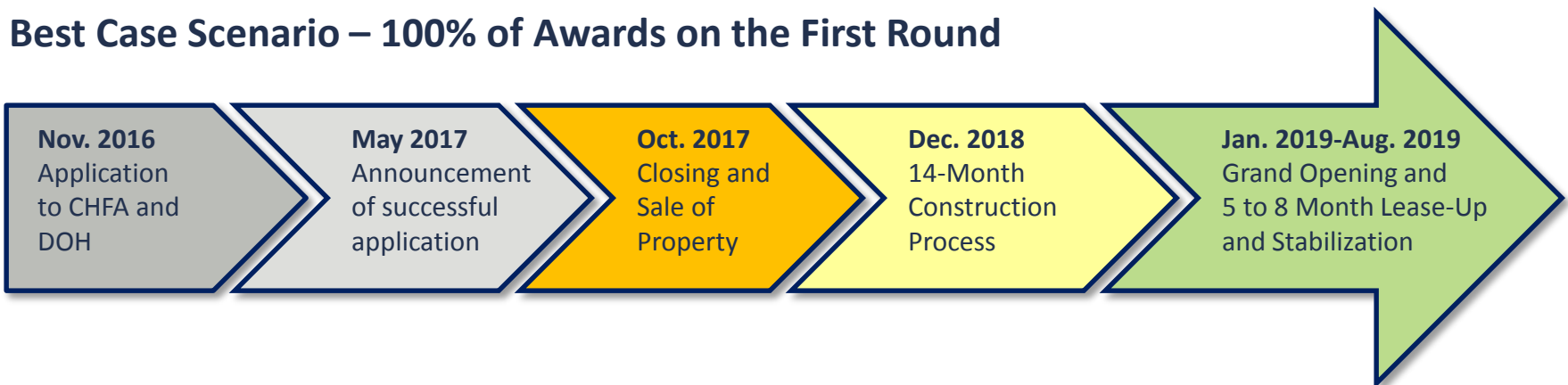
- Full time on-site management by WinnResidential
- Potential building amenities include:
 - Monitored security system
 - Controlled building access
 - Fitness/wellness center
 - Library/computer room
 - On-site parking
 - Gathering areas- interior and exterior
 - Laundry facilities
 - Large multi-purpose community room
- Supportive housing services for 10% of units administered by a qualified service provider such as Catholic Charities



Timeline for Development

- Highly competitive process with CHFA and DOH, with once-per-year funding awards
- Typically takes multiple rounds of awards to secure all necessary financing
- Historical designation process with NPS and SHPO can be a lengthy endeavor
- Goal is to minimize the time impact to Bidy basketball, pool facilities, etc.

Best Case Scenario – 100% of Awards on the First Round



What We Are Requesting from Town Council Tonight

- Passage of a resolution by the Legislative Town Council approving this DPDA
- Grant of authority, in connection with the resolution approving the DPDA, to the Mayor to execute the DPDA between the Parties by the Legislative Town Council
- General municipal support needed to proceed with first application funding round to CHFA and DOH
- Authorization to pursue with zoning and planning approvals required to make said application

Thank You

