

*Huntley Apartments*  
*Pelham, Shelby County, Alabama*  
FHA Project No. 062-35702

## MODIFICATION/RELEASE AND ASSUMPTION AGREEMENT

**THIS MODIFICATION/RELEASE AND ASSUMPTION AGREEMENT** (this "Agreement") is made, as of September 17, 2018, by and among GWR Huntley Partners, LLC, a Delaware limited liability company (the "Owner"); Huntley Hall Apartments, Ltd., an Alabama limited partnership ("Prior Owner"); GREYSTONE FUNDING CORPORATION, a Virginia corporation located at 419 Belle Air Lane, Warrenton, Virginia 20186 (the "Mortgagee"); and the SECRETARY OF HOUSING AND URBAN DEVELOPMENT, Washington, D.C., acting by and through the Federal Housing Commissioner (the "Secretary"), under certain provisions of the National Housing Act, as amended.

### RECITALS


**A.** Owner and Prior Owner entered into that certain Purchase and Sale Agreement dated June 26, 2017, as amended (collectively, the "Purchase Agreement"), pursuant to which the Prior Owner agreed to sell, and the Owner agreed to purchase, all of that certain real property located in the City of Pelham, in the County of Shelby, in the State of Alabama, as more particularly described in Exhibit A attached hereto and made a part hereof (the "Real Property"), on which is constructed that certain rental apartment project known as Huntley Apartments, FHA Project No. 062-35702 (the "Project" and, together with the Real Property, the "Property").

**B.** The Property is encumbered by that certain first lien mortgage loan (the "Loan") made to the Prior Owner by the Mortgagee, which Loan is evidenced and/or secured by that certain Note endorsed March 29, 2012, in the original principal amount of Fourteen Million Six Hundred Thirteen Thousand Two Hundred and No/100 Dollars (\$14,613,200.00), as amended by that certain Rider No. 1 to Note dated March 27, 2012, and that certain Rider 2 to Mortgage Note dated May 1, 2015 (as amended, the "Note"), that certain Multifamily Mortgage, Assignment of Leases and Rents and Security Agreement recorded on March 29, 2012 in the Official Public Records of Shelby County, Alabama (the "Land Records") in Instrument No. 20120329000107630 (the "Mortgage"), those certain UCC-1 Financing Statements filed in the Land Records and with the Alabama Secretary of State showing Prior Owner (as debtor) and Mortgagee (as secured party), and all other instruments executed in connection with the Loan (collectively the "Loan Documents").

**C.** The Loan is insured by the Secretary under Section 221(d)(4) pursuant to Section 223(a)(7) of the National Housing Act, as amended. In connection therewith, the Prior Owner and the Secretary executed that certain Regulatory Agreement for Insured Multifamily Housing Projects dated March 27, 2012 and recorded on March 29, 2012 among the Land Records in Instrument No. 20120329000107640 (the "Regulatory Agreement"). The Regulatory Agreement is incorporated by reference into and made a part of the Mortgage.

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Shelby Cnty Judge of Probate, AL  
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**D.** Immediately prior to the execution of this Agreement, the outstanding principal balance of the Loan equals Thirteen Million Five Hundred Ten Thousand Five Hundred Forty-Two and 98/100 Dollars (\$13,510,542.98).

**E.** Owner has agreed to assume the Prior Owner's obligations under the Note, the Mortgage and other Loan Documents along with the Regulatory Agreement (collectively the "Assumed Documents" and individually referred to herein as an "Assumed Document") pursuant to the terms of this Agreement, and the Prior Owner shall be released of its obligations under the Assumed Documents as of the date hereof, both with the Mortgagee's and the Secretary's consent thereto, as set forth herein.

**F.** Pursuant to the Purchase Agreement, the Prior Owner has, as of the date hereof, conveyed to the Owner all of the Prior Owner's right, title and interest in and to the Property and has entered into the Assumed Documents with the Mortgagee and the Secretary, respectively.

**NOW, THEREFORE,** in consideration of the foregoing premises, the sum of Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves and for their respective successors and assigns, hereby agree as follows:

**1. Incorporation of Recitals.** The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

**2. Assumption and Release.**

a. The Owner agrees to assume, and does hereby assume, the obligations of the Prior Owner under the Assumed Documents from and after Effective Date (as hereinafter defined) of this Agreement and does hereby agree to be bound by each and every Assumed Document.

b. The Owner does not assume personal liability for payments due under the Note, the Mortgage, or for the payments to the reserve for replacements under the Regulatory Agreement, or for matters not under its control, provided that the Owner shall remain liable under said Regulatory Agreement only with respect to the matters hereinafter stated, namely:

(i) for funds or property for the Project coming into its hands which, by the provisions thereof, it is not entitled to retain; and

(ii) for its own acts and deeds or acts and deeds of others which it has authorized in violation of the provisions thereof; and

(iii) the acts and deeds of affiliates, as defined in the Regulatory Agreement, which person or entity it has authorized in violation of the provisions of the Regulatory Agreement.

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The Owner is to be bound by the Assumed Documents, subject to the foregoing limitation of personal liability, from the date of this Agreement to the same extent as if it has been an original party to said instruments.

c. As of the Effective Date, the Mortgagee and the Secretary jointly and severally hereby release the Prior Owner from all liability arising under or in connection with the Assumed Documents, from and after the date hereof, except that the Prior Owner shall not be released from liability for obligations and responsibilities of the Note, the Mortgage and the Regulatory Agreement not expressly assumed by Owner as the purchaser.

**3. Revised References.** All references in the any of the foregoing Assumed Documents to the "Maker," the "Mortgagor", the "Borrower" or the "Grantor" shall hereinafter be deemed to refer to the Owner.

**4. Equal Opportunity Compliance.** The Owner agrees that there shall be full compliance with the provisions of (1) any laws prohibiting discrimination in housing on the basis of race, color, creed or national origin; and (2) with the Regulations of the Federal Housing Administration providing for non-discrimination and equal opportunity in housing. It is understood and agreed that failure or refusal to comply with any such provisions shall be a proper basis for the Secretary to take any corrective action he may deem necessary, including, but not limited to, the rejection of future applications for FHA mortgage insurance and the refusal to enter into future contracts of any kind with which the Owner is identified; and further, the Secretary shall have a similar right of corrective action (1) with respect to any individuals who are officers, directors, principal stockholders, trustees, managers, partners or associates of the Owner; and (2) with respect to any corporation or any other type of business association or organization with which the officers, directors, principal stockholders, trustees, managers, partners or associates of the Owner may be identified.

**5. No Defenses.** The Owner acknowledges and affirms to the Mortgagee and the Secretary that, as of the date hereof, there are no defenses, set-offs or counterclaims, whether legal or equitable, to the Owner's obligations under the Assumed Documents and the Owner hereby waives the right to raise or assert any such defenses, set-offs or counterclaims that the Owner may have had with respect to any suit, proceeding or foreclosure action under any of said instruments that the Mortgagee or the Secretary, or any of its or their predecessors in interest in and to the Loan may or could have brought against the Prior Owner prior to the date hereof.

**6. No Impairment.** Nothing in this Agreement shall in any way impair the Assumed Documents or any other security now held for such indebtedness, or alter, waive, compromise, annul, impair or prejudice any provision, condition or covenant in the aforesaid instruments, except as specifically provided herein, nor affect or impair any rights, powers or

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remedies of the Mortgagee or the Secretary under the Assumed Documents, nor create a novation or new agreement by and between the parties thereto, it being the intent of the parties that the terms and provisions of the Assumed Documents, are expressly approved, ratified and confirmed, and shall continue in full force and effect except as expressly modified hereby, and that the lien of the Mortgage and the priority thereof shall be unchanged.

**7. Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and/or assigns. The Mortgagee's execution and delivery of this Agreement is contingent upon the execution and delivery of this Agreement by the Secretary. The Effective Date of this Agreement shall be the date of this Agreement, provided all parties hereto, including the Secretary, have executed and delivered this Agreement.

**8. Amendment.** The Assumed Documents, each as amended by this Agreement, shall not be further modified except by an instrument in writing executed by each of the parties thereto.

**9. Severability.** Notwithstanding anything herein contained, if any one or more of the provisions of this Agreement shall for any reason whatsoever be held to be illegal, invalid or unenforceable in any respect, such illegality, invalidity or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such illegal, invalid or unenforceable provision had never been contained herein.

**10. Headings.** The headings and titles to the sections of this Agreement are inserted for convenience only and shall not be deemed a part hereof nor affect the construction or interpretation of any provisions hereof.

**11. Governing Law.** This Agreement shall be governed by all applicable federal laws and the laws of the state in which the Project is located.

**12. Counterparts.** This Agreement may be executed in any number of counterparts, all of which counterparts shall be construed together and shall constitute but one agreement.

**13. Modifications to Existing Loan Documents.**

**a. The Mortgage.**

(i) The Mortgagee and Owner hereby agree that, as of the Effective Date, Section 6 of the Mortgage is hereby deleted and the following Section 6 is inserted in lieu thereof:

**"6. EXCULPATION.** Except for personal liability expressly provided for in this Security Instrument or in the Note or in the Regulatory Agreement, the execution of the



**“BORROWER:**

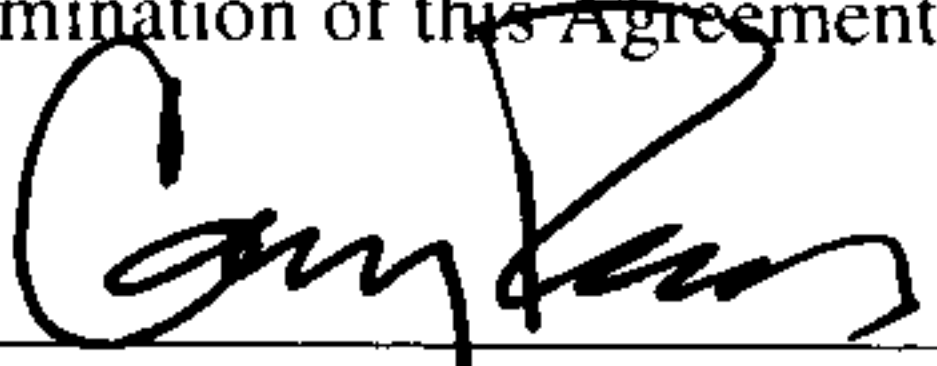
**GWR Huntley Partners, LLC**  
1800 West Loop South, Suite 1925  
Houston, TX 77027

(ii) The Secretary and Owner hereby agree that, as of the Effective Date, Section 50 of the Regulatory Agreement is hereby deleted and the following Section 50 is inserted in lieu thereof:


**“50. NONRECOURSE DEBT.** The following individuals/entities:

***Grady W. Roberts individually, Grady W. Roberts, Manager of GWR Equities LLC***

do not assume personal liability for payments due under the Note and Security Instrument, or for the payments to the Reserve for Replacements, or for matters not under their control, provided that said individuals/entities shall remain personally liable under this Agreement only with respect to the matters hereinafter stated; namely: (a) for funds or property of the Project coming into its hands which, by the provisions hereof, it is not entitled to retain; (b) for authorizing the conveyance, assignment, transfer, pledge, encumbrance, or other disposition of the Mortgaged Property or any interest therein in violation of Section 36(a) of this Agreement without the prior written approval of HUD; and (c) for its own acts and deeds, or acts and deeds of others, which it has authorized in violation of the provisions hereof. The obligations of the individuals/entities referenced above shall survive any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, any termination of this Agreement, or any release of record of the Security Instrument.

  
\_\_\_\_\_  
Grady W. Roberts

GWR Equities LLC,  
a Texas limited liability company,

By:   
\_\_\_\_\_  
Grady W. Roberts, Manager

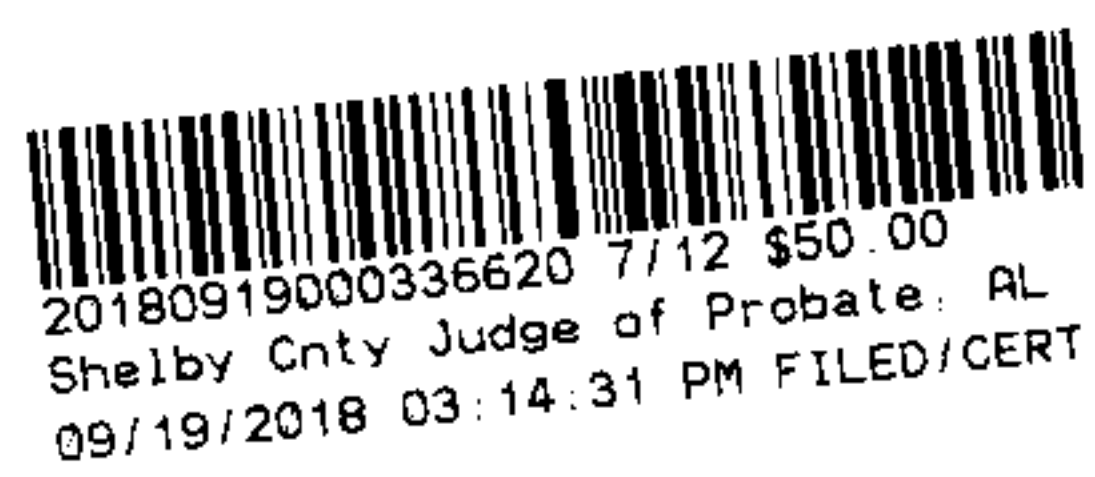
**d. Agreements to Remain in Effect.**

Except as specifically set forth herein, the Mortgage, the Note and the other Loan Documents shall remain in full force and effect as originally written.

**14. HUD requirements shall control.** In order to induce HUD to approve the Application for Transfer of Physical Assets of which this Agreement is a part, the Owner agrees

to execute and comply with any modification or revision set forth above in accordance with promulgated HUD policy.

**(The rest of this page is intentionally left blank;  
the signature pages follow this page.)**

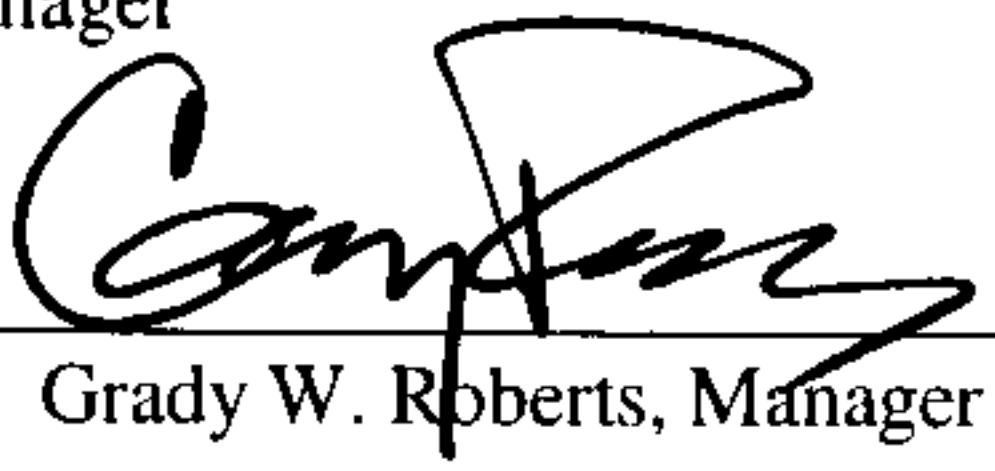


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and made effective as of the date first above written.

OWNER:

GWR Huntley Partners, LLC,  
a Delaware limited liability company


By: GWR Equities LLC,  
a Texas limited liability company,  
its Manager

By:   
Grady W. Roberts, Manager

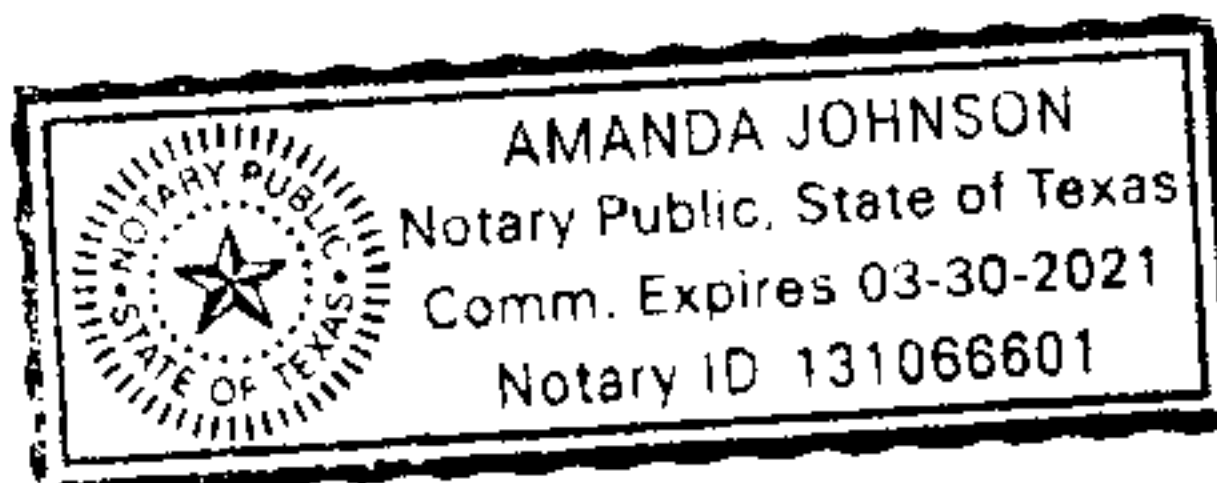
The State of Texas)  
Harris County)

I Amanda Johnson, a notary public in and for said County in said State, hereby certify that Grady W. Roberts whose name as Manager of GWR Equities, LLC, a Texas limited liability company, Manager of GWR Huntley Partners, LLC, a Delaware limited liability company, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this 12<sup>th</sup> day of September, 2018.

  
Notary Public

My Commission Expires: 03.30.2021





PRIOR OWNER:

HUNTLEY HALL APARTMENTS, Ltd.,  
An Alabama limited partnership

By: Hall Housing Investments, Inc.,  
an Alabama corporation,  
a general partner

By: [Signature]  
Gary Hall, President

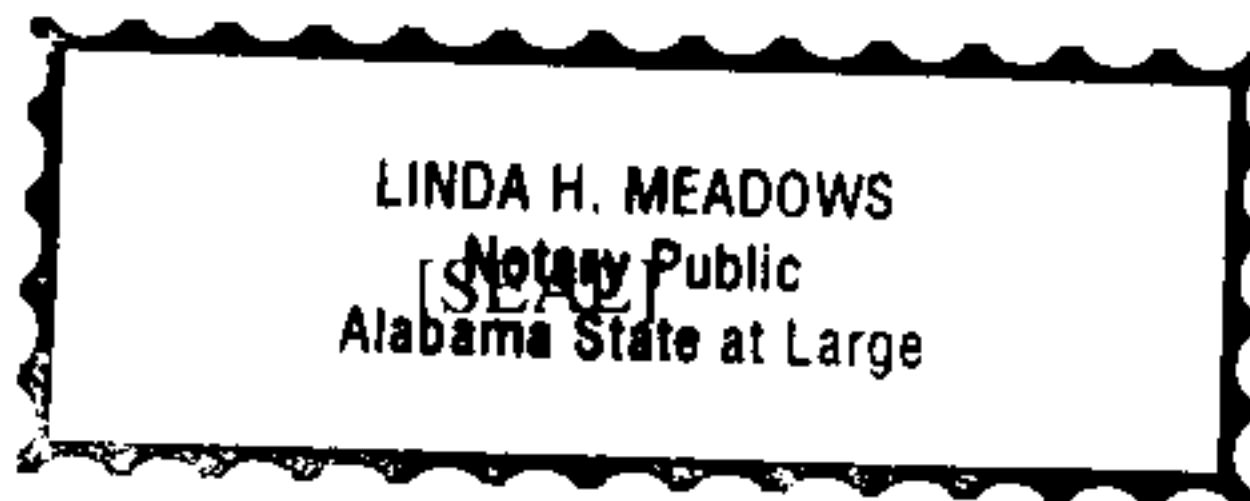
By: Wellington Housing Investments, Inc.,  
An Alabama corporation,  
A general partner

By: [Signature]  
Gary Hall, President

THE STATE OF ALABAMA §  
COUNTY OF HOUSTON §

I, the undersigned, a notary public in and for said county and state, hereby certify that Gary Hall, whose name as President of each of (i) Hall Housing Investments, Inc., an Alabama corporation, in its capacity as a general partner of Huntley Hall Apartments, Ltd., an Alabama limited partnership, and (ii) Wellington Housing Investments, Inc., an Alabama corporation, in its capacity as a general partner of Huntley Hall Apartments, Ltd., an Alabama limited partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents thereof, he, with full authority and as such officer of the such corporation acting in its capacity as such general partners of such limited partnership, executed the same as the act and deed of such corporations in their capacity as such general partners of such limited partnership voluntarily on the day that the same bears date.

Given under my hand and seal this 11<sup>th</sup> day of September, 2018.



[Signature]  
NOTARY PUBLIC

Commission Expires: 10/13/20

**Greystone Funding Corporation**

By: [Signature]  
Name: Leslie F. Dominy  
Title: Senior Vice President

By: Debi Martin  
Name: Debi Martin  
Title: Senior Vice President

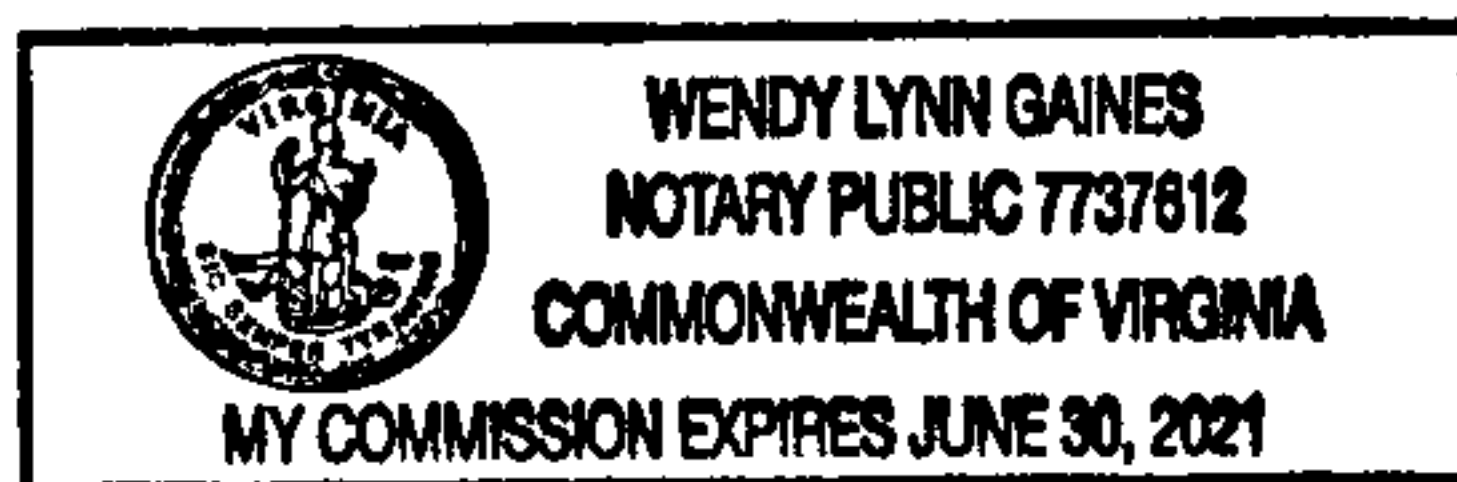
Commonwealth of Virginia  
STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF Fauquier )

I, the undersigned, a notary public, in and for the County and State aforesaid, do hereby certify, that Debi Martin, as Senior Vice President of Greystone Funding Corporation, a Virginia corporation (the "**Corporation**"), personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and she/he acknowledged to me that she/he, being thereunto duly authorized, signed and delivered said instrument as her/his own free and voluntary act, and as the free and voluntary act of the Corporation, for the use and purposes set forth therein.

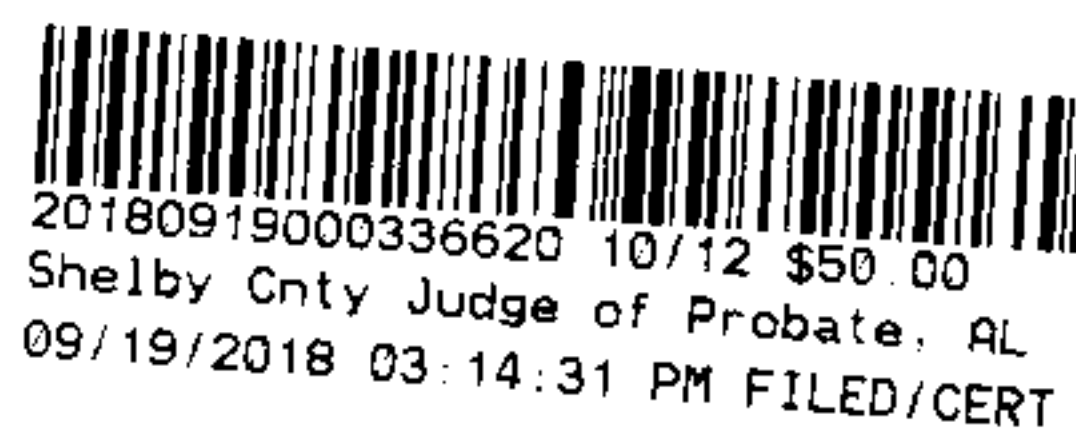
**GIVEN** under my hand and Notarial Seal this 12 day of September, 2018

Wendy Lynn Ganes  
Notary Public

My Commission Expires:



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SECRETARY OF HOUSING AND  
URBAN DEVELOPMENT,  
WASHINGTON, D.C.

By: Daphne Mallory  
Authorized Agent

STATE OF FLORIDA §  
§  
COUNTY OF DUVAL §

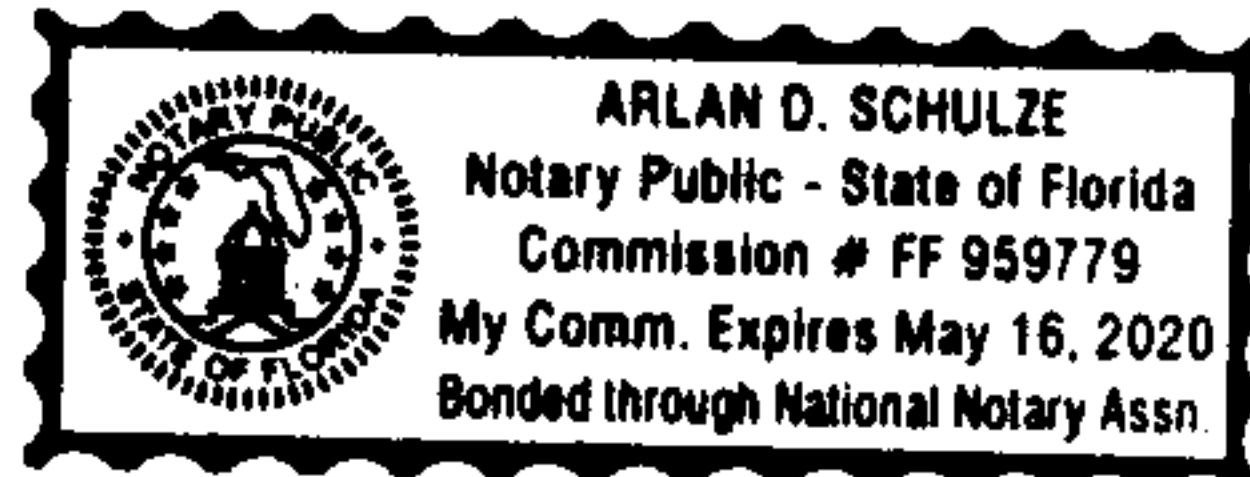
Before me the undersigned authority, a notary public, of the state and county aforesaid, personally appeared DAPHNE MALLORY, to me personally known and known to be the duly appointed authorized agent of the Secretary of the United States Department of Housing and Urban Development, who executed the foregoing instrument by virtue of the authority vested in him/her and acknowledged to me that he/she executed it voluntarily for the purposes stated therein on behalf of the Secretary of Housing and Urban Development this the 17<sup>th</sup> day of SEPTEMBER, 2018.

Witness my hand and official seal or stamp.

Arlan D Schulze  
Notary Public  
Print Name: ARLAN D. SCHULZE

My commission expires: MAY 16, 2020

[Affix Notarial Seal]



**EXHIBIT A**  
**Legal Description of Property**

A parcel of land situated in the NW 1/4 of the NW 1/4 of Section 30, Township 20 South, Range 2 West, Shelby County, Alabama, and being more particularly described as follows:

Commence at the NW corner of said Section 30, said point being the Point of Beginning; thence South 89° 26' 05" East along North line of said 1/4 – 1/4 Section, a distance of 625.00 feet; thence South 00° 26' 48" West, a distance of 1,310.02 feet; thence North 89° 22' 20" West, a distance of 625.00 feet; thence North 00° 26' 48" East, a distance of 1,309.34 feet to the Point of Beginning.

LESS AND EXCEPT the following:

Commence at the NW corner of Section 30, Township 20 South, Range 2 West and thence South 89° 26' 05" East a distance of 586.51 feet to the Point of Beginning; thence South 89° 26' 05" East a distance of 38.49 feet; thence South 00° 26' 48" West a distance of 359.29 feet; thence with a curve turning to the right with an arc length of 364.74 feet, with a radius of 780.00 feet, with a chord bearing of North 05° 40' 02" West, with a chord length of 361.42 feet, which is the point of beginning.

ALSO, a permanent, perpetual and non-exclusive easement for utilities as set forth in Declaration of Utility Easement as recorded in Instrument 20040610000314500, more particularly described as follows:

Commence at the NW corner of Section 30 Township 20 South, Range 2 West and thence South 89° 26' 05" East a distance of 566.35 feet to the Point of Beginning; thence with a curve turning to the right with an arc length of 350.54 feet, with a radius of 800.00 feet, with a chord bearing of North 20° 06' 07" East, with a chord length of 347.75 feet, thence with a curve turning to the left with an arc length of 142.09 feet, with a radius of 250.00 feet, with a chord bearing of North 16° 22' 20" East, with a chord length of 140.19 feet, thence North 00° 05' 23" East a distance of 622.22 feet, thence with a curve turning to the left with an arc length of 194.28 feet, with a radius of 250.00 feet, with a chord bearing of North 22° 10' 25" West, with a chord length of 189.43 feet, thence with a curve turning to the right with an arc length of 486.54 feet, with a radius of 350.00 feet, with a chord bearing of North 04° 36' 47" West, with a chord length of 448.30 feet, thence North 60° 03' 21" West a distance of 243.63 feet, thence North 13° 16' 13" East a distance of 41.76 feet; thence South 60° 03' 21" East a distance of 258.00 feet; thence with a curve turning to the right with an arc length of 34.12 feet, with a radius of 20.00 feet, with a chord bearing of South 11° 10' 51" East, with a chord length of 30.13 feet, thence South 37° 41' 38" West a distance of 4.97 feet; thence with a curve turning to the left with an arc length of 473.04 feet, with a radius of 330.00 feet, with a chord bearing of South 03° 22' 18" East, with a chord length of 433.57 feet, thence with a curve turning to the right with an arc length of 209.83 feet, with a radius of 270.00 feet, with a chord bearing of South 22° 10' 25" East, with a chord length of 204.59 feet, thence South 00° 05' 23" West a distance of 622.22 feet; thence with a curve turning to the right with an arc length of 153.46 feet, with a radius of 270.00 feet, with a chord bearing of South 16° 22' 20" West, with a chord length of 151.40 feet, thence with a curve turning to the left with an arc length of 339.33 feet, with a radius of 780.00, with a chord bearing of South 20° 11' 30" West, with a chord length of 336.66 feet, thence North 89° 26' 05" West a distance of 20.15 feet which is the point of beginning.

Less and except any property lying in the Shelby County Highway right-of-way as recorded in Instrument #200404080001834000, in the Probate Office of Shelby County, Alabama.

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