

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, DC 20549

FORM 10-Q

☒ **Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the quarterly period ended March 31, 2022

OR

☐ **Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

Commission File Number 001-07172

BRT APARTMENTS CORP.

(Exact name of Registrant as specified in its charter)

Maryland

(State or other jurisdiction of
incorporation or organization)

13-2755856

(I.R.S. Employer Identification No.)

60 Cutter Mill Road, Great Neck, NY
(Address of principal executive offices)

11021
(Zip Code)

516-466-3100

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Stock	BRT	NYSE

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulations S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).
Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See definition of "large accelerated filer" "accelerated filer", "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer <input type="checkbox"/>	Accelerated filer <input type="checkbox"/>
Non-accelerated filer <input checked="" type="checkbox"/>	Smaller reporting company <input checked="" type="checkbox"/>
Emerging growth company <input type="checkbox"/>	

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

Indicate the number of shares outstanding of each of the issuer's classes of stock, as of the latest practicable date.

18,603,490 Shares of Common Stock,
par value \$0.01 per share, outstanding on May 2, 2022

BRT APARTMENTS CORP. AND SUBSIDIARIES
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Explanatory Note

Unless otherwise indicated or the context otherwise requires, all references to (i) “us”, “we”, “BRT” or the “Company” refer to BRT Apartments Corp. and its consolidated and unconsolidated subsidiaries; (ii) all interest rates give effect to the related interest rate derivative, if any; (iii) "acquisitions" include investments in and by unconsolidated joint ventures; (iv) references to the impact of the COVID-19 pandemic include the impact of the governmental and non-governmental responses thereto and the economic consequences thereof, and (v) "same store properties" refer to properties that we owned and operated for the entirety of the periods being compared, except for properties that are under construction, in lease-up, or are undergoing development or redevelopment. We move properties previously excluded from our same store portfolio (because they were under construction, in lease up or are in development or redevelopment) into the same store designation once they have stabilized (as described below) and such status has been reflected fully in all quarters during the applicable periods of comparison. Newly constructed, lease-up, development and redevelopment properties are deemed stabilized upon the earlier to occur of the first full calendar quarter beginning (a) 12 months after the property is fully completed and put in service and (b) attainment of at least 90% physical occupancy.

Part I - FINANCIAL INFORMATION
Item 1. Financial Statements

BRT APARTMENTS CORP. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(Amounts in thousands, except per share data)

	March 31, 2022 (unaudited)	December 31, 2021 (audited)
ASSETS		
Real estate properties, net of accumulated depreciation and amortization of \$39,259 and \$36,467	\$ 328,334	\$ 293,550
Investments in unconsolidated joint ventures	106,025	112,347
Cash and cash equivalents	29,688	32,339
Restricted cash	6,543	6,582
Other assets	12,410	10,341
Real estate property held for sale	—	4,379
Total Assets	\$ 483,000	\$ 459,538
LIABILITIES AND EQUITY		
Liabilities:		
Mortgages payable, net of deferred costs of \$1,297 and \$980	\$ 211,565	\$ 199,877
Junior subordinated notes, net of deferred costs of \$292 and \$297	37,108	37,103
Accounts payable and accrued liabilities	20,125	19,607
Total Liabilities	268,798	256,587
Commitments and contingencies		
Equity:		
BRT Apartments Corp. stockholders' equity:		
Preferred shares \$0.01 par value 2,000 shares authorized, none outstanding	—	—
Common stock, \$0.01 par value, 300,000 shares authorized; 17,632 and 17,349 shares outstanding	176	173
Additional paid-in capital	262,170	258,161
Accumulated deficit	(48,175)	(55,378)
Total BRT Apartments Corp. stockholders' equity	214,171	202,956
Non-controlling interest	31	(5)
Total Equity	214,202	202,951
Total Liabilities and Equity	\$ 483,000	\$ 459,538

See accompanying notes to consolidated financial statements.

BRT APARTMENTS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)
(Amounts in thousands, except shares and per share data)

	Three Months Ended March 31,	
	2022	2021
Revenues:		
Rental and other revenue from real estate properties	\$ 11,430	\$ 7,095
Other income	4	4
Total revenues	11,434	7,099
Expenses:		
Real estate operating expenses - including \$11 and \$7 to related parties	4,753	3,117
Interest expense	2,021	1,660
General and administrative - including \$246 and \$172 to related parties	3,633	3,114
Depreciation and amortization	3,606	1,537
Total expenses	14,013	9,428
Total revenues less total expenses	(2,579)	(2,329)
Equity in earnings (loss) of unconsolidated joint ventures	1,230	(1,345)
Equity in earnings from sale of unconsolidated joint ventures properties	12,961	—
Gain on sale of real estate	6	—
Income (loss) from continuing operations	11,618	(3,674)
Income tax provision	74	57
Net income (loss) from continuing operations, net of taxes	11,544	(3,731)
Net income attributable to non-controlling interest	(36)	(34)
Net income (loss) attributable to common stockholders	\$ 11,508	\$ (3,765)
Weighted average number of shares of common stock outstanding:		
Basic	17,561,802	17,319,222
Diluted	17,654,349	17,319,222
Per share amounts attributable to common stockholders:		
Basic and Diluted	\$ 0.62	\$ (0.22)

See accompanying notes to consolidated financial statements.

BRT APARTMENTS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(Unaudited)
(Dollars in thousands)

	Three Months Ended March 31,	
	2022	2021
Net income (loss)	\$ 11,544	\$ (3,731)
Other comprehensive income :		
Unrealized income on derivative instruments	—	5
Other comprehensive income	—	5
Comprehensive income (loss)	11,544	(3,726)
Comprehensive (income) attributable to non-controlling interests	(36)	(35)
Comprehensive income (loss) attributable to common stockholders	\$ 11,508	\$ (3,761)

See accompanying notes to consolidated financial statements.

BRT APARTMENTS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF EQUITY
(Unaudited)
(Dollars in thousands, except per share data)

	Common Stock	Additional Paid-In Capital	Accumulated Other Comprehensive (Loss) income	Accumulated Deficit	Non- Controlling Interest	Total
Balances, December 31, 2021	\$ 173	\$ 258,161	\$ —	\$ (55,378)	\$ (5)	\$ 202,951
Distributions - common stock - \$0.23 per share	—	—	—	(4,305)	—	(4,305)
Restricted stock and restricted stock units vesting	2	(2)	—	—	—	—
Compensation expense - restricted stock and restricted stock units	—	974	—	—	—	974
Shares issued through equity offering program, net	1	3,037	—	—	—	3,038
Net income	—	—	—	11,508	36	11,544
Other comprehensive income	—	—	—	—	—	—
Comprehensive income						11,544
Balances, March 31, 2022	<u>\$ 176</u>	<u>\$ 262,170</u>	<u>\$ —</u>	<u>\$ (48,175)</u>	<u>\$ 31</u>	<u>\$ 214,202</u>

	Common Stock	Additional Paid-In Capital	Accumulated Other Comprehensive (Loss) income	Accumulated Deficit	Non- Controlling Interest	Total
Balances, December 31, 2020	\$ 164	\$ 245,605	\$ (19)	\$ (67,978)	\$ (84)	\$ 177,688
Distributions - common stock - \$0.22 per share	—	—	—	(4,011)	—	(4,011)
Restricted stock vesting	4	(4)	—	—	—	—
Compensation expense - restricted stock and restricted stock units	—	538	—	—	—	538
Net (loss) income	—	—	—	(3,765)	34	(3,731)
Other comprehensive income	—	—	4	—	1	5
Comprehensive loss						(3,726)
Balances, March 31, 2021	<u>\$ 168</u>	<u>\$ 246,139</u>	<u>\$ (15)</u>	<u>\$ (75,754)</u>	<u>\$ (49)</u>	<u>\$ 170,489</u>

See accompanying notes to consolidated financial statements

BRT APARTMENTS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(Dollars in Thousands)

	Three Months Ended March 31,	
	2022	2021
Cash flows from operating activities:		
Net income (loss)	\$ 11,544	\$ (3,731)
Adjustments to reconcile net income(loss) to net cash provided by operating activities:		
Depreciation and amortization	3,606	1,537
Amortization of deferred financing costs	52	80
Amortization of debt fair value adjustment	(89)	—
Amortization of restricted stock and restricted stock units	974	538
Equity in earnings of unconsolidated joint ventures	(1,230)	1,345
Equity in earnings of sale of real estate of unconsolidated venture	(12,961)	—
Gain on sale of real estate	(6)	—
Increases and decreases from changes in other assets and liabilities:		
(Increase) decrease in other assets	(1,071)	470
Decrease in accounts payable and accrued liabilities	(350)	(87)
Net cash provided by operating activities	469	152
Cash flows from investing activities:		
Improvements to real estate properties	(802)	(223)
Purchase of investment in joint venture	(8,288)	—
Proceeds from the sale of real estate	4,385	—
Distributions from unconsolidated joint ventures	19,796	3,881
Contributions to unconsolidated joint ventures	(2,122)	—
Net cash provided by investing activities	12,969	3,658
Cash flows from financing activities:		
Mortgage payoffs	(14,558)	—
Mortgage principal payments	(410)	(801)
Dividends paid	(4,198)	(3,777)
Proceeds from the sale of common stock	3,038	—
Net cash used in financing activities	(16,128)	(4,578)

BRT APARTMENTS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(Dollars in Thousands)

	Three Months Ended March 31,	
	2022	2021
Net decrease in cash, cash equivalents and restricted cash:	(2,690)	(768)
Cash, cash equivalents and restricted cash at beginning of period	38,921	28,685
Cash, cash equivalents and restricted cash at end of period	<u>\$ 36,231</u>	<u>\$ 27,917</u>
Supplemental disclosure of cash flow information:		
Cash paid during the period for interest	<u>\$ 2,021</u>	<u>\$ 1,587</u>
Cash paid for income taxes	<u>\$ 1</u>	<u>\$ 6</u>
Reclassification of property to held for sale	<u>\$ —</u>	<u>\$ 16,800</u>
Consolidation on buyout of partnership interest:		
Increase in real estate assets	<u>\$ (36,802)</u>	
Increase in other assets	(1,784)	
Increase in mortgage payable	27,062	
Increase in deferred loan costs	(364)	
Increase on accounts payable and accrued liabilities	761	
Decrease in investment in unconsolidated joint ventures	2,839	
	<u>\$ (8,288)</u>	

See accompanying notes to consolidated financial statements

BRT APARTMENTS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(Dollars in Thousands)

The following table provides a reconciliation of cash, cash equivalents, and restricted cash reported within the consolidated balance sheets that sum to the total of the same such amounts shown in the consolidated statements of cash flows.

	March 31,	
	2022	2021
Cash and cash equivalents	\$ 29,688	\$ 19,406
Restricted cash	6,543	8,511
Total cash, cash equivalents and restricted cash, shown in consolidated statement of cash flows	<u>\$ 36,231</u>	<u>\$ 27,917</u>

BRT APARTMENTS CORP. AND SUBSIDIARIES
Notes to Consolidated Financial Statements
March 31, 2022

Note 1 – Organization and Background

BRT Apartments Corp. (the "Company" or "BRT"), a Maryland corporation, owns, operates and to a lesser extent develops multi-family properties. The Company conducts its operations to qualify as a real estate investment trust, or REIT, for federal income tax purposes.

These multi-family properties may be wholly owned by us or by unconsolidated joint ventures in which the Company contributes a significant portion of the equity. At March 31, 2022, the Company: (a) wholly owns eleven multi-family properties located in seven states with an aggregate of 2,864 units, and a carrying value of \$326,350,000; (b) has interests, through unconsolidated entities, in 21 multi-family properties located in eight states with an aggregate of 6,121 units with a carrying value of \$103,917,000 and; (c) has a 17.45% interest in a development project with a carrying value of \$2,122,000. BRT's equity interests in these unconsolidated entities range from 17.45% to 80%. Most of the Company's properties are located in the Southeast United States and Texas.

The Company also owns and operates various other real estate assets. At March 31, 2022, the carrying value of the other real estate assets was \$1,984,000.

Note 2 – Basis of Preparation

The accompanying interim unaudited consolidated financial statements, reflect all normal recurring adjustments which, in the opinion of management, are necessary for a fair presentation of the results for such interim periods. The results of operations for the three months ended March 31, 2022 and 2021, are not necessarily indicative of the results for the full year. The consolidated audited balance sheet as of December 31, 2021, has been derived from the audited financial statements at that date but does not include all the information and footnotes required by accounting principles generally accepted in the United States ("GAAP"). Accordingly, these unaudited statements should be read in conjunction with the Company's audited financial statements included in its Annual Report on Form 10-K for the year ended December 31, 2021 filed with the Securities and Exchange Commission ("SEC").

The consolidated financial statements include the accounts and operations of the Company and its wholly-owned subsidiaries.

The Company accounts for its investments in unconsolidated joint ventures under the equity method of accounting. For each venture, the Company evaluated the rights provided to each party in the venture to assess the consolidation of the venture. All investments in unconsolidated joint ventures have sufficient equity at risk to permit the entity to finance its activities without additional subordinated financial support and, as a group, the holders of the equity at risk have power through voting rights to direct the activities of these ventures. As a result, none of these joint ventures are variable interest entities ("VIEs"). Additionally, as determined in accordance with GAAP, the Company does not exercise substantial operating control over these entities, and therefore the entities are not consolidated. These investments are recorded initially at cost, as investments in unconsolidated joint ventures, and subsequently adjusted for their share of equity in earnings, cash contributions and distributions. The distributions to each joint venture partner are determined pursuant to the applicable operating agreement and may not be *pro-rata* to the percentage equity interest each partner has in the applicable venture.

The joint venture that owns a property in Yonkers, New York, was determined not to be a VIE but is consolidated because the Company has controlling rights in such entity.

The preparation of the financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements. Actual results could differ from those estimates. Substantially all of the Company's assets are comprised of multi-family real estate assets generally leased to tenants on a one-year basis. Therefore, the Company aggregates real estate assets for reporting purposes and operates in one reportable segment.

Note 3 - Equity**Equity Distribution Agreements**

On March 18, 2022, the Company entered into separate equity distribution agreements with two sales agents to sell an aggregate sales price of up to \$40,000,000 of its common stock from time-to-time in an at-the-market offering. Effective as of March 18, 2022, the Company terminated the equity distribution agreements dated November 26, 2019, as amended March 31, 2021. During the three months ended March 31, 2022, the Company sold 136,279 shares for an aggregate sales price of \$3,081,825 before commissions and fees of \$44,079. During the three months ended March 31, 2021, the Company did not sell shares.

Common Stock Dividend Distribution

The Company declared a quarterly cash distribution of \$0.23 per share, payable on April 7, 2022 to stockholders of record on March 24, 2022.

Stock Based Compensation

The Company's 2020 Incentive Plan (the "2020 Plan") permits the Company to grant: (i) stock options, restricted stock, restricted stock units, performance shares awards and any one or more of the foregoing, for up to a maximum of 1,000,000 shares; and (ii) cash settled dividend equivalent rights in tandem with the grant of restricted stock units and certain performance based awards. As of March 31, 2022, 314,128 shares are available for issuance pursuant to awards under the 2020 Plan.

Restricted Stock Units

In June 2021, the Company issued restricted stock units (the "RSUs") to acquire up to 210,375 shares of common stock pursuant to the 2020 Plan. The RSUs entitled the recipients, subject to continued service through the applicable vesting date (*i.e.*, March 31, 2024) to receive (i) the underlying shares if and to the extent certain performance and/or market conditions are satisfied at the vesting date, and (ii) an amount equal to the cash dividends that would have been paid from the grant date through the vesting date with respect to the shares of common stock underlying the RSUs if, when, and to the extent, the related RSUs vest. The shares underlying the RSUs are not participating securities but are contingently issuable shares.

Expense is recognized over the applicable vesting period on the RSUs which the Company expects to vest. For the three months ended March 31, 2022 and 2021, the Company recorded \$250,000 and \$37,000, respectively, of compensation expense related to the amortization of unearned compensation with respect to the RSUs. At March 31, 2022 and December 31, 2021, \$1,997,000 and \$2,248,000 of compensation expense, respectively, has been deferred and will be charged to expense over the remaining vesting period.

Restricted Stock

In January 2022, the Company granted 158,973 shares, of restricted stock pursuant to the 2020 Plan. As of March 31, 2022, an aggregate of 934,342 shares of unvested restricted stock are outstanding pursuant to the 2020 Incentive Plan and the 2018 Incentive Plan (the "2018 Plan"). No additional awards may be granted under the 2018 Plan. The shares of restricted stock vest five years from the date of grant and under specified circumstances, including a change in control, may vest earlier. For financial statement purposes, the restricted stock is not included in the outstanding shares shown on the consolidated balance sheets until they vest, but is included in the earnings per share computation.

For the three months ended March 31, 2022 and 2021, the Company recorded \$724,000 and \$501,000 respectively, of compensation expense related to the amortization of unearned compensation with respect to the restricted stock awards. At March 31, 2022 and December 31, 2021, \$9,986,000 and \$7,332,000, respectively, has been deferred as unearned compensation and will be charged to expense over the remaining vesting periods of these restricted stock awards. The weighted average remaining vesting period of these shares of restricted stock is 3.1 years.

Stock Buyback

On September 13, 2021, the Board of Directors approved a new stock repurchase plan authorizing the Company, effective as of October 1, 2021, to repurchase up to \$5,000,000 of shares of common stock through December 31, 2023. During the three months ended March 31, 2022, the Company did not repurchase any shares of common stock.

Per Share Data

Basic earnings (loss) per share is determined by dividing net income (loss) applicable to common stockholders for the applicable period by the weighted average number of shares of common stock outstanding during such period. Net income is also allocated to the unvested restricted stock outstanding during each period, as the restricted stock is entitled to receive dividends and is therefore considered a participating security. The RSUs are excluded from the basic earnings per share calculation, as they are not participating securities.

Diluted earnings per share reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into shares of common stock or resulted in the issuance of shares of common stock that share in the earnings of the Company. Diluted earnings per share is determined by dividing net income applicable to common stockholders for the applicable period by the weighted average number of shares of common stock deemed to be outstanding during such period.

In calculating diluted earnings per share, the Company, includes only those shares underlying the RSUs that it anticipates will vest based on management's current estimates. The Company excludes any shares underlying the RSUs from such calculation if their effect would have been anti-dilutive.

The following table provides a reconciliation of the numerator and denominator of earnings per share calculations (amounts in thousands, except per share amounts):

	Three Months Ended March 31,	
	2022	2021
Numerator for basic and diluted earnings per share:		
Net Income (loss)	\$ 11,544	\$ (3,731)
Deduct net income attributable to non-controlling interests	(36)	(34)
Deduct (earnings) loss allocated to unvested restricted stock	(574)	163
Net income (loss) available for common stockholders: basic and diluted	<u>\$ 10,934</u>	<u>\$ (3,602)</u>
Denominator for basic earnings per share:		
Weighted average number of common shares outstanding	17,561,802	17,319,222
Effect of dilutive securities:		
RSUs	92,547	—
Denominator for diluted earnings per share:		
Weighted average number of shares	<u>17,654,349</u>	<u>17,319,222</u>
Earnings (loss) per common share, basic	<u>\$ 0.62</u>	<u>\$ (0.22)</u>
Earnings (loss) per common share, diluted	<u>\$ 0.62</u>	<u>\$ (0.22)</u>

(1) Excludes the shares underlying RSU's as their effect would have been anti-dilutive.

Note 4 - Leases

Lessor Accounting

The Company owns a commercial building leased to two tenants under operating leases expiring from 2024 to 2028, with tenant options to extend or terminate the leases. Revenues from such leases are reported as rental income, net, and are comprised of (i) lease components, which includes fixed lease payments and (ii) non-lease components, which includes reimbursements of property level operating expenses. The Company does not separate non-lease components from the related lease components, as the timing and pattern of transfer are the same, and accounts for the combined component in accordance with ASC 842.

Lessee Accounting

The Company is a lessee under a ground lease in Yonkers, NY which is classified as an operating lease. The ground lease expires September 30, 2024 and provides for one 21-year renewal option. As of March 31, 2022, the remaining lease term, including the renewal option deemed exercised, is 23.5 years.

The Company is a lessee under a corporate office lease in Great Neck, New York, which is classified as an operating lease. The lease expires on December 31, 2031 and provides a five-year renewal option. As of March 31, 2022, the remaining lease term, including renewal options deemed exercised, is 14.8 years.

As of March 31, 2022, the Company's Right of Use ("ROU") assets and lease liabilities were \$2,518,000 and \$2,589,000, respectively. As of December 31, 2021, the Company's ROU assets and lease liabilities were \$2,568,000 and \$2,629,000, respectively.

The discount rate applied to measure each ROU asset and lease liability is based on the Company's incremental borrowing rate ("IBR"). The Company considers the general economic environment and its historical borrowing rate activity and factors in various financing and asset specific adjustments to ensure the IBR is appropriate to the intended use of the underlying lease. As the Company did not elect to apply the hindsight practical expedient, lease term assumptions determined under ASC 840 were carried forward and applied in calculating the lease liabilities recorded under ASC 842. The Company's ground lease offers a renewal option which it assesses against relevant economic factors to determine whether it is reasonably certain of exercising or not exercising the option. Lease payments associated with renewal periods that the Company is reasonably certain will be exercised, if any, are included in the measurement of the corresponding lease liability and ROU asset.

Note 5 - Real Estate Properties

Real estate properties, excluding real estate held for sale, consists of the following (dollars in thousands):

	March 31, 2022	December 31, 2021
Land	\$ 42,158	\$ 38,822
Building	315,279	281,841
Building improvements	10,156	9,354
Real estate properties	367,593	330,017
Accumulated depreciation	(39,259)	(36,467)
Total real estate properties, net	\$ 328,334	\$ 293,550

A summary of real estate properties owned is as follows (dollars in thousands):

	December 31, 2021 Balance	Additions	Capitalized Costs and Improvements	Depreciation	Sale of Property	March 31, 2022 Balance
Multi-family	\$ 291,538	\$ 36,802	\$ 802	\$ (2,792)	\$ —	\$ 326,350
Land - Daytona, FL	4,379	—	—	—	(4,379)	—
Retail shopping center and other	2,012	—	—	(28)	—	1,984
Total real estate properties	\$ 297,929	\$ 36,802	\$ 802	\$ (2,820)	\$ (4,379)	\$ 328,334

Property Acquisition

On March 23, 2022, the Company completed the purchase of its partners' remaining 28.1% interest in Verandas at Alamo, San Antonio, TX, for a purchase price of \$8,721,000. As a result of this purchase, this property is wholly-owned and effective March 23, 2022, is included in the Company's consolidated results of operations and accounts, including mortgage debt (see note 9 - "Debt Obligations").

The Company determined that the gross assets purchased in this acquisition are concentrated in a single identifiable asset. Therefore, the transaction does not meet the definition of a business and is accounted for as an asset acquisition. The Company assessed the fair value of the tangible assets of the property as of the acquisition date using the cost accumulation and income approach which utilized a market capitalization rate of 4.5% which is a Level 3 unobservable input in the fair value hierarchy.

The following table summarizes the allocation of the book value based on the proportionate share of the estimated fair value of the property on the acquisition date (dollars in thousands):

	Purchase Price Allocation
Land	\$ 3,336
Building and improvements	33,404
Total land and buildings	36,740
Acquisition related intangible assets	797
Total Asset	\$ 37,537
Acquisition related mortgage intangible	\$ 62

Property Disposition

On February 2, 2022 the Company sold a vacant land parcel located in Daytona, Florida for a sales price of \$4,700,000, and, after closing costs, recognized a nominal gain. In 2020, we recognized an impairment charge of \$3,600,000 in connection with this property. At December 31, 2021, this property was classified as held-for-sale.

Note 6 - Impairment Charges

The Company reviews each real estate asset owned, including those held through investments in unconsolidated joint ventures, for impairment when there is an event or a change in circumstances indicating that the carrying amount may not be recoverable.

The Company measures and records impairment charges, and reduces the carrying value of owned properties, when indicators of impairment are present and the expected undiscounted cash flows related to those properties are less than their carrying amounts. For its unconsolidated joint venture investments, the Company measures and records impairment losses, and reduces the carrying value of the equity investment when indicators of impairment are present and the expected discounted cash flows related to the investment is less than the carrying value.

When the Company does not expect to recover its carrying value on properties held for use, the Company reduces its carrying value to fair value, and for properties held for sale, the Company reduces its carrying value to the fair value less costs to sell. When the Company does not expect to recover its carrying value on unconsolidated joint ventures that are under contract for sale, the Company, when it is determined that the sale is probable, reduces its carrying value to its fair value.

For the three months ended March 31, 2022 and 2021, the Company did not record any impairment charges.

Note 7 - Restricted Cash

Restricted cash represents funds held for specific purposes and are therefore not available for general corporate purposes. The restricted cash reflected on the consolidated balance sheets represents funds that are held by the Company specifically for capital improvements at certain multi-family properties owned by unconsolidated joint ventures.

Note 8 – Investment in Unconsolidated Ventures

At March 31, 2022 and December 31, 2021, the Company held interests in unconsolidated joint ventures that own 21 and 23 multi-family properties (the "Unconsolidated Properties"), respectively. The condensed balance sheets below present information regarding such properties (dollars in thousands):

	March 31, 2022	December 31, 2021
ASSETS		
Real estate properties, net of accumulated depreciation of \$125,930 and \$133,615	\$ 675,246	\$ 734,247
Cash and cash equivalents	11,567	13,741
Other assets	25,944	25,535
Total Assets	<u>\$ 712,757</u>	<u>\$ 773,523</u>
LIABILITIES AND EQUITY		
Liabilities:		
Mortgages payable, net of deferred costs of \$3,244 and \$3,423	\$ 531,246	\$ 584,479
Accounts payable and accrued liabilities	10,266	17,064
Total Liabilities	541,512	601,543
Commitments and contingencies		
Equity:		
Total unconsolidated joint venture equity	171,245	171,980
Total Liabilities and Equity	<u>\$ 712,757</u>	<u>\$ 773,523</u>
BRT's interest in joint venture equity	<u>\$ 106,025</u>	<u>\$ 112,347</u>

At the indicated dates, real estate properties of the unconsolidated joint ventures consist of the following (dollars in thousands):

	March 31, 2022	December 31, 2021
Land	\$ 92,378	\$ 97,230
Building	678,140	739,577
Building improvements	30,658	31,055
Real estate properties	801,176	867,862
Accumulated depreciation	(125,930)	(133,615)
Total real estate properties, net	<u>\$ 675,246</u>	<u>\$ 734,247</u>

At March 31, 2022 and December 31, 2021, the weighted average interest rate on the mortgages payable is 4.07% and 3.97%, respectively, and the weighted average remaining term to maturity is 7.64 years and 7.60 years, respectively.

The condensed income statement below presents information regarding the Unconsolidated Properties (dollars in thousands):

	Three Months Ended March 31,	
	2022	2021
Revenues:		
Rental and other revenue	\$ 25,231	\$ 32,672
Total revenues	25,231	32,672
Expenses:		
Real estate operating expenses	11,169	15,703
Interest expense	6,026	8,522
Depreciation	6,636	10,385
Total expenses	23,831	34,610
Total revenues less total expenses	1,400	(1,938)
Other equity earnings	55	9
Impairment of assets	—	(2,323)
Insurance recoveries	—	2,323
Gain on insurance recoveries	515	—
Gain on sale of real estate	23,652	—
Loss on extinguishment of debt	(30)	—
Net income (loss) from joint ventures	\$ 25,592	\$ (1,929)
BRT's equity in earnings (loss) and equity in earnings from sale of unconsolidated joint venture properties	\$ 14,191	\$ (1,345)

Joint Venture Sales

On February 8, 2022, the unconsolidated joint venture in which the Company had a 65% equity interest sold The Verandas at Shavano, a 288-unit multi-family property in San Antonio, TX, for a sales price of \$53,750,000. The gain on the sale of this property was \$23,652,000 and BRT's share of the gain was \$12,961,000. In connection with the sale, mortgage debt of \$25,100,000 with 1.2 years of remaining term to maturity and bearing an interest rate of 3.61% was repaid.

Subsequent to March 31, 2022, the unconsolidated joint ventures in which the Company has a (i) 75% equity interest entered into a contract dated as of April 16, 2022 to sell Retreat at Cinco Ranch, a 268-unit multi family property in San Antonio, TX for \$68,500,000 and (ii) 65% equity interest entered into a contract dated as of May 3, 2022 to sell The Vive, a 312-unit multi-family property in Kannapolis, NC for \$92,000,000. The completion of these two sales are subject to the satisfaction of customary closing conditions and are not contingent upon the closing of one-another; it is anticipated that such sales will be completed during the quarter ending June 30, 2022.

Joint Venture Acquisitions

On March 10, 2022, the Company purchased a 17.45% interest in a planned 240-unit development property, Stono Oaks, located in Johns Island, SC. The purchase price for the interest, was \$3,500,000, which includes \$2,122,000 held in escrow at March 31, 2022.

Joint Venture Buyouts

On March 23, 2022, the Company completed its acquisition of the remaining 28.1% interest owned by its joint venture partner in the entity that owns Verandas at Alamo, a 288-unit multi-family property located in San Antonio, TX. The purchase price for the interest was \$8,721,000. As a result of this purchase, Verandas at Alamo, effective as of the purchase date, is wholly-owned, and its operations and accounts are consolidated, including mortgage debt (see note 9 - "Debt Obligations").

Subsequent to March 31, 2022, the Company completed its acquisition of the remaining 21.6% interest owned by its joint venture partner in the entity that owns Vanguard Heights, a 174-unit multi-family property located in Creve Coeur, MO. The purchase price for the interest was \$4,800,000. As a result of this purchase, Vanguard Heights, effective as of the purchase

date, is wholly-owned and its operations and accounts will be consolidated, including mortgage debt in principal amount of \$29,700,000 with an interest rate of 4.41% (interest only until July 2025) and maturing in July 2031.

Note 9 – Debt Obligations

Debt obligations consist of the following (dollars in thousands):

	March 31, 2022	December 31, 2021
Mortgages payable	\$ 212,862	\$ 200,857
Junior subordinated notes	37,400	37,400
Deferred financing costs	(1,589)	(1,277)
Total debt obligations, net of deferred costs	<u>\$ 248,673</u>	<u>\$ 236,980</u>

Mortgages Payable

At March 31, 2022, the weighted average interest rate on the Company's mortgage payables was 3.73% and the weighted average remaining term to maturity is 10.2 years. For the three months ended March 31, 2022 and 2021, interest expense, which includes amortization of deferred financing costs, was \$1,763,000 and \$1,430,000, respectively.

During the three months ended March 31, 2022, the Company paid off mortgage debt of \$14,558,000 on a property.

On March 23, 2022, as a result of the purchase of its partners' remaining interests in Verandas at Alamo - San Antonio, TX, mortgage debt in principal amount of \$27,000,000 with a fixed rate (*i.e.*, 3.64% and interest only until October 2024 and a maturity of December 2029) will be included on the Company's consolidated balance sheet.

On April 7, 2022, as a result of the purchase of its partners' remaining interests in Vanguard Heights - Creve Coeur, MO, mortgage debt in principal amount of \$29,700,000 with a fixed rate (*i.e.*, 4.41% and interest only until July 2025 and a maturity of July 2031) will be included on the Company's consolidated balance sheet.

Credit Facility

The Company's amended and restated credit facility dated November 18, 2021 with an affiliate of Valley National Bank ("VNB") allows the Company to borrow, subject to compliance with borrowing base requirements and other conditions, up to \$35,000,000 to facilitate the acquisition of multi-family properties, repay mortgage debt secured by multi family properties and for operating expense (*i.e.*, working capital (including dividend payments)); provided that no more than \$15,000,000 may be used for operating expenses. The facility is secured by the cash available in certain cash accounts maintained by the Company at VNB, matures November 2024 and bears an adjustable interest rate of 25 basis points over the prime rate, with a floor of 3.5%. The interest rate in effect as of March 31, 2022 is 3.75%. There is an unused facility fee of 0.25% per annum on the total amount committed by Valley National Bank and unused by the Company. At March 31, 2022, the Company is in compliance with all material respects with its obligations under the facility.

At March 31, 2022 and December 31, 2021, there was no outstanding balance on the facility and \$35,000,000 was available to be borrowed in both periods. Interest expense for the three months ended March 31, 2022 and 2021, which includes amortization of deferred financing costs and unused fees, was \$45,000 and \$17,000, respectively. Deferred financing costs of \$247,000 and \$270,000, are recorded in other assets on the Consolidated balance sheets at March 31, 2022 and December 31, 2021, respectively.

Junior Subordinated Notes

At March 31, 2022 and December 31, 2021, the outstanding principal balance of the Company's junior subordinated notes was \$37,400,000, before deferred financing costs of \$292,000 and \$297,000, respectively. The interest rate on the outstanding balance resets quarterly and is based on three months LIBOR + 2.00%. The rate in effect at March 31, 2022 and 2021 was 2.30% and 2.21%, respectively. The notes mature April 30, 2036.

The junior subordinated notes require interest only payments through the maturity date of April 30, 2036, at which time repayment of the outstanding principal and unpaid interest become due. Interest expense for the three months ended March 31, 2022 and 2021, which includes amortization of deferred financing costs, was \$212,000 and \$214,000, respectively.

Note 10 – Related Party Transactions

The Company has retained certain of its executive officers and Fredric H. Gould, a director, among other things, to participate in the Company's multi-family property analysis and approval process (which includes service on an investment committee), provide investment advice, and provide long-term planning and consulting with executives and employees with respect to other business matters, as required. The aggregate fees incurred for these services in each of the three months ended March 31, 2022 and 2021 were \$367,000 and \$350,000, respectively.

Management of certain properties owned by the Company and certain joint venture properties is provided by Majestic Property Management Corp. ("Majestic Property"), a company wholly owned by Fredric H. Gould. Certain of the Company's officers and directors are also officers and directors of Majestic Property. Majestic Property may also provide real estate brokerage and construction supervision services to these properties. These fees amounted to \$11,000 and \$7,000 for the three months ended March 31, 2022 and 2021, respectively.

Pursuant to a shared services agreement between the Company and several affiliated entities, including Gould Investors L.P. ("Gould Investors"), the owner and operator of a diversified portfolio of real estate and other assets, and One Liberty Properties, Inc., a NYSE listed equity REIT, the (i) services of the part-time personnel that perform certain executive, administrative, legal, accounting and clerical functions and (ii) certain facilities and other resources, are provided to the Company. The allocation of expenses for the facilities, personnel and other resources shared by, among others, the Company and Gould Investors, is computed in accordance with such agreement and is included in general and administrative expense on the consolidated statements of operations. During the three months ended March 31, 2022 and 2021, allocated general and administrative expenses reimbursed by the Company to Gould Investors pursuant to the shared services agreement aggregated \$246,000 and \$172,000, respectively. Jeffrey A. Gould and Matthew J. Gould, executive officers and directors of the Company are executive officers of Georgetown Partners, LLC, the managing general partner of Gould Investors.

Note 11 – Fair Value Measurements

Financial Instruments Not Carried at Fair Value

The following methods and assumptions were used to estimate the fair value of each class of financial instruments that are not recorded at fair value on the consolidated balance sheets:

Cash and cash equivalents, restricted cash, accounts receivable (included in other assets), accounts payable and accrued liabilities: The carrying amounts reported in the balance sheets for these instruments approximate their fair value due to the short term nature of these accounts.

Junior subordinated notes: At March 31, 2022 and December 31, 2021, the estimated fair value of the notes is lower than their carrying value by approximately \$8,150,000 and \$8,296,000, respectively, based on a market interest rate of 4.30% and 4.21%, respectively.

Mortgages payable: At March 31, 2022, the estimated fair value of the Company's mortgages payable is lower than their carrying value by approximately \$36,739,000, assuming market interest rates between 3.92% and 4.67%. At December 31, 2021, the estimated fair value of the Company's mortgages payable was greater than their carrying value by approximately \$511,000, assuming market interest rates between 3.12% and 3.87%. Market interest rates were determined using rates which the Company believes reflects institutional lender yield requirements at the balance sheet dates.

Considerable judgment is necessary to interpret market data and develop estimated fair value. The use of different market assumptions and/or estimation methodologies may have a material effect on the estimated fair value.

Non-recurring fair value measurements

The Company reviews each investment in real estate and joint venture interests when events or circumstances change, indicating the carrying value of the investment may not be recoverable. In the evaluation of an investment for impairment, many factors are considered, including estimated current and expected cash flows from the asset during the projected hold period, costs necessary to extend the life of the asset, expected capitalization rates, projected stabilized net operating income, and the ability to hold or dispose of the asset in the ordinary course of business.

Note 12 – Derivative Financial Instruments*Cash Flow Hedges of Interest Rate Risk*

The Company's objective in using interest rate derivatives are to add stability to interest expense and to manage its exposure to interest rate movements. To accomplish this objective, the Company primarily uses interest rate swaps as part of its interest rate risk management strategy. Interest rate swaps designated as cash flow hedges involve the receipt of variable amounts from a counterparty in exchange for the Company making fixed-rate payments over the life of the agreements without exchange of the underlying notional amount.

The changes in the fair value of derivatives designated and that qualify as cash flow hedges is recorded in Accumulated Other Comprehensive income and is subsequently reclassified into earnings in the period that the hedged forecasted transaction affects earnings.

As of March 31, 2022 and December 31, 2021, the Company did not have any outstanding interest rate derivatives that were designated as cash flow hedges of interest rate risk.

The following table presents the effect of the Company's interest rate swaps on the consolidated statements of comprehensive income (loss) for the dates indicated (dollars in thousands):

	Three Months Ended March 31,	
	2021	
Amount of (loss) gain recognized on derivative in Other Comprehensive Income	\$	—
Amount of (loss) gain reclassified from Accumulated Other Comprehensive Income into Interest expense	\$	(5)
Total amount of Interest expense presented in the Consolidated Statements of Operations	\$	1,660

Note 13 – New Accounting Pronouncements

In March 2020, the Financial Accounting Standard Board issued ASU 2020-04, Reference Rate Reform (Topic 848). ASU 2020-04 contains practical expedients for reference rate reform related activities that impact debt, lease, derivatives and other contracts. This guidance in ASU 2020-04 is optional and may be elected over time as reference rate reform activities occur. During the first quarter of 2020, the Company has elected to apply hedge accounting expedients related to probability and the assessments of effectiveness for future LIBOR-indexed cash flows to assume that the index upon which future hedged transactions will be based matches the index on the corresponding derivatives. Application of these expedients preserves the presentation of derivatives consistent with past presentation. The Company continues to evaluate the impact of the guidance and may apply other elections as applicable as additional changes in the market occur.

Note 14 – Subsequent Events

Subsequent events have been evaluated and any significant events, relative to our consolidated financial statements as of March 31, 2022, that warrant additional disclosure, have been included in the notes to the consolidated financial statements.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Cautionary Statement Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q (the "Quarterly Report"), together with other statements and information publicly disseminated by us, contains certain forward looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). We intend such forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 and include this statement for purposes of complying with these safe harbor provisions. Forward-looking statements relate to expectations, beliefs, projections, future plans and strategies, anticipated events or trends concerning matters that are not historical facts. Forward looking statements are generally identifiable by use of words such as "may," "will," "will likely result," "shall," "should," "could," "believe," "expect," "intend," "anticipate," "estimate," "project," "apparent," "experiencing," or similar expressions or variations thereof.

Forward-looking statements contained in this Quarterly Report are based on our beliefs, assumptions and expectations of our future performance taking into account the information currently available to us. These beliefs, assumptions and expectations can change as a result of many possible events or factors, not all of which are known to us or within our control, and which could materially affect actual results, performance or achievements. Factors which may cause actual results to vary from our forward-looking statements include, but are not limited to:

- the impact of the COVID-19 pandemic and the governmental and non-governmental responses thereto;
- general economic and business conditions, including those currently affecting our nation's economy and real estate markets;
- the availability of, and costs associated with, sources of capital and liquidity;
- accessibility of debt and equity capital markets;
- general and local real estate conditions, including any changes in the value of our real estate;
- changes in Federal, state and local governmental laws and regulations, including laws and regulations relating to taxes and real estate and related investments;
- the level and volatility of interest rates;
- our acquisition strategy, which may not produce the cash flows or income expected;
- the competitive environment in which we operate, including competition that could adversely affect our ability to acquire properties and/or limit our ability to lease apartments or increase or maintain rental income;
- a limited number of multi-family property acquisition opportunities acceptable to us;
- our multi-family properties are concentrated in the Southeastern United States and Texas, which makes us more susceptible to adverse developments in those markets;
- risks associated with our strategy of acquiring value-add multi-family properties, which involves greater risks than more conservative strategies;
- the condition of Fannie Mae or Freddie Mac, which could adversely impact us;
- our failure to comply with laws, including those requiring access to our properties by disabled persons, which could result in substantial costs;
- insufficient cash flows, which could limit our ability to make required payments on our debt obligations;
- our ability and the ability of our joint venture partners to maintain compliance with the covenants contained in our and our joint venture partners' debt facilities and debt instruments;
- impairment in the value of real estate we own;
- failure of property managers to properly manage properties;
- disagreements with, or misconduct by, joint venture partners;
- decreased rental rates or ancillary revenues, or increasing vacancy rates;

- our ability to lease units in newly acquired or newly constructed multi-family properties;
- potential defaults on or non-renewal of leases by tenants;
- creditworthiness of tenants;
- our ability to successfully evaluate, finance, complete and integrate acquisitions, including the acquisitions of the interests of our joint venture partners in unconsolidated subsidiaries;
- development and acquisition risks, including rising or unanticipated costs and failure of such acquisitions and developments to perform in accordance with projections;
- the timing of acquisitions and dispositions;
- our ability to reinvest the net proceeds of dispositions into more, or as favorable, acquisition opportunities;
- potential natural disasters such as hurricanes, tornadoes and floods;
- board determinations as to timing and payment of dividends, if any, and our ability or willingness to pay future dividends;
- financing risks, including the risks that our cash flows from operations may be insufficient to meet required debt service obligations and we may be unable to refinance our existing debt upon maturity or obtain new financing on attractive terms or at all;
- lack of or insufficient amounts of insurance to cover, among other things, losses from catastrophes;
- our ability to maintain our qualification as a REIT;
- possible environmental liabilities, including costs, fines or penalties that may be incurred due to necessary remediation of contamination of properties presently owned or previously owned by us or a subsidiary owned by us or acquired by us;
- our dependence on information systems;
- risks associated with breaches of our or our joint venture partners' information technology systems;
- failure to comply with, or obtain waivers of, the provisions of, and covenants and coverage ratios in, our debt instruments;
- risks associated with the stock ownership restrictions of the Code for REITs and the stock ownership limit imposed by our charter;
- increases in real estate taxes at properties we acquire due to such acquisitions or other factors;
- the other factors described in this Quarterly Report on Form 10-Q and our Annual Report on Form 10-K for the year ended December 31, 2021 (the "Annual Report"), including those factors set forth under the sections of such reports, as applicable, entitled "*Cautionary Statement Regarding Forward-Looking Statements*," "*Risk Factors*," "*Business*," and "*Management's Discussion and Analysis of Financial Condition and Results of Operations*".

We caution you not to rely on forward-looking statements since they involve known and unknown risks, uncertainties and other factors which are, in some cases, beyond our control, and which could materially affect actual results, performance or achievements. Except to the extent otherwise required by applicable law or regulation, we undertake no obligation to update forward-looking statements to reflect events or circumstances after the date of the filing of this Quarterly Report or to reflect the occurrence of unanticipated events.

Overview

We are an internally managed real estate investment trust, also known as a REIT, that is focused on the ownership, operation and, to a lesser extent, development of multi-family properties. These properties may be wholly owned or by unconsolidated joint ventures in which we generally contribute a significant portion of the equity. At March 31, 2022, we: (i) wholly-own eleven multi-family with an aggregate of 2,864 units and a carrying value of \$326.3 million; (ii) have ownership interests, through unconsolidated entities, in 21 multi-family properties with 6,121 units and a carrying value of \$103.9 million; and (iii) have a 17.45% interest in a 240-unit multi-family development property with a carrying value of \$2.1 million

(excluding \$1.4 million held in escrow). The 33 properties are located in 11 states; most of the properties are located in the Southeast United States and Texas. See *"Off Balance Sheet Arrangements"* for information regarding the contributions to, and our reliance on, the cash flow and liquidity provided by the properties owned by our unconsolidated subsidiaries.

Challenges and Uncertainties Presented by COVID-19

The pandemic did not have a direct material adverse effect on our financial condition and results of operations; however, there were some direct negative effects (e.g., we were more conservative in raising rents, pursuing acquisitions and in implementing our value add program, all of which, if more aggressively pursued, may have allowed us to generate additional income). The impact of the pandemic on our business, financial condition, liquidity, results of operations and prospects will depend on future developments, which are highly uncertain and cannot be predicted with confidence.

Buyout of Interests in Joint Ventures

As disclosed in our Annual Report, our acquisition efforts in 2022 are focused on purchasing the remaining interests of our joint venture partners in joint ventures that own multifamily properties. We refer to such purchases as the "Partner Buyouts". After a Partner Buyout is completed, such multifamily property will be wholly owned and the accounts and operations of such property will be included in our consolidated balance sheet and statements of operations, respectively, as of the date of completion of such purchase. We anticipate that our assets, liabilities, revenues and expenses will increase significantly as a result of these Partner Buyouts.

Due to the timing that contemplates that the sales of Retreat at Cinco Ranch and The Vive (the "Cinco/Vive Sales") described below (*"Property Dispositions - Dispositions of Joint Venture Properties - Contracts to Dispose of Joint Venture Properties"*) will be completed before all the Partner Buyouts described below (i.e., the Partner Buyouts completed or to be completed after March 31, 2022) are completed, and after giving effect to the Shavano Sale (as described below), it is expected that there may be a slight decline in operating results in the quarter ending June 30, 2022, and that after the Cinco/Vive Sales and the Partner Buyouts described below are completed, such transactions will not have a material impact in the short-term on our net income, funds from operations or adjusted funds from operations. After giving effect to the Cinco/Vive Sales and the Partner Buyouts described below, our consolidated balance sheet will include an *additional* (i) \$217.4 million of mortgage debt with a weighted average remaining term to maturity of 6.5 years and a weighted average interest rate of 4.24 % and (ii) \$302.2 million of real estate assets.

Completed Purchases of the Remaining Interests of Joint Venture Partners

During the Three Months Ended March 31, 2022

On March 23, 2022, we completed the acquisition of the remaining 28.1% interest owned by our joint venture partners in the entity that owns Verandas at Alamo Ranch, a 288-unit multi-family property located in San Antonio, TX. The purchase price for the interest, which gives effect to the cost of purchasing the promote interest (as described under *"Contracts to Purchase the Remaining Interests of Joint Venture Partners"*) of our joint venture partner, was \$8.7 million. As a result, this property is wholly-owned and effective March 23, 2022, is included in our consolidated operations and accounts, including mortgage debt in principal amount of \$27 million with an interest rate of 3.64% and maturing in December 2029. We anticipate that in the quarter ending June 30, 2022, this property will generate approximately \$1.2 million of rental revenues, \$579,000 of real estate operating expenses, \$258,000 of interest expense and \$518,000 of depreciation. For the quarter ended March 31, 2022, the average occupancy rate at this property was 94.7% and the average monthly rental rate was \$1,206.

Subsequent to the Three Months Ended March 31, 2022

On April 7, 2022, we acquired the remaining 21.6% interest owned by our joint venture partners in the entity that owns Vanguard Heights, a 174-unit multi-family property located in Creve Couer, MO. The purchase price for the interest, which gives effect to the cost of purchasing the promote interest of our joint venture partner, was \$4.8 million. As a result, this property is wholly-owned by us and effective April 7, 2022, is included in our consolidated operations and accounts, including mortgage debt of \$29.7 million with an interest rate of 4.41% and maturing in July 2031. We anticipate that in the quarter ending June 30, 2022, this property will generate approximately \$900,000 of rental revenues, \$367,000 of real estate operating expenses, \$337,000 of interest expense and \$495,000 of depreciation. For the quarter ended March 31, 2022, the average occupancy rate at this property was 93.1% and the average monthly rental rate was \$1,569.

Contracts to Purchase the Remaining Interests of Joint Venture Partners in Nine Unconsolidated Ventures

From February 17, 2022 through April 6, 2022, we entered into agreements to acquire the remaining interests of our joint venture partners in the unconsolidated joint ventures that own the properties identified below. It is anticipated that these transactions, subject to the satisfaction of customary closing conditions, including the approval of the holders of the applicable mortgage debt, will be completed by August 1, 2022. Except as otherwise indicated, the mortgage debt reflected is currently on the property and after the completion of the applicable acquisition, will be included in our consolidated balance sheet (dollars in thousands):

Date of Agreement	Property Name	Location	Units	Remaining Interest to be Purchased	Book Value of Property at 3/31/22	Purchase Price (1)	Estimated Amount of Debt to be Included on our Consolidated Balance Sheet
February 2022	Jackson Square	Tallahassee, FL	242	20 %	\$ 25,102	\$ 6,220	\$ 21,524
February 2022	Grove at River Place	Macon, GA	240	20 %	12,829	7,485	11,481
February 2022	The Woodland Apartments	Boerne, TX	120	20 %	11,394	3,550	7,935
March 2022	Brixworth at Bridge Street	Huntsville, AL	208	20 %	11,844	10,851	18,500 (2)
April 2022	Abbotts Run	Willmington, NC	264	20 %	37,552	8,560	23,160
April 2022	Civic Center I (3)	Southaven, MS	392	25 %	30,831	18,063	27,544
April 2022	Civic Center II (3)	Southaven, MS	384	25 %	32,725	17,694	30,288
April 2022	Magnolia Pointe at Madison	Madison, AL	204	20 %	18,474	7,132	15,000
April 2022	Somerset at Trussville	Birmingham, AL	328	20 %	40,300	9,785	32,250
Total			2,382		\$ 221,051	\$ 89,340	\$ 187,682

(1) The purchase (i) price gives effect to the purchase of the "promote interest" (as more fully described in the Annual Report) of our joint venture partners and (ii) is subject to customary closing and similar adjustments.

(2) The current mortgage debt of \$11,184 is to be refinanced with approximately \$18,500 of new ten-year mortgage debt with an anticipated interest rate of 4.25% (the "New Mortgage Debt").

(3) The completion of the sale of each of Civic Center I and Civic Center II is conditioned upon the closing of one another. The purchase price reflected for each represents an allocation of the total purchase price based on number of units.

To fund these purchases, we anticipate using our available cash, a portion of the proceeds from the Cinco/Vive Sales, a portion of the proceeds of the New Mortgage Debt, funds from our at-the-market equity offering program and, funds from our credit facility. After a purchase is completed, such property will be wholly-owned and the accounts (*i.e.*, the assets and liabilities), and operations of such property will be included directly, from the date of such purchase, in our consolidated balance sheets and consolidated statement of operations, respectively.

Property Dispositions

Dispositions of Joint Venture Properties

Completed Dispositions

On February 8, 2022, the unconsolidated joint venture which owned Verandas At Shavano, a 288-unit multi-family property in which we had a 65% interest, sold the property for \$53.8 million and recognized a gain on the sale of this property of \$23.7 million (the "Shavano Sale"). As a result of the sale, we recorded a gain of \$13.0 million. The mortgage debt secured by this property and paid-off in connection with the sale was in principal amount of \$25.1 million, had an interest rate of 3.61% and was scheduled to mature in May 2023. During 2021, this property contributed \$526,000 of equity in earnings of unconsolidated joint ventures.

Contracts to Dispose of Joint Venture Properties

In April 2022, the unconsolidated joint venture that owns Retreat at Cinco Ranch, located in Katy, Texas, in which we hold a 75% equity interest, entered into an agreement to sell the property for \$68.5 million. This property, which as of March 31, 2022, had mortgage debt of \$30.2 million, with a remaining term to maturity of 3.8 years and an interest rate of 4.44%, contributed \$336,000 of equity in loss of unconsolidated joint ventures in 2021. We anticipate that our share of the gain, after giving effect to our approximate \$1.1 million share of the mortgage prepayment charge, will be approximately \$16.4 million.

In May 2022, the unconsolidated joint venture that owns The Vive, a 312-unit multi-family property located in Kannapolis, NC, in which we hold a 65% equity interest, entered into an agreement to sell the property for \$92.0 million. This property, which as of March 31, 2022, had mortgage debt of \$31.6 million, with a remaining term to maturity of 30 years and an interest rate of 3.52%, contributed \$77,000 of equity in earnings of unconsolidated joint ventures in 2021. We anticipate that our share of the gain, after giving effect to our approximate \$738,000 share of the mortgage prepayment charge, will be approximately \$21.5 million.

We anticipate that the Cinco/Vive Sales will be completed, subject to the satisfaction of customary closing conditions, during the quarter ending June 30, 2022.

Sale of Vacant Land Parcel

On February 2, 2022, we completed the sale of a vacant land parcel located in Daytona, Florida for a sales price of \$4.7 million, and, after closing costs, recognized a nominal gain. In 2020, we recognized an impairment charge of \$3.6 million in connection with this property. At December 31, 2021, this property was classified as held-for-sale.

Other Activities During the Three Months Ended March 31, 2022

Investment in Multi-Family Development Project

On March 10, 2022, we purchased a 17.45% interest in Stono Oaks, a planned 240-unit ground-up multi-family development, located in Johns Island, SC. The purchase price for the interest was \$3.5 million, including \$1.4 million held in escrow. We anticipate that this project will be completed in the fourth quarter of 2023.

Debt Reduction

In addition to the debt pay-offs described in "*-Completed Purchases of the Remaining Interests of Joint Venture Partner*" in connection with property dispositions, we paid-off, one month prior to its maturity, mortgage debt of \$14.6 million bearing an interest rate of 4.29% on the Avalon Apartments-Pensacola, FL (the "Avalon Debt").

Sale of Common Stock Pursuant to the ATM Program

We sold 136,279 shares pursuant to our ATM sales program at an average price of \$22.61 per share. Net proceeds after commissions and fees was \$3.0 million.

Results of Operations – Three months ended March 31, 2022 compared to three months ended March 31, 2021.

As used herein, the term "same store properties" refers to operating properties that were owned for the entirety of the periods presented. For the three months ended March 31, 2022 and 2021, there were seven same store properties in our consolidated portfolio.

Revenues

The following table compares our revenues for the periods indicated:

	Three Months Ended March 31,		Increase (Decrease)	% Change
	2022	2021		
(Dollars in thousands):				
Rental and other revenue from real estate properties	\$ 11,430	\$ 7,095	\$ 4,335	61.1
Other income	4	4	—	—
Total revenues	<u>\$ 11,434</u>	<u>\$ 7,099</u>	<u>\$ 4,335</u>	<u>61.1</u>

Rental and other revenue from real estate properties

The increase is due to the following changes:

- \$4.4 million due to the Partner Buyouts at four properties(*i.e.*, primarily Bells Bluff, Crestmont at Thornblade, Crossings of Bellevue in 2021 and, to a lesser extent, Verandas at Alamo Ranch in February 2022 (collectively, the "Consolidating Transactions")); and
- \$614,000 primarily due to an increase in average rental rates at same store properties.

Offsetting the increase is a \$739,000 decrease due to the sale of the Kendall Manor property in May 2021 (the "Kendall Sale").

Expenses

The following table compares our expenses for the periods indicated:

(Dollars in thousands)	Three Months Ended March 31,		Increase (Decrease)	% Change
	2022	2021		
Real estate operating expenses	\$ 4,753	\$ 3,117	\$ 1,636	52.5
Interest expense	2,021	1,660	361	21.7
General and administrative	3,633	3,114	519	16.7
Depreciation and amortization	3,606	1,537	2,069	134.6
Total expenses	<u>\$ 14,013</u>	<u>\$ 9,428</u>	<u>\$ 4,585</u>	<u>48.6</u>

Real estate operating expense.

The increase is due primarily to:

- the inclusion of \$1.9 million relating to the Consolidating Transactions; and
- \$224,000 at same store properties due to increases across most expense categories.

The increase was offset by a decline of \$456,000 due to the Kendall Sale.

Interest expense.

The change is due to a \$1.0 million increase from the inclusion of interest expense related to the Consolidating Transactions. This was offset by a \$664,000 decrease due to the payoff of \$31.9 million of mortgage debt in 2021 and, to a lesser extent, the payoff of the Avalon Debt in the current period. See Item 3 "Quantitative and Qualitative Disclosures About Market Risks" for information regarding the impact of changing interest rates on our floating rate junior subordinated notes.

General and administrative.

The increase is due primarily to a \$436,000 increase in non-cash compensation expense including increased amortization of:

- \$213,000 relating to the grant of performance and market based restricted stock units (the "RSUs") in June 2021;
- \$130,000 with respect to restricted stock granted in June 2021; and
- \$93,000 due to the restricted stock granted in January 2021 (as a result of the higher fair value of the shares granted in 2021 in comparison to the restricted stock granted in 2016).

Depreciation and amortization

The increase is due primarily to the inclusion of \$2.2 million of such expense from the Consolidating Transactions.

Unconsolidated Joint Ventures - Results of Operations

Equity in earnings (loss) of unconsolidated joint ventures.

The table below reflects the condensed income statements of our Unconsolidated Properties. In accordance with US generally accepted accounting principles, each of the line items in the chart below (other than equity in income (loss) of unconsolidated joint ventures) is presented as if these properties are wholly owned by us although our equity interests in these properties ranges from 17.45% to 80% (see note 8 of our consolidated financial statements) (dollars in thousands):

	Three Months Ended March 31,		Increase (Decrease)	% change
	2022	2021		
Rental and other revenues from unconsolidated joint ventures	\$ 25,231	\$ 32,672	\$ (7,441)	(22.8)%
Real estate operating expense from unconsolidated joint ventures	11,169	15,703	(4,534)	(28.9)%
Interest expense from unconsolidated joint ventures	6,026	8,522	(2,496)	(29.3)%
Depreciation from unconsolidated joint ventures	6,636	10,385	(3,749)	(36.1)%
Total expenses from unconsolidated joint ventures	23,831	34,610	(10,779)	(31.1)%
Total revenues less total expenses from unconsolidated joint ventures	1,400	(1,938)	3,338	172.2 %
Other equity earnings	55	9	46	511.1 %
Impairment of assets from unconsolidated joint ventures	—	(2,323)	2,323	N/A
Insurance recoveries from unconsolidated joint ventures	—	2,323	(2,323)	N/A
Gain on insurance recoveries	515	—	515	N/A
Loss on extinguishment of debt	(30)	—	(30)	N/A
Gain on sale of real estate	23,652	—	23,652	N/A
Net income (loss)	\$ 25,592	\$ (1,929)	\$ 27,521	N/A
Equity in earnings (loss) of unconsolidated joint ventures and equity in earnings from sale of unconsolidated joint venture properties	\$ 14,191	\$ (1,345)	\$ 15,536	

Set forth below is an explanation of the most significant changes in the components of the equity in earnings (loss) of unconsolidated joint ventures. Same store properties at Unconsolidated Properties represent 27 properties that were owned for the entirety of the periods being compared and excludes four properties, three of which were sold and the fourth which is the subject of the Consolidating Transaction.

Rental and other revenues from unconsolidated joint ventures

The decrease is composed of :

- \$4.5 million from the sale in 2021 of the properties by the unconsolidated joint ventures which owned The Avenue Apartments-Ocoee, FL and Parc at 980-Lawrenceville, GA (collectively, the "Avenue/Parc Sales");
- \$3.4 million from the Consolidating Transactions;
- \$1.4 million from the sale in 2021 of our interests in the unconsolidated joint ventures that owned Anatole Apartments-Daytona Beach, FL and Tower at Opop and Lofts at Opop-St. Louis, MO (collectively, the "Anatole/Opop Sales"); and
- \$514,000 due to the Shavano Sale.

Offsetting the decrease was \$2.4 million increase from same store sales, including \$1.7 million from increased rental rates, \$545,000 from increased occupancy, and \$177,000 from increased ancillary fees.

Real estate operating expenses from unconsolidated joint ventures

The decrease is composed of:

- \$1.9 million from the Avenue/Parc Sales;
- \$1.7 million from the Consolidating Transactions;
- \$843,000 from the Anatole/Opop Sales; and
- \$239,000 from the Shavano Sale.

Offsetting this decrease was a \$193,000 increase in such expenses at same store properties, with expenses generally increasing across most expense categories.

Interest expense from unconsolidated joint ventures.

The decrease is due to the decrease in mortgage debt due to property sales and the Consolidated Transactions-in particular:

- \$1.1 million from the Avenue/Parc Sales;
- \$913,000 from the Consolidating Transactions; and
- \$464,000 from the Anatole/Opop Sales.

Depreciation from unconsolidated joint ventures

The decrease is composed of:

- \$1.4 million from the Avenue/Parc Sale;
- \$1.4 million from the Consolidating Transactions;
- \$511,000 from the Anatole/Opop Sales; and
- \$314,000 from the Shavano Sale.

Impairment charges from unconsolidated joint ventures

During the three months ended March 31, 2021, we recognized \$2.3 million of impairment charges at three properties located in Texas due to storm damage in 2021 (the "Texas Storm"); there were no comparable charges in the current period.

Insurance recoveries from unconsolidated joint ventures

During the three months ended March 31, 2021, we recognized \$2.3 million of insurance recoveries related to the impairment charges resulting from the Texas Storm; there were no comparable recoveries in the current period.

Gain on insurance recoveries from unconsolidated joint ventures.

In the three months ended March 31, 2022, we recognized \$515,000 in gains primarily due to the fact that the amounts we received on claims related to insurance recoveries from the Texas Storm exceeded the assets previously written-off.

Gain on sale of real estate from unconsolidated joint ventures

See "- Completed Dispositions" for information about the gain from the Shavano Sale. There was no comparable gain in the three months ended March 31, 2021.

Liquidity and Capital Resources

We require funds to pay operating expenses and debt service obligations, acquire properties (including the acquisition of interests of our joint venture partners) , make capital and other improvements, fund capital contributions, pay dividends and, to the extent we deem appropriate, reduce, other than in the ordinary course, our indebtedness over time. Generally, our primary sources of capital and liquidity are the operations of our multi-family properties (including distributions from the operations of our multi-family joint ventures and distributions from sale transactions), mortgage debt financings and re-financings, our share of the proceeds from the sale of properties, the sale of shares of our common stock pursuant to our at-the-market equity distribution program, borrowings from our credit facility and our available cash (including restricted cash). On March 31, 2022 and May 2, 2022, our cash and cash equivalents, were approximately \$29.7 million and \$21.5 million, respectively, and excludes funds held at our unconsolidated joint ventures.

We anticipate that from April 1, 2022 through 2024, our operating expenses, \$104.5 million of mortgage amortization and interest expense, and \$25.7 million of balloon payments (including \$78.8 million and \$10.8 million, respectively, from unconsolidated joint ventures) due with respect to mortgages maturing from 2022 to 2024, estimated cash dividend payments of at least \$47.0 million (assuming (i) the current quarterly dividend rate of \$0.23 per share and (ii) 18.6 million shares outstanding), will be funded from cash generated from operations (including distributions from unconsolidated joint ventures), sales of properties and, to the extent available, our credit facility. Our operating cash flow and available cash is insufficient to fully fund the \$25.7 million of balloon payments, and if we are unable to refinance such debt, we may need to issue additional equity or dispose of properties, in each case on potentially unfavorable terms.

See “— *Contracts to Purchase the Remaining Interests of Joint Venture Partners in Nine Unconsolidated Ventures*” for information regarding the source of funding to effectuate the Partner Buyouts of nine multi-family properties owned by unconsolidated joint ventures.

At March 31, 2022, we had mortgage debt of \$747.3 million (including \$534.5 million of mortgage debt of our unconsolidated subsidiaries). The mortgage debt at our: (i) consolidated subsidiaries had a weighted average interest rate of 3.73% and a weighted average remaining term to maturity of approximately 10.2 years, and (ii) at our unconsolidated subsidiaries had a weighted average interest rate of 4.07% and a remaining term to maturity of approximately 7.6 years.

Capital improvements at (i) 13 multi-family properties will be funded by approximately \$6.5 million of restricted cash available at March 31, 2022 and the cash flow from operations at such properties and (ii) other properties will be funded from the cash flow from operations of such properties.

Junior Subordinated Notes

As of March 31, 2022, \$37.4 million (excluding deferred costs of \$292,000) in principal amount of our junior subordinated notes is outstanding. These notes mature in April 2036, contain limited covenants (including covenants prohibiting us from paying dividends or repurchasing capital stock if there is an event of default (as defined therein) on these notes), are redeemable at our option and bear an interest rate, which resets and is payable quarterly, of three-month LIBOR plus 200 basis points. At March 31, 2022 and 2021, the interest rate on these notes was 2.30% and 2.21%, respectively.

Credit Facility

Our credit facility with VNB New York, LLC, an affiliate of Valley National Bank (collectively, “VNB”), as amended and restated, allows us to borrow, subject to compliance with borrowing base requirements and other conditions, up to \$35 million, (i) for the acquisition of, and investment in, multi-family properties, (ii) to repay mortgage debt secured by multi-family properties and (iii) for Operating Expenses (*i.e.*, working capital (including dividend payments) and operating expenses); provided, that not more than \$15 million may be used for Operating Expenses. (The facility provides that it may be expanded to provide for up to \$60 million of availability if another lender(s) is willing to provide an additional \$25 million of availability). The credit facility is secured by cash accounts maintained by us at VNB (and we are required to maintain substantially all of our bank accounts at VNB), and the pledge of our interests in the entities that own the unencumbered multi-family properties used in calculating the borrowing base. The credit facility bears an annual interest rate, which resets daily, of 25 basis points over the prime rate, with a floor of 3.50%. There is an annual fee of 0.25% on the total amount committed by VNB and unused by us. The credit facility matures in November 2024. As of the date of this filing, no amounts are outstanding on the credit facility and \$35 million is available to be borrowed thereunder.

The terms of the credit facility include certain restrictions and covenants which, among other things, limit the incurrence of liens, require that we maintain and include in the collateral securing the facility at least two unencumbered properties with an aggregate value (as calculated pursuant to the facility) of at least \$50 million, and require compliance with financial ratios relating to, among other things, the minimum amount of debt service coverage with respect to the properties (and amounts drawn on the credit facility) used in calculating the borrowing base. Net proceeds received from the sale, financing or refinancing of wholly-owned properties are generally required to be used to repay amounts outstanding under the credit facility.

At March 31, 2022, we were in compliance in all material respects with the requirements of the facility.

Other Financing Sources and Arrangements

At March 31, 2022, we are joint venture partners in approximately 22 unconsolidated joint ventures which own 23 multi-family properties (including a development project) and that the distributions to us from these joint venture properties (\$19.7 million (including \$14.9 million from the sale of the property) in the quarter ended March 31, 2022) are a material source of our liquidity and cash flow. Further, we may be required to make significant capital contributions with respect to these properties. At March 31, 2022, these joint venture properties have a net equity carrying value of \$109.4 million and are subject to net mortgage debt, which is not reflected on our consolidated balance sheet, of \$534.5 million. Although BRT Apartments Corp. is not the obligor with respect to such mortgage debt, the loss of any of these properties due to mortgage foreclosure or similar proceedings would have a material adverse effect on our results of operations and financial condition. These joint venture arrangements have been, and we anticipate that they will continue to be, material to our liquidity and capital resource position. See note 8 to our consolidated financial statements.

Cash Distribution Policy

We have elected to be treated as a REIT under the Internal Revenue Code of 1986, as amended, which we refer to as the “Code.” To qualify as a REIT, we must meet a number of organizational and operational requirements, including a requirement

that we distribute to our stockholders within the time frames prescribed by the Code at least 90% of our ordinary taxable income. Management currently intends to maintain our REIT status. As a REIT, we generally will not be subject to corporate Federal income tax on taxable income we distribute to stockholders in accordance with the Code. If we fail to qualify as a REIT in any taxable year, we will be subject to Federal income taxes at regular corporate rates and may not be able to qualify as a REIT for four subsequent tax years. Even if we qualify for Federal taxation as a REIT, we are subject to certain state and local taxes on our income and to Federal income and excise taxes on undistributed taxable income, (*i.e.*, taxable income not distributed in the amounts and in the time frames prescribed by the Code).

Our net operating loss at December 31, 2021 was approximately \$35.7 million; therefore, we are not currently required by Code provisions relating to REITs to pay cash dividends to maintain our status as a REIT. Notwithstanding the foregoing, on April 7, 2022, we paid a quarterly cash dividend of \$0.23 per share.

We carefully monitor our discretionary spending. Our largest recurring discretionary expenditure has been our quarterly dividend (which was \$0.23 per share of common stock, or in the approximate amount of \$4.3 million, for the most recent quarter). Each quarter, our board of directors evaluates the timing and amount of our dividend based on its assessment of, among other things, our short and long- term cash and liquidity requirements, prospects, debt maturities, projections of our REIT taxable income, net income, funds from operations, and adjusted funds from operations.

Application of Critical Accounting Estimates

A complete discussion of our critical accounting estimates is included in our Annual Report. There have been no significant changes in such estimates since December 31, 2021.

Funds from Operations; Adjusted Funds from Operations; Net Operating Income

We disclose below funds from operations (“FFO”), adjusted funds from operations (“AFFO”) and net operating income (“NOI”) because we believe that such metrics are a widely recognized and appropriate measure of the performance of an equity REIT.

We compute FFO in accordance with the “White Paper on Funds From Operations” issued by the National Association of Real Estate Investment Trusts (“NAREIT”) and NAREIT’s related guidance. FFO is defined in the White Paper as net income (calculated in accordance with GAAP), excluding depreciation and amortization related to real estate, gains and losses from the sale of certain real estate assets, gains and losses from change in control, impairment write-downs of certain real estate assets and investments in entities where the impairment is directly attributable to decreases in the value of depreciable real estate held by the entity. Adjustments for unconsolidated partnerships and joint ventures are calculated to reflect funds from operations on the same basis. In computing FFO, we do not add back to net income the amortization of costs in connection with our financing activities or depreciation of non-real estate assets. We compute AFFO by deducting from FFO our straight-line rent accruals, loss on extinguishment of debt, restricted stock and restricted stock unit expense, deferred mortgage costs and gain on insurance recovery. Since the NAREIT White Paper only provides guidelines for computing FFO, the computation of AFFO may vary from one REIT to another.

We believe that FFO and AFFO are useful and standard supplemental measures of the operating performance for equity REITs and are used frequently by securities analysts, investors and other interested parties in evaluating equity REITs, many of which present FFO and AFFO when reporting their operating results. FFO and AFFO are intended to exclude GAAP historical cost depreciation and amortization of real estate assets, which assumes that the carrying value of real estate assets diminishes predictably over time. In fact, real estate values have historically risen and fallen with market conditions. As a result, we believe that FFO and AFFO provide a performance measure that when compared year over year, should reflect the impact to operations from trends in occupancy rates, rental rates, operating costs, interest costs and other matters without the inclusion of depreciation and amortization, providing a perspective that may not be necessarily apparent from net income. We also consider FFO and AFFO to be useful to us in evaluating potential property acquisitions.

FFO and AFFO do not represent net income or cash flows from operations as defined by GAAP. FFO and AFFO should not be considered to be an alternative to net income as a reliable measure of our operating performance; nor should FFO and AFFO be considered an alternative to cash flows from operating, investing or financing activities (as defined by GAAP) as measures of liquidity. FFO and AFFO do not measure whether cash flow is sufficient to fund all of our cash needs, including principal amortization and capital improvements. FFO and AFFO do not represent cash flows from operating, investing or financing activities as defined by GAAP.

Management recognizes that there are limitations in the use of FFO and AFFO. In evaluating our performance, management is careful to examine GAAP measures such as net income and cash flows from operating, investing and financing activities.

The tables below provides a reconciliation of net loss determined in accordance with GAAP to FFO and AFFO on a dollar and per share basis for each of the indicated periods (dollars in thousands, except per share amounts):

	Three Months Ended March 31,	
	2022	2021
GAAP Net income (loss) attributable to common stockholders	\$ 11,508	\$ (3,765)
Add: depreciation of properties	3,606	1,537
Add: our share of depreciation in unconsolidated joint venture properties	4,318	6,599
Add: our share of impairment charge in unconsolidated joint venture properties	—	1,662
Deduct: our share of equity in earnings from sale of unconsolidated joint venture properties	(12,961)	—
Deduct: gain on sale of real estate and partnership interests	(6)	—
Adjustments for non-controlling interests	(4)	(4)
NAREIT Funds from operations attributable to common stockholders	6,461	6,029
Adjustments for: straight-line rent accruals	6	(10)
Add: our share of loss on extinguishment of debt from unconsolidated joint venture properties	19	—
Add: amortization of restricted stock and RSU expense	974	538
Add: amortization of deferred mortgage and debt costs	77	80
Add: our share of deferred mortgage costs from unconsolidated joint venture properties	93	148
Less: our share of insurance recovery	—	(1,662)
Less: our share of gain on insurance proceeds from unconsolidated joint venture properties	(386)	—
Adjustments for non-controlling interests	(1)	2
Adjusted funds from operations attributable to common stockholders	\$ 7,243	\$ 5,125

	Three Months Ended March 31,	
	2022	2021
Net income (loss) attributable to common stockholders	\$ 0.62	\$ (0.22)
Add: depreciation of properties	0.20	0.09
Add: our share of depreciation in unconsolidated joint venture properties	0.23	0.38
Add: our share of impairment charge in unconsolidated joint venture properties	—	0.10
Deduct: our share of equity in earnings from sale of unconsolidated joint venture properties	(0.70)	—
Deduct: gain on sale of real estate and partnership interests	—	—
Adjustment for non-controlling interests	—	—
NAREIT Funds from operations per diluted common share	0.35	0.35
Adjustments for: straight line rent accruals	—	—
Add: our share of loss on extinguishment of debt from unconsolidated joint venture properties	—	—
Add: amortization of restricted stock and RSU expense	0.05	0.04
Add: amortization of deferred mortgage and debt costs	—	—
Add: our share of deferred mortgage and debt costs from unconsolidated joint venture properties	0.01	0.01
Less: our share of insurance recovery from unconsolidated joint venture properties	—	(0.10)
Less: our share of gain on insurance proceeds from unconsolidated joint venture properties	(0.02)	—
Adjustments for non-controlling interests	—	—
Adjusted funds from operations per diluted common share	\$ 0.39	\$ 0.30
Diluted shares outstanding for FFO and AFFO	<u>18,570,639</u>	<u>17,319,222</u>

FFO increased on an absolute basis for the three months ended March 31, 2022, from the corresponding 2021 period primarily due to the improved operating margins at consolidated and unconsolidated same store properties, the Consolidating Transactions and reduced interest expense. The increase was offset by the Kendall Sale, the Avenue/Parc Sales, the Anatole/Opop Sales, the inclusion in the three months ended March 31, 2021 of significant insurance recoveries and the increase, in the three months ended March 31, 2022 from the corresponding period in 2021, of non-cash amortization of equity award expense.

AFFO increased on an absolute and diluted per share basis for the three months ended March 31, 2022 from the corresponding period in 2021 primarily due to the factors impacting the improvement in FFO, other than the effects of the significant insurance recoveries in 2021 and the non-cash compensation expense related to equity awards in the three months ended March 31, 2022.

Diluted per share FFO and AFFO were impacted in the three months ended March 31, 2022 by a 1.25 million increase in the weighted average shares of common stock outstanding from the first quarter of 2021 through the current quarter, primarily due to stock issuances pursuant to our at-the-market equity offering and equity incentive programs.

Net Operating Income, or NOI, is a non-GAAP measure of performance. NOI is used by our management and many investors to evaluate and compare the performance of our properties to other comparable properties, to determine trends at our properties and to determine the estimated fair value of our properties. The usefulness of NOI may be limited in that it does not take into account, among other things, general and administrative expense, interest expense, loss on extinguishment of debt, casualty losses, insurance recoveries and gains or losses as determined by GAAP. NOI is a property specific performance metric and does not measure our performance as a whole.

We compute NOI, by adjusting net income (loss) to (a) add back (1) depreciation expense, (2) general and administrative expenses, (3) interest expense, (4) loss on extinguishment of debt, (5) equity in loss of unconsolidated joint ventures, (6) provision for taxes, (7) the impact of non-controlling interests, and (b) deduct (1) other income, (2) gain on sale of real estate, and (3) gain on insurance recoveries related to casualty loss. Other REIT's may use different methodologies for calculating NOI, and accordingly, our NOI may not be comparable to other REIT's. We believe NOI provides an operating perspective not immediately apparent from GAAP operating income or net income (loss). NOI is one of the measures we use to evaluate our performance because it (i) measures the core operations of property performance by excluding corporate level expenses and other items unrelated to property operating performance and (ii) captures trends in rental housing and property operating expenses. However, NOI should only be used as an alternative measure of our financial performance.

The following table provides a reconciliation of net income attributable to common stockholders as computed in accordance with GAAP to NOI of our consolidated properties for the periods presented (dollars in thousands):

	Three Months Ended March 31,	
	2022	2021
GAAP Net income (loss) attributable to common stockholders	\$ 11,508	\$ (3,765)
Less: Other Income	(4)	(4)
Add: Interest expense	2,021	1,660
General and administrative	3,633	3,114
Impairment charge	—	—
Depreciation	3,606	1,537
Provision for taxes	74	57
Less: Gain on sale of real estate	(6)	—
Equity in earnings from sale of unconsolidated joint venture properties	(12,961)	—
Add: Loss on extinguishment of debt	—	—
Adjust for: Equity in (earnings) loss of unconsolidated joint venture properties	(1,230)	1,345
Add: Net income attributable to non-controlling interests	36	34
Net Operating Income	\$ 6,677	\$ 3,978
Less: Non-same store Net Operating Income	\$ 2,841	\$ 532
Same store Net Operating Income	\$ 3,836	\$ 3,446

For the three months ended March 31, 2022, NOI increased \$2.7 million from the corresponding period in 2021 primarily due to a \$4.4 million increase in rental revenues (and in particular, the impact of the Consolidating Transactions) offset by a \$1.9 million increase, primarily from the Consolidating Transactions, in real estate operating expenses. Same store NOI in the three months ended March 31, 2022, increased by \$390,000 from the corresponding period in 2021, due to a \$614,000 increase in rental revenues (and in particular, the increase in average rental rates) offset by a \$224,000 increase in real estate operating expenses. See *"Results of Operations"* for a discussion of these changes.

Item 3. Quantitative and Qualitative Disclosures About Market Risks

All of our mortgage debt bears interest at fixed rates. Our junior subordinated notes bear interest at the rate of three month LIBOR plus 200 basis points. At March 31, 2022, the interest rate on these notes was 2.30%. A 100 basis point increase in the rate would increase our related interest expense by approximately \$374,000 annually and a 100 basis point decrease in the rate would decrease our related interest expense by \$112,000 annually.

Item 4. Controls and Procedures

As required under Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, we carried out an evaluation under the supervision and with the participation of our management, including our Chief Executive Officer, Senior Vice President-Finance and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures as of March 31, 2022. Based upon that evaluation, these officers concluded that as of March 31, 2022 our disclosure controls and procedures were effective.

There have been no changes in our internal control over financial reporting during the quarter ended March 31, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Part II - Other Information**Item 6. Exhibits**

Exhibit No.	Title of Exhibits
10.1	Form of Membership Interest Agreement used to effectuate Partner Buyouts
31.1	Certification of President and Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of Senior Vice President—Finance pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.3	Certification of Vice President and Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification of President and Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	Certification of Senior Vice President—Finance pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.3	Certification of Vice President and Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101	The following financial information from the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2022, formatted in Inline XBRL: (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Operations, (iii) Statements of Comprehensive Income (Loss), (iv) Consolidated Statements of Equity, (v) Consolidated Statements of Cash Flows and (vi) Notes to Consolidated Financial Statements. XBRL Instance Document – the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

BRT APARTMENTS CORP.

May 10, 2022

/s/ Jeffrey A. Gould
Jeffrey A. Gould, President and
Chief Executive Officer

May 10, 2022

/s/ George Zweier
George Zweier, Vice President
and Chief Financial Officer
(principal financial officer)

MEMBERSHIP INTEREST PURCHASE AGREEMENT

This **MEMBERSHIP INTEREST PURCHASE AGREEMENT** (this "**Agreement**"), dated as of _____, 20__ (the "**Effective Date**") is made and entered into by and among _____, a _____ having an office at _____ ("**Buyer**"), a _____ having an office at _____ ("**Seller**"), and _____, a _____ having an office at _____ ("**Existing Manager**"; and together with Seller, the "**Seller Parties**").

WITNESSETH

WHEREAS, Buyer and the Seller Parties, together with _____ (the "**Key Principals**"; and the Key Principals, together with the Seller Parties, are hereinafter referred to collectively as the "**Parties**") are parties to that certain Limited Liability Company Agreement of _____, dated as of _____, 20__ (as the same may have been amended or otherwise modified from time to time through the date hereof, the "**Operating Agreement**"), and Seller and Buyer are the sole members of _____, a _____ (the "**Company**");

WHEREAS, Existing Manager is the sole manager of the Company;

WHEREAS, the Company is the sole member of _____ ("**Owner**"), and Owner is fee owner of certain real property more particularly described in the Operating Agreement as the "Property" (the "**Property**");

WHEREAS, the Owner is a party to that certain _____, dated as of _____, 20__, between Owner, as borrower, and _____ ("**Lender**"), as lender, as amended or otherwise modified from time to time, pursuant to which Lender is the holder of a mortgage loan to Owner in the original principal amount of _____ Dollars (\$_____) (the "**Loan**");

WHEREAS, Seller is the sole legal and beneficial owner of _____ percent (____%) of the membership interests in the Company (the "**Interest**"); and

WHEREAS, Seller desires to sell the Interest to Buyer, and Buyer desires to purchase the Interest from Seller, all as more fully provided herein.

NOW, THEREFORE, for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Certain Defined Terms. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Operating Agreement.

2. Purchase Price. Subject to the terms hereof, Seller hereby agrees to sell and Buyer hereby agrees to purchase the Interest for a purchase price of _____ Dollars (\$_____) (the "**Purchase Price**"), payable as follows:

(a) _____ upon the execution and delivery of this Agreement as the Downpayment (hereinafter defined) hereunder, by check or wire transfer of good U.S. funds payable to _____, Attention: _____, as escrow agent ("**Escrow Agent**"), which sum shall be held in escrow pursuant to the terms hereof; and

(b) _____ (less any interest accrued on the Downpayment and paid to Seller), at the closing of the purchase and sale of the Interest (the “**Closing**”) by wire transfer in good U.S. funds through escrow with the Escrow Agent.

(c) Buyer shall be entitled to deduct and withhold from any amounts payable under this Agreement such amounts that are required to be deducted and withheld with respect to the making of such payment under the Code or any provision of state, local or foreign tax law, as applicable. Before making any such deduction or withholding, Buyer shall provide the Seller Parties with _____ (____) days’ prior written notice of any such deduction or withholding that Buyer proposes to make, which notice shall include the authority, basis and method of calculation for the proposed deduction or withholding, and Buyer shall cooperate with any reasonable request from the Seller Parties to obtain reduction of, or relief from, such deduction or withholding. To the extent that amounts are so withheld or deducted and timely paid to the appropriate tax authority, such amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made.

3. Lender Consent.

(a) Following the date hereof, Buyer and the Seller Parties each agree to promptly apply for and thereafter use its good faith, commercially reasonable efforts (but without any obligation to expend any material sums, except as set forth in this Agreement) to attempt to obtain the written consent of Lender to the acquisition by Buyer of the Interest and the resignation and replacement of Existing Manager in its capacity as “Manager” of the Company by Buyer or Buyer’s designee (such written consent document(s) to be delivered at Closing by Lender, the “**Lender Consent**”).

(b) It is understood and agreed by the parties that:

(i) it is a requirement that the Lender release the Key Principals from any obligations and liabilities which may arise under the non-recourse carve-out guaranty delivered or assumed by Key Principals in connection with the Loan (the “**Original Carve-Out Guaranty**”) by virtue of acts, events or omissions which may occur after the Closing Date, and that Buyer shall cause _____ (“**Buyer Guarantor**”), to execute and deliver at Closing a non-recourse carve-out guaranty on substantially the same form as the Original Carve-Out Guaranty (the “**New Carve-Out Guaranty**”) with respect to acts, events or omissions which occur after the Closing Date;

(ii) the Lender Consent must be on Lender’s standard form(s) with respect to loans such as the Loan and transactions such as the transaction contemplated herein;

(iii) subject to the final sentence of Section 3(c) below, Buyer shall pay all costs and fees due to Lender in connection with its issuance of the Lender Consent.

(c) If the parties are not able to cause Lender to deliver the Lender Consent by _____, 20____, then each of Buyer and the Seller Parties may thereafter terminate this Agreement by sending written notice of such termination to the other parties hereto, in which event Escrow Agent shall be required to return the Downpayment to Buyer and thereupon no party shall have any further liability or obligation hereunder except with respect to liabilities expressly stated herein to survive the termination of this Agreement. In such event, but subject to Section 15 below and Section 16 below, all costs incurred by Buyer and the Seller Parties in connection with Section 3 of this Agreement shall be paid by Buyer and Buyer shall reimburse the Seller Parties for any such costs so incurred, as applicable (which obligation shall survive the termination of this Agreement). Notwithstanding the forgoing, if the parties are not able to cause

Lender to deliver the Lender Consent by _____, 20____, due to an act or omission by any of the Seller Parties in violation of this Agreement or the Operating Agreement, then all costs incurred by Buyer and the Seller Parties in connection with Section 3 of this Agreement shall be paid by the Seller Parties and the Seller Parties shall reimburse Buyer for any such costs so incurred, as applicable (which obligation shall survive the termination of this Agreement).

4. Closing Date. The “**Closing Date**” shall be defined herein to mean either (i) a business day selected by Buyer which is no more than _____ (____) business days following the date that the Lender Consent has been issued, or (ii) such other date which has been agreed to in writing by both Buyer and Seller, each in its sole discretion. Subject to the terms and conditions hereof, and subject to the satisfaction of all conditions precedent set forth in this Agreement, the parties agree that the Closing shall occur on the Closing Date.

5. Closing Deliveries. At Closing:

(a) Seller shall convey to Buyer all of its right, title and interest in and to the Interest, free and clear of all liens, claims, encumbrances, security and other adverse interests (“**Liens**”), and thereupon Seller shall cease to be a Member of, or have any interest in, the Company;

(b) Buyer shall pay to Seller the balance of the Purchase Price as contemplated in Section 2(b) above;

(c) Buyer and each of the Seller Parties and Key Principals shall each execute and deliver to the other an assignment and assumption agreement in the form attached hereto as Exhibit A and made a part hereof (an “**Assignment Agreement**”) pursuant to which, among other things, Existing Manager shall resign as “Manager” of the Company, whereupon Buyer shall automatically and without any further action or approval become (or have the right to select) the new Manager of the Company, and Existing Manager shall cease to have any interest in, or rights to distributions from, the Company;

(d) The Key Principals shall execute and deliver to Buyer Guarantor an indemnification agreement in the form attached hereto as Exhibit B and made a part hereof (an “**Indemnification Agreement**”);

(e) Buyer and each Seller Party shall deliver reasonable evidence of such party’s authority to enter into the transactions contemplated herein;

(f) The Seller Parties and Key Principals shall each execute and deliver a written certificate to the Buyer recertifying and remaking the warranties and representations contained in Section 6 below as of the Closing Date;

(g) Buyer shall execute and deliver a written certificate to Seller recertifying and remaking the warranties and representations contained in Section 7 below as of the Closing Date;

(h) Seller shall execute and deliver to Buyer a customary non-foreign person affidavit pursuant to Section 1445 and 1446 of the Internal Revenue Code, as amended

(i) To the extent so required by Lender, the parties hereto shall execute and deliver the Lender Consent; and

(j) Each party hereto shall execute and deliver such other documents and instruments that shall reasonably be required to consummate the transactions contemplated herein.

6. Representations and Warranties of the Seller Parties. Each Seller Party hereby represents, warrants and covenants to Buyer that each of the following is true and correct as of the Effective Date, and shall be true and correct on the Closing Date:

(a) Each Seller Party is duly organized, validly existing and in good standing in the jurisdiction of its formation.

(b) The Seller Parties have the full power, authority and legal right to execute, deliver and perform this Agreement.

(c) The Seller Parties have duly authorized, executed and delivered this Agreement, and assuming the due authorization, execution and delivery by Buyer of this Agreement, this Agreement constitutes the legal, valid and binding agreement of the Seller Parties, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, liquidation, receivership, moratorium and other laws relating to or affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).

(d) No consent, approvals, authorizations or orders of, registration or filing with, or notice to, any court or governmental agency or body is required for the execution, delivery and performance by any Seller Party of, or compliance by any Seller Party with, this Agreement, or the consummation of the transactions contemplated hereby.

(e) The execution and delivery of this Agreement, and the performance by the Seller Parties of their obligations hereunder, will not conflict with any provision of any law or regulation to which any of the Seller Parties is subject, conflict with or otherwise violate the organizational documents of any Seller Party or conflict with or result in a breach of or constitute a default of any of the terms, conditions or provisions of any material agreement, contract, indenture or instrument to which any of the Seller Parties is a party or by which it is bound or any order or decree applicable to any of the Seller Parties, in any manner that would have an adverse effect on the ability of the Seller Parties to perform their obligations hereunder.

(f) Seller is the sole legal and beneficial owner of the Interest, and Seller's title to the Interest is free and clear of all Liens.

(g) Seller is not a "foreign person" as defined in Section 1445(f)(3) of the Internal Revenue Code, as amended.

(h) Neither Seller Party is a Prohibited Person.

(i) No claim or litigation is pending or, to the knowledge of any of the _____ Parties, threatened against any of the _____ Parties that would prohibit its entering into this Agreement or materially and adversely affect the performance by any of the _____ Parties of its obligations under this Agreement.

(j) Schedule 1 attached hereto and made a part hereof contains a true, complete and accurate list of all material documents and instruments evidencing and/or securing the Loan (the "**Loan Documents**") and there are no other material documents or instruments

evidencing or securing the Loan, and Seller has delivered to Buyer accurate and complete copies of all of said material Loan Documents. Except to the extent set forth on Schedule 1, the Loan Documents have not been altered, modified, waived, amended, superseded, cancelled, extended or otherwise changed. To the best of the knowledge of the _____ Parties, there are no uncured defaults, breaches, violations or events of default, or any facts or circumstances which, with the giving of notice or the passage of time, or both, will or would constitute a default, breach, violation or event of default, on the part of any party under the any of the Loan Documents.

(k) No _____ Party is insolvent, and the execution and delivery of this Agreement and the performance by any _____ Party of its obligations hereunder will not render any _____ Party insolvent.

(l) There are no uncured defaults, breaches, violations or events of default or any facts or circumstances which, with the giving of notice or the passage of time, or both, will or would constitute a default, breach, violation or event of default on the part of any _____ Party under the Operating Agreement.

(m) No _____ Party has any knowledge of any existing or pending condemnation proceedings against the Property, and no _____ Party has received, or is aware of, any notice issued by any governmental authority or regulatory agency alleging a violation of any law, rule, regulation or order that has not been cured prior to the date hereof, relating to environmental conditions by reason of the presence of hazardous substances or materials (as such terms are presently used under applicable environmental laws, rules and regulations) at the Property. Except for eviction and collection proceedings filed by or against current and former residents, no _____ Party has received, or is aware of, any written notice of any pending claims or litigation against the Owner, the Company and/or the Property which adversely affect, or, as far as any _____ Party can reasonably foresee, might adversely affect, the Owner, the Company and/or the Property or the business, operations or condition (financial or otherwise) of the Owner, the Company and/or the Property, in each case in any material respect.

(n) There is no material fact presently known to any _____ Party that has not been disclosed to Buyer in writing which adversely affects, or, as far as any _____ Party can reasonably foresee, might adversely affect, the Owner, the Company and/or the Property or the business, operations or condition (financial or otherwise) of the Owner, the Company and/or the Property, in each case in any material respect. To the knowledge of any _____ Party, the financial reports and other information previously furnished by any of the _____ Parties to Buyer with respect to the Owner, the Company and/or the Property (including, without limitation, the rent rolls, statements of cash flow and statements income and operating expense) are true, correct and complete in all material respects, and accurately represents the financial condition of the Owner, the Company and/or the Property, as applicable, as of the date thereof.

(o) Each of the Seller Parties agrees to promptly disclose to Buyer in writing any changes to its representations and warranties contained in this Section 6 promptly upon becoming aware of same.

7. Representations and Warranties of Buyer. Buyer hereby represents, warrants and covenants to each Seller Party that each of the following is true and correct as of the Effective Date, and shall be true and correct on the Closing Date:

(a) Buyer is duly organized, validly existing and in good standing in the jurisdiction of its formation.

(b) Buyer has the full power, authority and legal right to execute, deliver and perform this Agreement.

(c) Buyer has duly authorized, executed and delivered this Agreement, and assuming the due authorization, execution and delivery by the Seller Parties of this Agreement, this Agreement constitutes the legal, valid and binding agreement of Buyer, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, liquidation, receivership, moratorium and other laws relating to or affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).

(d) No consent, approvals, authorizations or orders of, registration or filing with, or notice to, any court or governmental agency or body is required for the execution, delivery and performance by Buyer of, or compliance by Buyer with, this Agreement, or the consummation of the transactions contemplated hereby.

(e) The execution and delivery of this Agreement, and the performance by Buyer of its obligations hereunder, will not conflict with any provision of any law or regulation to which Buyer is subject, conflict with or otherwise violate Buyer's organizational documents or conflict with or result in a breach of or constitute a default of any of the terms, conditions or provisions of any material agreement, contract, indenture or instrument to which Buyer is a party or by which it is bound or any order or decree applicable to Buyer, in any manner that would have an adverse effect on Buyer's ability to perform its obligations hereunder.

(f) Buyer is not a Prohibited Person.

(g) No claim or litigation is pending or, to Buyer's knowledge, threatened against Buyer that would prohibit its entering into this Agreement or materially and adversely affect the performance by Buyer of its obligations under this Agreement.

(h) Buyer is not insolvent, and the execution and delivery of this Agreement and the performance by Buyer of its obligations hereunder will not render Buyer insolvent.

(i) There are no uncured defaults, breaches, violations or events of default or any facts or circumstances which, with the giving of notice or the passage of time, or both, will or would constitute a default, breach, violation or event of default on the part of Buyer under the Operating Agreement.

(j) Buyer agrees to promptly disclose to the Seller Parties in writing any changes to its representations and warranties contained in this Section 7 promptly upon becoming aware of same.

8. Survival of Representations and Warranties. The representations and warranties of the Seller Parties set forth in Sections 6(a), 6(b), 6(c), 6(d), 6(e), 6(f), 6(g) and 6(h) shall survive the Closing indefinitely. The representations and warranties of the Buyer set forth in Sections 7(a), 7(b), 7(c), 7(d), 7(e) and 7(f) shall survive the Closing indefinitely. The other representations and warranties of the Seller Parties set forth in Section 6 and of the Buyer set forth in Section 7 shall survive the Closing for _____ () months (it being acknowledged and agreed that (i) all of the Buyer's rights and remedies associated with any misrepresentation or breach or violation by any Seller Party of any of such representations and

warranties shall continue in effect with respect to any claim raised by notice from Buyer to any Seller Party (which notice contains a description of the misrepresentation, breach or violation in question) given on or before the _____ () month anniversary of the Closing Date, and (ii) all of the Seller Parties' rights and remedies associated with any misrepresentation or breach or violation by Buyer of any of such representations and warranties shall continue in effect with respect to any claim raised by notice from any Seller Party to Buyer (which notice contains a description of the misrepresentation, breach or violation in question) given on or before the _____ () month anniversary of the Closing Date). This Section 8 shall survive the Closing indefinitely.

9. No Broker. Each party hereto represents and warrants to the other that such party has had no dealings with any broker or agent in connection with the negotiation of this Agreement and that such party knows of no broker or agent who would be entitled to a commission in connection with this Agreement or the transactions contemplated hereunder. Each party agrees to indemnify and defend the other parties against and hold the other parties harmless from any and all losses, damages, costs, expenses, liabilities, claims and other obligations, including, without limitation, reasonable attorneys' fees and costs incurred (collectively, "**Losses**") with respect to any fee, commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any broker or agent. This Section 9 shall survive the Closing and/or the termination of this Agreement indefinitely.

10. Prorated Items. All items of income and expense for the Property, including, without limitation, real property taxes and assessments on the Property, rents due from tenants under leases with respect to the Property, Loan interest, proceeds of business interruption and/or rent loss insurance, and operating expenses and/or taxes payable by tenants under leases with respect to the Property, utility service charges for electricity, heat, gas and other utility charges, grounds and parking lot maintenance charges, taxes (other than real estate taxes), other expenses incurred in operating the Property that the Company or the Owner customarily pays, and any other costs incurred in the ordinary course of business or the management and operation of the Property ("**Prorated Items**") with respect to the periods beginning before and ending after the Closing Date, shall be prorated between Seller and Buyer as of 11:59 P.M. on the day immediately preceding the Closing Date, based on the number of days of such period up to but excluding the Closing Date (which shall be for the account of Seller) and the number of days of such period from and after the Closing Date (which shall be for the account of Buyer), and upon the Closing of the purchase and sale of the Interest contemplated hereunder, _____ percent (____%) of the net amount thereof shall be added to (if such net amount is in Seller's favor) or deducted from (if such net amount is in Buyer's favor), the Purchase Price. If the Closing Date shall occur before the actual amount of Prorated Items for the month (or other relevant period) in which the Closing Date occurs are determined, the apportionment of such Prorated Items shall be upon the basis of a good faith estimate by Buyer and Seller of such Prorated Items for such month (or other relevant period) based on the latest available bills, invoices, real property tax assessments and other reasonably detailed documentation, all of which shall be provided to Buyer, and shall be reconciled within _____ () days following the Closing Date. It is hereby acknowledged for the avoidance of doubt that if any rents or similar payments due to the Company or the Owner are outstanding or remain unpaid at the Closing Date, all such sums received or collected after the Closing (net of reasonable attorneys' fees, costs and expenses of collection thereof) shall be immediately paid to the Company or the Owner, and thereafter _____ percent (____%) thereof shall be retained by the Company or the Owner and _____ percent (____%) thereof shall be applied and prorated in the following order of priority: (a) first to the month in which the Closing occurs (to be prorated between Seller and Buyer within such month as provided above); (b) then to any month or months following the month in which the Closing occurred and for which any rents or similar payments have not been received (which shall be for the account of Buyer); and (c) then to the period prior to the month

in which the Closing to the extent any such rents or similar payments have not been received for such period (which shall be for the account of Seller). Upon the completion of any post-Closing reconciliation of Prorated Items, _____ percent (____ %) of the net amount of the as-reconciled Prorated Items shall be paid by Buyer to Seller (if such net amount is in Seller's favor) or paid by Seller to Buyer (if such net amount is in Buyer's favor). Any such amounts shall be paid in a lump sum payment by the party owing such amounts to the party to which such amounts are owed within _____ (____) days following the reconciliation thereof. This Section 10 shall survive the Closing for _____ (____) months.

11. Distributions Prior to Closing.

(a) The Company shall continue to distribute Cash Flow until the Closing Date in the normal course of its business in accordance with the Operating Agreement; provided, however, that (i) the Company shall not distribute to its Members the remaining amount of any Cash Flow that it holds at Closing or any amounts in any Reserve at Closing, whether held by or for the Company or the Owner, required under any mortgage loans or other financings of the Company or the Owner, or otherwise, and (ii) all such remaining Cash Flow and all amounts in any Reserves (as well as all tenant security deposits) shall be retained by the Company and/or the Owner following Closing. Subject to Section 10, Seller shall be given a credit at Closing in an amount equal to _____ percent (____ %) of all such amounts (other than security deposits, amounts received as insurance proceeds or condemnation awards, and amounts which the Company or Owner has set aside or which has otherwise been contracted for any repair, replacement or renovation work at the Property).

(b) All provisions allocating profits, losses, gains, deductions and credits for tax purposes shall remain in effect through the Closing Date and profits and losses shall be allocated among the Members of the Company in accordance with the Operating Agreement based upon a closing of the books by the Company on the Closing Date.

12. Conditions to Obligations of Buyer. Buyer's obligation to consummate the transactions contemplated by this Agreement and to deliver the documents, items and instruments required under this Agreement is subject to satisfaction of the following conditions, any or all of which may be waived in writing by Buyer in its sole and absolute discretion:

(a) Each _____ Party shall be ready, willing and able to deliver all of the documents, items and instruments required to be delivered by such _____ Parties hereunder.

(b) All of the representations and warranties made by any Seller Party hereunder shall be true and correct as of both the Effective Date and the Closing Date.

(c) Each _____ Party shall have performed all of the covenants, undertakings and agreements required to be performed by such party under this Agreement on or before the Closing Date, and the _____ Parties shall have represented and warranted as such to the Buyer as of the Closing Date.

(d) Lender shall have executed and delivered the Lender Consent at or prior to Closing.

13. Conditions to Obligations of Seller Parties. The obligations of the Seller Parties to consummate the transactions contemplated by this Agreement and to deliver the documents, items and instruments required under this Agreement is subject to satisfaction of the following

conditions, any or all of which may be waived in writing by the Seller Parties in their sole and absolute discretion:

(a) Buyer shall be ready, willing and able to deliver all of the documents, items and instruments required to be delivered by Buyer hereunder.

(b) All of the representations and warranties made by Buyer hereunder shall be true and correct as of both the Effective Date and the Closing Date.

(c) Buyer shall have performed all of the covenants, undertakings and agreements required to be performed by Buyer under this Agreement on or before the Closing Date, and Buyer shall have represented and warranted as such to the Seller Parties as of the Closing Date.

(d) Lender shall have executed and delivered the Lender Consent at or prior to Closing.

14. Risk of Casualty or Condemnation. The risk of any loss, damage or destruction to all or any portion of the Property by fire or other casualty, or any condemnation or other taking of all or any portion of the Property, shall be borne by the Company and Owner in each instance, and upon the occurrence of any fire or other casualty or condemnation or other taking with respect to all or any portion of the Property prior to Closing, Buyer shall, at its sole and absolute discretion, and as its sole remedy, shall have the right to terminate this Agreement, in which event Escrow Agent shall be required to return the Downpayment to Buyer and thereupon no party shall have any further liability or obligation hereunder except with respect to liabilities expressly stated herein to survive the termination of this Agreement. The Seller hereby agrees to promptly notify Buyer in writing upon learning of (i) any loss, damage or destruction to all or any portion of the Property, and/or (ii) any actual, pending or threatened condemnation or other taking of all or any portion of the Property. All rights to insurance proceeds or condemnation awards in any such event shall continue to be the property of the Company or Owner.

15. Transfer Taxes; Attorney's Fees. The cost of any deed or stamp tax, transfer or recording taxes, or other similar fees or charges required to be paid in connection with any sale of the Interest under this Agreement, if any (collectively, "**Transfer Taxes**") shall be paid by, or charged to, the Seller Parties, notwithstanding any statutory requirement or custom to the contrary, and the Seller Parties shall indemnify and hold Buyer, the Company and Owner harmless from and against any and all Losses incurred by or asserted against Buyer, the Company or Owner (including, without limitation, any amounts paid in respect of any Transfer Taxes) arising as a result of any imposition of any Transfer Taxes. Except as expressly set forth in this Agreement, the payment of the fees and disbursements of each party's attorneys shall be the sole responsibility of such party and no other party, or the Company or Owner, shall be required to pay or bear any part of those fees and expenses directly or indirectly. This Section 15 shall survive the Closing indefinitely.

16. Remedies.

(a) In the event any of the _____ Parties defaults in its obligation to complete the sale of the Interest on the Closing Date as required hereunder, the Buyer's sole and exclusive remedy shall be to either (i) terminate this Agreement in which event the Buyer shall be entitled to the Downpayment (and each of the Seller Parties shall be obligated to immediately instruct Escrow Agent to promptly return the Downpayment to the Buyer (and to execute the joint instruction described in Section 33(a)(ii) below in furtherance of such obligation)), as well as recovery of all Buyer Costs (as defined below), or (ii) seek specific performance as well as

recovery of all Buyer Costs. As used herein the term “**Buyer Costs**” shall mean the sum of all actual, third-party costs and expenses incurred by the Buyer or any of its Affiliates in connection with the transactions contemplated hereunder (including, without limitation, reasonable attorney’s fees and other costs and fees paid or incurred in connection with the seeking the Lender Consent).

(b) In the event Buyer defaults in its obligation to complete the purchase of the Interest on the Closing Date as required hereunder, then Seller shall be entitled to retain the Downpayment as liquidated damages, which the parties acknowledge to be a fair calculation of the damages suffered as a result of such default, in lieu of all other legal and equitable remedies (and Buyer shall be obligated to immediately instruct Escrow Agent to promptly deliver the Downpayment to Seller (and to execute the joint instruction described in Section 33(a)(ii) below in furtherance of such obligation)).

(c) This Section 16 shall survive the termination of this Agreement indefinitely.

17. Indemnification Obligations.

(a) Each of the Seller Parties hereby jointly and severally agree to indemnify, protect, defend and hold Buyer, each of its Affiliates and each of their respective officers, directors, partners, members, shareholders and employees (collectively, the “**Buyer Indemnified Parties**”) harmless from and against any and all Losses incurred by or asserted against Buyer or any of the other Buyer Indemnified Parties by reason of, arising from, or in connection with, any misrepresentation or breach or violation by any Seller Party of any of the representations and warranties made by any Seller Party in this Agreement or any other agreement or instrument delivered by any Seller Party in connection with the transactions contemplated hereunder.

(b) Buyer hereby agrees to indemnify, protect, defend and hold each of the Seller Parties, each of their respective Affiliates and each of their respective officers, directors, partners, members, shareholders and employees (collectively, the “**Seller Indemnified Parties**”) harmless from and against any and all Losses incurred by or asserted against any Seller Party or any of the other Seller Indemnified Parties by reason of, arising from, or in connection with, any misrepresentation or breach or violation by Buyer of any of the representations and warranties made by Buyer in this Agreement or any other agreement or instrument delivered by Buyer in connection with the transactions contemplated hereunder.

(c) All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for applicable tax purposes, unless otherwise required by applicable law.

(d) This Section 17 shall survive the Closing and continue in effect with respect to any claim raised by notice from the party seeking indemnification hereunder; provided, however, that (i) the rights and remedies of the Buyer associated with any misrepresentation or breach or violation by any Seller Party of any of the representations and warranties set forth in Section 6 shall continue in effect as set forth in Section 8, and (ii) the rights and remedies of the Seller Parties associated with any misrepresentation or breach or violation by Buyer of any of the representations and warranties set forth in Section 7 shall continue in effect as set forth in Section 8.

18. Attorneys’ Fees. In the event any dispute between or among any or all of the parties to this Agreement, the transactions contemplated hereunder, or the Interest should result in litigation, the prevailing party(ies) shall be reimbursed by the other party(ies) for all costs

incurred by the prevailing party(ies) in connection with such litigation, including, without limitation, reasonable attorneys' fees. This Section 18 shall survive the Closing and/or the termination of this Agreement indefinitely.

19. No Third Party Beneficiaries. Except as provided in Section 15, Section 17 and Section 31 hereof, this Agreement is not intended and shall not be construed to confer any rights or benefits upon any person or entity other than the parties hereto.

20. Further Assurances. From and after the date hereof, each party shall execute and deliver such other documents and take such other actions as any other party may reasonably request for the better and more effective carrying out of the intents and purposes of this Agreement. Without limiting the generality of the foregoing, from and after the date hereof, each Seller Party shall each use commercially reasonable efforts to describe to Buyer all of the uncompleted business of the Manager of the Company, and deliver all books, materials, records, leases, documents and other items and information that belong to the Company (or Owner) or that are used in connection with the duties and responsibilities of the Manager of the Company, and reasonably cooperate with Buyer in transitioning and transferring any such duties and responsibilities of the Manager of the Company to Buyer or its designee. This Section 20 shall survive the Closing.

21. Notices. All notices, demands or other communications given hereunder shall be in writing and shall be deemed sufficiently given if delivered by courier (including, without limitation, overnight delivery service) or sent by registered or certified mail, first class, postage prepaid, or by email, addressed to any Seller Party at Seller's address provided above, attention: _____, and _____, with a copy to _____; to Buyer at Buyer's address provided above, attention: _____, _____, and _____; and to the Escrow Agent at Escrow Agent's address provided above, attention: _____; or, in each case, to such other address as a party may from time to time notify the other parties in writing (as provided above). Any such notice, demand or other communication shall be deemed to have been given (i) if so mailed, as of the close of the third business day following the date so mailed, (ii) if delivered by courier, on the date received, and (iii) if delivered by email, on the date of receipt by the sender of a delivery receipt or confirmation email from the addressee acknowledging receipt, or the date of actual receipt by the recipient in the event recipient refuses to provide a delivery receipt or confirmation email.

22. Time of the Essence. TIME IS OF THE ESSENCE with respect to all time requirements, delivery and payment dates and other deadlines set forth in this Agreement. In that regard, all payments and other actions or documents required to be paid, delivered, received or taken on or prior to a specified date shall be so paid, delivered, received or taken on or prior to the specified or required date unless such date is extended in writing by the party entitled to such performance or payment and failure to make such payment or performance by such date shall be a default under this Agreement by such party; provided, however, that if any such specified date falls on a Saturday, Sunday or legal or bank holiday, then such time period shall be automatically extended through the next regularly scheduled business day.

23. Entire Agreement. This Agreement, together with the "Schedules" and "Exhibits" hereto, constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersede all prior agreements and understandings of the parties with respect to the subject matter hereof, written or oral.

24. Headings. The captions in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

25. Governing Law. This Agreement will be governed by, and construed in accordance with, the laws of the State of Delaware.

26. Amendments and Waivers. This Agreement may be modified, altered, amended, cancelled or terminated only by written agreement of the parties hereto. No waiver by any party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. No waiver of any default, misrepresentation, or breach of warranty or covenant hereunder shall be effective unless given in writing.

27. Severability. It is the desire and intent of the parties that the provisions of this Agreement be enforced to the fullest extent permissible under applicable law. Accordingly, in the event that any provision of this Agreement would be held to be invalid, prohibited or unenforceable for any reason, such provision shall be ineffective without invalidating the remaining provisions of this Agreement.

28. Waiver of Right to Jury Trial. THE PARTIES IRREVOCABLY WAIVE TRIAL BY JURY IN ANY LITIGATION INCLUDING ANY COUNTERCLAIM WITH RESPECT THERETO.

29. CONSENT TO JURISDICTION. THE PARTIES HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL COURTS OF DELAWARE, IN CONNECTION WITH ANY ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE OTHER TRANSFER DOCUMENTS AND THE PARTIES HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF ANY SUCH SUIT, ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN SUCH COURTS. THE PARTIES HEREBY IRREVOCABLY WAIVE ANY OBJECTION WHICH THEY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT OR ANY DEFENSE OF INCONVENIENT FORUM FOR THE MAINTENANCE OF ANY SUCH SUIT, ACTION OR PROCEEDING. EACH OF THE PARTIES AGREES THAT A JUDGMENT IN ANY SUCH SUIT, ACTION OR PROCEEDING MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

30. Counterparts. This Agreement may be signed in any number of counterparts and delivered by facsimile copy or .pdf copy, each of which when so executed and delivered shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

31. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and each of their successors and assigns; provided that no party may assign this Agreement without the prior written consent of the others. Notwithstanding the foregoing restriction on assignment, Buyer shall be permitted, without the necessity of obtaining the approval of any other party hereto (but on prior written notice to the Seller given at least two (2) business days prior to Closing) to assign this Agreement to one or more Affiliates of Buyer or an entity in which Buyer, or any Affiliate of Buyer, maintains at least a ____ percent (___%) interest, and/or to designate one or more transferees of all or any portion of the Interest so long as

any such transferee is an Affiliate of Buyer or an entity in which Buyer, or any Affiliate of Buyer, maintains at least a ____ percent (____%) interest.

32. Advice of Counsel; Drafting. Each of the parties hereto acknowledge that such party has freely executed this Agreement after independent investigation, with the advice of independent counsel and without fraud, duress, or undue influence, and that such party understands the content of this Agreement. Each of the parties agrees and acknowledges that no one party drafted this Agreement such that any rule requiring a contract to be interpreted against the drafter shall not apply to this Agreement.

33. Escrow Provisions.

(a) Concurrently with the execution of this Agreement, Buyer has delivered to Escrow Agent, a wire transfer of good US funds in the amount of \$_____ as the downpayment (together with any interest that may accrue thereon, the “**Downpayment**”) hereunder, which shall be held and disbursed by Escrow Agent in accordance with this Agreement. Failure to submit to Escrow Agent an executed, completed Form W-9 shall stay Escrow Agent’s obligations to deposit the Downpayment in either a segregated account or an interest bearing account until such time that said form has been provided to Escrow Agent. The Downpayment shall be deposited by Escrow Agent in an escrow account and the proceeds held and disbursed in accordance with the following:

(i) At Closing the Downpayment shall be paid by Escrow Agent to Seller;

(ii) If the Closing of the purchase and sale of the Interest contemplated hereunder does not occur by the Closing Date, then Escrow Agent shall deliver the Downpayment in accordance with a joint instruction signed by Buyer and Seller, or if no such joint instruction is given, if either Buyer or Seller gives written notice to Escrow Agent demanding payment of the Downpayment, which notice shall state the basis for such party’s demand, Escrow Agent shall give prompt written notice to the other parties of such demand. If Escrow Agent does not receive a written notice of objection to the proposed payment from any such other parties within ten (10) business days after the giving of Escrow Agent’s written notice, Escrow Agent is hereby authorized and directed to make such payment to the demanding party. If Escrow Agent does receive such a written notice of objection within said period, or if for any reason Escrow Agent in good faith elects not to make such payment, Escrow Agent may continue to hold the Downpayment until otherwise directed by a joint written notice by Buyer and Seller or a final, non-appealable judgment, order or decree of a court of competent jurisdiction. However, Escrow Agent shall have the right at any time to deposit the Downpayment with the clerk of a Federal Court in the State of Delaware and shall give written notice of such deposit to both Buyer and Seller. Upon disposition of the Downpayment Escrow Agent shall be released and discharged of all escrow obligations and liabilities.

(b) Escrow Agent will earn a fee of \$____ for its services hereunder, but will not be entitled to any further compensation. Such fee shall be paid by the Company promptly after the execution of this Agreement and receipt of an invoice from Escrow Agent. Escrow Agent is acting solely as a stakeholder at the parties’ request and for their convenience. Escrow Agent shall not be liable to any party for any act or omission unless it involves bad faith, willful disregard of this Agreement or gross negligence. In the event of any dispute, the parties shall jointly and severally (with right of contribution) defend (by attorneys selected by Escrow Agent), indemnify and hold harmless Escrow Agent from and against any claim, judgment, loss, liability, cost and expenses incurred in connection with the performance of Escrow Agent’s acts or omissions not involving bad faith, willful disregard of this Agreement or gross negligence. This indemnity includes, without limitation, reasonable attorneys’ fees either paid to retain attorneys

or representing the fair value of legal services rendered by Escrow Agent to itself and disbursements, court costs and litigation expenses.

(c) Escrow Agent acknowledges receipt of the Downpayment.

(d) Escrow Agent agrees to the provisions of this Section 33 and the other terms of this Agreement relating to the Downpayment.

(e) This Section 33 shall survive the Closing and/or the termination of this Agreement indefinitely.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

BUYER:

_____,
a _____

By: _____
Name:
Title:

SELLER:

_____,
a _____

By: _____
Name:
Title:

EXISTING MANAGER:

_____,
a _____

By: _____
Name:
Title:

ACCEPTED AND AGREED:

ESCROW AGENT:

By: _____
Name:
Title:

[Signature Page 2 of 2 to Membership Interest Purchase Agreement]

Exhibit A

Form of Assignment and Assumption Agreement

ASSIGNMENT AND ASSUMPTION AGREEMENT

This **ASSIGNMENT AND ASSUMPTION AGREEMENT** (this “**Agreement**”) dated as of _____, 20__ (the “**Closing Date**”), by and among _____, a _____, having an office at _____ (“**Seller**”), and _____, a _____, having an office at _____ (“**Resigning Manager**”; and together with Resigning Manager, the “**Transferor Parties**”), and _____, a _____, having an office at _____ (“**Transferee**”).

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, Seller hereby assigns, transfers, sells and conveys to Transferee, all of Seller’s legal, economic and beneficial right, title and interest in and to _____, a _____ (the “**Company**”), including, without limitation, all rights appurtenant to Seller’s interests in and to the Company’s capital, profits and losses and distributions from and after the Closing Date, TO HAVE AND TO HOLD the same unto Transferee, its successors and assigns, forever (the “**Transferred Interests**”).

1. Capitalized Terms. Capitalized terms used herein, but not defined have the meanings ascribed to them in that certain Membership Interest Purchase Agreement, dated as of _____, 20__, among the Transferor Parties and Transferee (the “**Purchase Agreement**”).

2. Assumption by Transferee.

(a) Upon the execution and delivery hereof, Transferee assumes from the Transferor Parties, from and after the Closing Date, all obligations attributable to the Transferred Interests which may accrue on or following the Closing Date (except to the extent such obligations result from any misrepresentation or breach or violation by any _____ Party hereunder, under the Operating Agreement or under the Purchase Agreement), and agrees to be bound by and adopts the terms of the organizational documents of the Company as may be amended or modified from time to time.

(b) Each Transferor Party hereby ceases to be a member of the Company, and ceases to have or exercise any right or power with respect to the Company, whether as a member, or otherwise.

3. Resignation of Resigning Manager. Resigning Manager hereby resigns as the Manager of the Company. Resigning Manager hereby ceases to have or exercise any right or power with respect to the Company, whether as a manager, or otherwise, and Resigning Manager hereby ceases to have any economic or other rights or interests in the Company, whether to distributions, or otherwise.

4. Representations and Warranties of Transferor Parties. Each Transferor Party hereby represents and warrants to Transferee that each of the following is true and correct as of the Closing Date:

(a) Each Transferor Party is duly organized, validly existing and in good standing in the jurisdiction of its formation.

(b) The _____ Parties have the full power, authority and legal right to execute, deliver and perform this Agreement.

(c) The _____ Parties have duly authorized, executed and delivered this Agreement and, assuming the due authorization, execution and delivery by the Transferee of this Agreement, this Agreement constitutes the legal, valid and binding agreement of the _____ Parties, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, liquidation, receivership, moratorium and other laws relating to or affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).

(d) No consent, approvals, authorizations or orders of, registration or filing with, or notice to, any court or governmental agency or body is required for the execution, delivery and performance by any _____ Party of, or compliance by any _____ Party with, this Agreement or the consummation of the transactions contemplated hereby.

(e) The execution and delivery of this Agreement, and the performance by the _____ Parties of their obligations hereunder, will not conflict with any provision of any law or regulation to which any of the _____ Parties is subject, conflict with or otherwise violate the organizational documents of the _____ Parties or conflict with or result in a breach of or constitute a default of any of the terms, conditions or provisions of any material agreement, contract, indenture or instrument to which any of the _____ Parties is a party or by which it is bound or any order or decree applicable to any of the _____ Parties, in any manner that would have an adverse effect on the ability of the _____ Parties to perform their obligations hereunder.

(f) Pursuant to this Agreement, Seller has transferred all legal, economic and beneficial right, title and interest in and to the Interest to the Transferee, free and clear of all Liens. Pursuant to this Agreement, Resigning Manager has transferred all of its legal, economic and beneficial right, title and interest in and to the Company to Transferee, free and clear of all Liens.

(g) Neither Transferor Party has previously assigned, conveyed, delegated, transferred or otherwise previously disposed of any of its legal, economic or beneficial right, title or interest in or to the Company, and no person or entity (other than the Transferee) presently holds any legal, economic or beneficial right, title or interest in or to the Company previously held by any Transferor Party or any Affiliate thereof.

(h) No Transferor Party is a "foreign person" as defined in Section 1445(f)(3) of the Internal Revenue Code, as amended.

(i) Neither _____ Party is a Prohibited Person.

(j) No claim or litigation is pending or, to the knowledge of any of the _____ Parties, threatened against any of the _____ Parties that would prohibit its entering into this Agreement or materially and adversely affect the performance by any of the _____ Parties of its obligations under this Agreement.

(k) Schedule 1 attached hereto and made a part hereof contains a true, complete and accurate list of all Loan Documents and there are no other material documents or instruments evidencing or securing the Loan, and Resigning Manager has delivered to Transferee accurate and complete copies of all of said material Loan Documents. Except to the extent set forth on Schedule 1, the Loan Documents have not been altered, modified, waived, amended, superseded, cancelled, extended or otherwise changed. To the best of the knowledge of the _____ Parties, there are no uncured defaults, breaches, violations or events of default, or any facts or circumstances which, with the giving of notice or the passage of time, or both, will

or would constitute a default, breach, violation or event of default, on the part of any party under the any of the Loan Documents.

(l) No _____ Party is insolvent, and the execution and delivery of this Agreement and the performance by the _____ Parties of their obligations hereunder will not render any _____ Party insolvent.

(m) There are no uncured defaults, breaches, violations or events of default or any facts or circumstances which, with the giving of notice or the passage of time, or both, will or would constitute a default, breach, violation or event of default on the part of any _____ Party under the Operating Agreement or the Purchase Agreement.

(n) No _____ Party has any knowledge of any existing or pending condemnation proceedings against the Property, and no _____ Party has received, or is aware of, any notice issued by any governmental authority or regulatory agency alleging a violation of any law, rule, regulation or order that has not been cured prior to the date hereof, relating to environmental conditions by reason of the presence of hazardous substances or materials (as such terms are presently used under applicable environmental laws, rules and regulations) at the Property. Except for eviction and collection proceedings filed by or against current and former residents, no _____ Party has received, or is aware of, any notice of any written pending claims or litigation against the Owner, the Company and/or the Property which adversely affect, or, as far as any _____ Party can reasonably foresee, might adversely affect, the Owner, the Company and/or the Property or the business, operations or condition (financial or otherwise) of the Owner, the Company and/or the Property, in each case in any material respect.

(o) There is no material fact presently known to any _____ Party that has not been disclosed to the Transferee in writing which adversely affects, or, as far as any _____ Party can reasonably foresee, might adversely affect, the Owner, the Company and/or the Property or the business, operations or condition (financial or otherwise) of the Owner, the Company and/or the Property, in each case in any material respect. To the knowledge of the _____ Parties, the financial reports and other information previously furnished by any of the _____ Parties to Transferee with respect to the Owner, the Company and/or the Property (including, without limitation, the rent rolls, statements of cash flow and statements income and operating expense) are true, correct and complete in all material respects, and accurately represents the financial condition of the Owner, the Company and/or the Property, as applicable, as of the date thereof.

(p) Except with respect to ongoing maintenance and similar work in connection with management and operation of the Property which are included in the Prorated Items or accounted for in determination of any credit which may be given to Seller pursuant to the final sentence of Section 11(a) of the Purchase Agreement, there are no persons or entities that have furnished labor or materials for the Property, or any part thereof, who have not been paid in full, and there are no claims or amounts due for the furnishing of material or labor for erection, construction, alteration or demolition of any building on the Property or any part thereof.

(q) Each _____ Party has performed all of the covenants, undertakings and agreements required to be performed by such party under the Purchase Agreement on or before the Closing Date.

5. Representations and Warranties of Transferee. Transferee hereby represents and warrants to the Transferor Parties that each of the following is true and correct as of the Closing Date:

(a) Transferee is duly organized, validly existing and in good standing in the jurisdiction of its formation.

(b) Transferee has the full power, authority and legal right to execute, deliver and perform this Agreement.

(c) The Transferee has duly authorized, executed and delivered this Agreement and, assuming the due authorization, execution and delivery by the _____ Parties of this Agreement, this Agreement constitutes the legal, valid and binding agreement of the Transferee, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, liquidation, receivership, moratorium and other laws relating to or affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).

(d) No consent, approvals, authorizations or orders of, registration or filing with, or notice to, any court or governmental agency or body is required for the execution, delivery and performance by Transferee of, or compliance by Transferee with, this Agreement or the consummation of the transactions contemplated hereby.

(e) The execution and delivery of this Agreement, and the performance by the Transferee of its obligations hereunder, will not conflict with any provision of any law or regulation to which the Transferee is subject, conflict with or otherwise violate the organizational documents of the Transferee or conflict with or result in a breach of or constitute a default of any of the terms, conditions or provisions of any material agreement, contract, indenture or instrument to which the Transferee is a party or by which it is bound or any order or decree applicable to the Transferee, in any manner that would have an adverse effect on the ability of the Transferee to perform its obligations hereunder.

(f) Transferee is not a Prohibited Person.

(g) No claim or litigation is pending or, to the knowledge of the Transferee, threatened against the Transferee that would prohibit its entering into this Agreement or materially and adversely affect the performance by the Transferee of its obligations under this Agreement.

(h) Transferee is not insolvent, and the execution and delivery of this Agreement and the performance by Transferee of its obligations hereunder will not render Transferee insolvent.

(i) There are no uncured defaults, breaches, violations or events of default or any facts or circumstances which, with the giving of notice or the passage of time, or both, will or would constitute a default, breach, violation or event of default on the part of Transferee under the Operating Agreement or the Purchase Agreement.

(j) Transferee has performed all of the covenants, undertakings and agreements required to be performed by such party under the Purchase Agreement on or before the Closing Date.

6. Survival of Representations and Warranties. The representations and warranties of the Transferor Parties set forth in Sections 4(a), 4(b), 4(c), 4(d), 4(e), 4(f), 4(g), 4(h) and 4(i), and of the Transferee set forth in Sections 5(a), 5(b), 5(c), 5(d), 5(e) and 5(f), shall survive indefinitely. The other representations and warranties of the Transferor Parties set forth in Section 4 and of the Transferee set forth in Section 5 shall survive for _____ () months

(it being acknowledged and agreed that (a) all of the Transferee's rights and remedies associated with any misrepresentation or breach or violation by any Transferor Party of any of such representations and warranties shall continue in effect with respect to any claim raised by notice from Transferee to any Transferor Party (which notice contains a description of the misrepresentation, breach or violation in question) given on or before the _____ () month anniversary of the Closing Date, and (b) all of the Transferor Parties' rights and remedies associated with any misrepresentation or breach or violation by Transferee of any of such representations and warranties shall continue in effect with respect to any claim raised by notice from any Transferor Party to Transferee (which notice contains a description of the misrepresentation, breach or violation in question) given on or before the _____ () month anniversary of the Closing Date). This Section 6 shall survive indefinitely.

7. No Broker. Each party hereto represents and warrants to the other that such party has had no dealings with any broker or agent in connection with the negotiation of this Agreement and that such party knows of no broker or agent who would be entitled to a commission in connection with this Agreement or the transactions contemplated hereunder. Each party agrees to indemnify and defend the other parties against and hold the other parties harmless from any and all Losses with respect to any fee, commission or equivalent compensation alleged to be owing an account of the indemnifying party's dealings with any broker or agent. This Section 7 shall survive indefinitely.

8. Indemnification Obligations.

(a) Each of the Transferor Parties hereby jointly and severally agree to indemnify, protect, defend and hold the Transferee, each of its Affiliates and each of their respective officers, directors, partners, members, shareholders and employees (collectively, the "**Transferee Indemnified Parties**") harmless from and against any and all Losses incurred by or asserted against Transferee or any of the other Transferee Indemnified Parties by reason of, arising from, or in connection with, (i) any obligations attributable to the Transferred Interests which accrued prior to the Closing Date (except to the extent such Losses result from any misrepresentation or breach or violation by Transferee hereunder, under the Operating Agreement or under the Purchase Agreement), and/or (ii) any misrepresentation or breach or violation by any _____ Party of any of the representations and warranties made by any _____ Party in this Agreement, the Purchase Agreement, or any other agreement or instrument delivered by any _____ Party in connection with the transactions contemplated hereunder.

(b) Further, each of the Key Principals hereby jointly and severally agree with each other and each of the Transferor Parties pursuant to Section 8(a), to indemnify, protect, defend and hold the Transferee Indemnified Parties harmless from and against any and all Losses incurred by or asserted against Transferee or any of the other Transferee Indemnified Parties by reason of, arising from, or in connection with, any misrepresentation or breach or violation of any of the representations and warranties of the Transferor Parties set forth in Section 4(a), Section 4(b), Section 4(c), Section 4(d), Section 4(e), Section 4(f), Section 4(g), Section 4(h) and/or Section 4(i).

(c) Transferee hereby agrees to indemnify, protect, defend and hold each of the Transferor Parties and each of their respective Affiliates and each of their respective officers, directors, partners, members, shareholders and employees (collectively, the "**Transferor Indemnified Parties**") harmless from and against any and all Losses incurred by or asserted against any Transferor Party or any of the other Transferor Indemnified Parties by reason of, arising from, or in connection with, (i) any obligations attributable to the Transferred Interests which may accrue on or following the Closing Date (except to the extent such Losses result from any misrepresentation or breach or violation by any _____ Party hereunder, under the

Operating Agreement or under the Purchase Agreement), and/or (ii) any misrepresentation or breach or violation by Transferee of any of the representations and warranties made by Transferee in this Agreement, the Purchase Agreement, or any other agreement or instrument delivered by Transferee in connection with the transactions contemplated hereunder.

(d) All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Purchase Price for applicable tax purposes, unless otherwise required by applicable law.

(e) This Section 8 shall survive and continue in effect with respect to any claim raised by notice from the party seeking indemnification hereunder; provided, however, that (i) the rights and remedies of the Transferee associated with any misrepresentation or breach or violation by any Transferor Party of any of the representations and warranties set forth in Section 4 shall continue in effect as set forth in Section 6, and (ii) the rights and remedies of the Transferor Parties associated with any misrepresentation or breach or violation by Transferee of any of the representations and warranties set forth in Section 5 shall continue in effect as set forth in Section 6.

9. Attorneys' Fees. In the event any dispute between or among any or all of the parties to this Agreement, the transactions contemplated hereunder, or the Interest should result in litigation, the prevailing party(ies) shall be reimbursed by the other party(ies) for all costs incurred by the prevailing party(ies) in connection with such litigation, including, without limitation, reasonable attorneys' fees. This Section 9 shall survive indefinitely.

10. No Third Party Beneficiaries. Except as provided in Section 8, Section 20 and Section 21 hereof, this Agreement is not intended and shall not be construed to confer any rights or benefits upon any person or entity other than the parties hereto.

11. Further Assurances. From and after the date hereof, each party shall execute and deliver such other documents and take such other actions as any other party may reasonably request for the better and more effective carrying out of the intents and purposes of this Agreement. Without limiting the generality of the foregoing, from and after the date hereof, each Transferor Party shall each use commercially reasonable efforts to describe to the Transferee all of the uncompleted business of the Manager of the Company, and deliver all books, materials, records, leases, documents and other items and information that belong to the Company or that are used in connection with the duties and responsibilities of the Manager of the Company, and reasonably cooperate with the Transferee in transitioning and transferring any such duties and responsibilities of the Manager of the Company to the Transferee or its designee. This Section 11 shall survive indefinitely.

12. Notices. All notices, demands or other communications given hereunder shall be in writing and shall be deemed sufficiently given if delivered by courier (including, without limitation, overnight delivery service) or sent by registered or certified mail, first class, postage prepaid, or by email, addressed to any Transferor Party at Transferor's address provided above, attention: _____, _____, and _____, with a copy to _____; to any Key Principal at such Key Principal's address below; and to Transferee at Transferee's address provided above, attention: _____, _____, _____, _____, and _____; or, in each case, to such other address as a party may from time to time notify the other parties in writing (as provided above). Any such notice, demand or other communication shall be deemed to have been given (i) if so mailed, as of the close of the third business day following the date so mailed, (ii) if delivered by courier, on the date received, and (iii) if delivered by email, on the date of receipt by the sender of a confirmation email from the addressee acknowledging receipt.

13. Headings. The captions in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

14. Governing Law. This Agreement will be governed by, and construed in accordance with, the laws of the State of Delaware.

15. Amendments and Waivers. This Agreement may be modified, altered, amended, cancelled or terminated only by written agreement of the parties hereto. No waiver by any party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. No waiver of any default, misrepresentation, or breach of warranty or covenant hereunder shall be effective unless given in writing.

16. Severability. It is the desire and intent of the parties that the provisions of this Agreement be enforced to the fullest extent permissible under applicable law. Accordingly, in the event that any provision of this Agreement would be held to be invalid, prohibited or unenforceable for any reason, such provision shall be ineffective without invalidating the remaining provisions of this Agreement.

17. Waiver of Right to Jury Trial. THE PARTIES IRREVOCABLY WAIVE TRIAL BY JURY IN ANY LITIGATION INCLUDING ANY COUNTERCLAIM WITH RESPECT THERETO.

18. CONSENT TO JURISDICTION. THE PARTIES HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL COURTS OF DELAWARE, IN CONNECTION WITH ANY ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE OTHER TRANSFER DOCUMENTS AND THE PARTIES HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF ANY SUCH SUIT, ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN SUCH COURTS. THE PARTIES HEREBY IRREVOCABLY WAIVE ANY OBJECTION WHICH THEY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH COURT OR ANY DEFENSE OF INCONVENIENT FORUM FOR THE MAINTENANCE OF ANY SUCH SUIT, ACTION OR PROCEEDING. EACH OF THE PARTIES AGREES THAT A JUDGMENT IN ANY SUCH SUIT, ACTION OR PROCEEDING MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

19. Counterparts. This Agreement may be signed in any number of counterparts and delivered by facsimile copy or .pdf copy, each of which when so executed and delivered shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

20. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and each of their successors and assigns.

21. Continuing Obligations of Key Principals; Operating Agreement.

(a) The agreements, guarantees and obligations set forth in Section ____ of the Operating Agreement as of the Closing Date are incorporated herein by this reference, and the same shall survive indefinitely with respect to any and all Losses incurred by or asserted against Transferee, the Company, and/or any Affiliate of any of the foregoing with respect to any acts, events or omissions which arose, occurred or accrued on or prior to the Closing Date.

(b) Each of the parties acknowledges and agrees, for the avoidance of doubt, that from and after the date hereof, (i) except as set forth herein or in the Purchase Agreement, the Transferor Parties shall have no further obligations or liabilities under the Operating Agreement or with respect to the Company, (ii) Transferee shall have the sole right to amend, restate, supplement or otherwise modify the Operating Agreement in its sole and absolute discretion, and (iii) none of the _____ Parties or any of their respective Affiliates, has any remaining rights, remedies or interests under the Operating Agreement or with respect to the Company.

22. Advice of Counsel; Drafting. Each of the parties hereto acknowledge that such party has freely executed this Agreement after independent investigation, with the advice of independent counsel and without fraud, duress, or undue influence, and that such party understands the content of this Agreement. Each of the parties agrees and acknowledges that no one party drafted this Agreement such that any rule requiring a contract to be interpreted against the drafter shall not apply to this Agreement.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SELLER:

_____,
a _____

By: _____
Name:
Title:

RESIGNING MANAGER:

_____,
a _____

By: _____
Name:
Title:

[Signature Page 1 of 3 to Assignment and Assumption Agreement]

TRANSFeree:

_____,
a _____

By: _____
Name:
Title:

[Signature Page 2 of 3 to Assignment and Assumption Agreement]

ACCEPTED AND AGREED:

KEY PRINCIPALS

Address: _____

Address: _____

Exhibit B

Form of Indemnification Agreement

INDEMNIFICATION AGREEMENT

This **INDEMNIFICATION AGREEMENT** (this “**Agreement**”) made and delivered as of _____, 20__ (the “**Effective Date**”), is made and entered into by and among _____, an individual having an address at _____, and _____, an individual having an address at _____ (each an “**Indemnitor**”, the collectively the “**Indemnitors**”), to and for the benefit of _____, a _____ having an office at _____, (the “**Indemnitee**”).

WITNESSETH:

WHEREAS, on the date hereof, _____, a _____ (“**Transferee**”), has purchased all of the legal, economic and beneficial right, title and interest of _____, a _____ (“**Transferor**”) and _____, a _____ (“**Resigning Manager**”) in and to _____, a _____ (the “**Company**”), pursuant to that certain Membership Interest Purchase Agreement, dated as of _____, 20__, among Transferor, Resigning Manager and Transferee (the “**Purchase Agreement**”) and that certain Assignment and Assumption Agreement dated as of even date hereof, among Transferor, Resigning Manager and Transferee (the “**Assignment Agreement**”) (such purchase, the “**Purchase Transaction**”);

WHEREAS, the Company is the sole member of _____ (“**Owner**”);

WHEREAS, the Owner is a party to that certain _____, dated as of _____, 20__ between Owner, as borrower, and _____ (“**Lender**”), as lender, as amended or otherwise modified from time to time, pursuant to which Lender is the holder of a mortgage loan to Owner in the original principal amount of _____ (\$ _____) (the “**Loan**”);

WHEREAS, [as a condition to the issuance by the Lender of its consent to the Purchase Transaction, it is requiring that Indemnitee assume the obligations and liabilities of the Indemnitors under the non-recourse carve-out guaranty delivered by the Indemnitors in connection with the Loan (the “**Original Carve-Out Guaranty**”), and to execute and deliver a new non-recourse carve-out guaranty in connection with the Loan (the “**New Carve-Out Guaranty**”), pursuant to which, among other things, Indemnitee may be liable for obligations and liabilities of the Indemnitors under the Original Carve-Out Guaranty];

WHEREAS, Transferor and Resigning Manager are each direct or indirect affiliates and subsidiaries of each Indemnitor, and each Indemnitor will benefit from the Purchase Transaction;

WHEREAS, Transferee is a direct or indirect affiliate and subsidiary of Indemnitee;

WHEREAS, it is a condition precedent to, and a material inducement for, the Indemnitee’s agreement to [assume the obligations and liabilities of the Indemnitors under the Original Carve-Out Guaranty and enter into the New Carve-Out Guaranty] that the Indemnitors shall have executed and delivered this Agreement to and for the benefit of Indemnitee.

NOW THEREFORE, in order to induce Indemnitee to [assume the obligations and liabilities of the Indemnitors under the Original Carve-Out Guaranty and enter into the New Carve-Out Guaranty], and in consideration of the matters described in the foregoing recitals, and

for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Indemnitors hereby agrees as follows:

1. Recitals. The recitals are incorporated herein by this reference.
2. Capitalized Terms. Capitalized terms used herein, but not defined have the meanings ascribed to them in the Purchase Agreement.
3. Indemnification. The Indemnitors hereby jointly and severally agree, at their sole cost and expense, to unconditionally indemnify, defend, and hold Indemnitee, Transferee, the Company, Owner, and each of their respective directors, officers, employees, agents and/or representatives (collectively, the “**Transferee Indemnified Parties**”) harmless from against any and all losses, damages, costs, expenses, liabilities, claims and other obligations, including, without limitation, reasonable attorneys’ fees and costs incurred (collectively, “**Losses**”) incurred by or asserted against Indemnitee and/or any of the other Transferee Indemnified Parties under the Original Carve-Out Guaranty, in each case with respect to any acts, events or omissions which arose, occurred or accrued on or prior to the Effective Date, to the extent same arose, occurred or accrued due to any act or failure to act within the reasonable control of any of the Indemnitors or any of their respective Affiliates.
4. Payment of Indemnitee’s Expenses. The Indemnitors jointly and severally agree to pay, upon demand therefor, all expenses, including, but not limited to, reasonable attorneys’ fees and disbursements, incurred by Indemnitee or any other Transferee Indemnified Party in enforcing this Agreement.
5. Obligations Absolute and Waivers. The obligations of the Indemnitors hereunder shall remain in full force and shall not be impaired by: (i) any express or implied modification, renewal, extension or acceleration of or to the Loan Documents; (ii) any exercise or non-exercise by Lender of any right or privilege under any of the Loan Documents; (iii) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to any Indemnitor, Indemnitee, the Company or Owner; (iv) any release, waiver or discharge of any party under any of the Loan Documents; or (v) the satisfaction of all or a portion of the obligations under the Loan Documents, and/or the discharge of any mortgage or security agreement. Each Indemnitor unconditionally waives the following defenses to enforcement of this Agreement: all presentments, demands, demands for performance, notices of nonperformance, protests, notices of protest, dishonor, nonpayment, partial payment, default and protest, notices of acceptance of this Agreement and all other notices and formalities to which such Indemnitor may be entitled (except for notices which are specifically required by this Agreement).
6. No Waiver. The Indemnitors’ obligations hereunder shall in no way be impaired, reduced or released by reason of any omission or delay by any Transferee Indemnified Party in exercising any right described herein.
7. Successors and Assigns. This Agreement and the indemnifications contained in this Agreement shall be continuing, irrevocable and binding on the Indemnitors, the Indemnitee, and their respective heirs and legal representatives, and this Agreement shall be binding upon and shall inure to the benefit of each Transferee Indemnified Party, and each of their respective successors and assigns; provided that no party may assign its obligations under this Agreement without the prior written consent of the other parties hereto. The death or incapacity of one or more of the Indemnitors shall not affect this Agreement or any of the obligations of any party hereunder. All references in this Agreement to the Transferee Indemnified Parties shall be deemed to include such person’s or entity’s successors and assigns.

8. Notices. All notices, demands or other communications given hereunder shall be in writing and shall be deemed sufficiently given if hand-delivered or if delivered by courier (including, without limitation, overnight delivery service) or sent by registered or certified mail, first class, postage prepaid, addressed to any Indemnitor at such Indemnitor's address provided above, with a copy to _____; at _____; and to Indemnitee at Indemnitee's address provided above, attention: _____; or, in each case, to such other address as a party may from time to time notify the other party in writing (as provided above). Any such notice, demand or other communication shall be deemed to have been given (i) if hand delivered, effective upon receipt, (ii) if so mailed, as of the close of the third business day following the date so mailed, and (iii) if delivered by courier, on the date received.

9. Representations and Warranties. Each Indemnitor hereby represents and warrants to Indemnitee as follows:

(a) Each Indemnitor is an individual and each Indemnitor has the full power and authority to carry on his business as now conducted, to enter into this Agreement and to carry out the transactions contemplated hereby.

(b) This Agreement constitutes the legal, valid and binding agreement of each Indemnitor, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, liquidation, receivership, moratorium and other laws relating to or affecting the enforcement of creditors' rights generally and by general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).

(c) The execution and delivery of this Agreement, and the performance by the Indemnitors of their obligations hereunder, will not conflict with any provision of any law or regulation to which any Indemnitor is subject, or result in or require the creation or imposition of any lien, charge or encumbrance of any nature on any Indemnitor's properties or assets or conflict with or result in a breach of or constitute a default of any of the terms, conditions or provisions of any material agreement, contract, indenture or instrument to which any Indemnitor is a party or by which any Indemnitor is bound or any order or decree applicable to any Indemnitor, in any manner that would have a material adverse effect on the ability of any Indemnitor to perform his obligations hereunder.

(d) No consent, approvals, authorizations or orders of, registration or filing with, or notice to, any court or governmental agency or body is required for the execution, delivery and performance by any Indemnitor of, or compliance by any Indemnitor with, this Agreement.

(e) No Indemnitor is a party to any agreement or instrument which materially and adversely affects such Indemnitor's present or proposed business, properties or assets, or operations or conditions (whether financial or otherwise); and no Indemnitor is in default in the performance, observance or fulfillment of any of the material obligations, covenants or conditions set forth in any material agreement or instrument to which such Indemnitor is a party.

(f) There is not now pending against or affecting any Indemnitor, nor to the knowledge of any Indemnitor has there been threatened in writing, any action, suit, proceeding or arbitration at law or in equity or by or before any governmental agency or body or other person which might materially and adversely affect the rights or remedies of the Transferee Indemnified Parties under this Agreement, the business assets, operations or financial condition of any Indemnitor or any Indemnitor's ability to perform his obligations under this Agreement.

(g) None of the Indemnitors has entered into this Agreement with the intent to hinder, delay or defraud any creditor. Each Indemnitor has received reasonably equivalent value in exchange for the indemnification contained in this Agreement. None of the Indemnitors is insolvent, and the execution and delivery of this Agreement and the performance by the Indemnitors of their obligations hereunder will not render any of the Indemnitors insolvent.

(h) No Indemnitor is a Prohibited Person.

10. Entire Agreement. This Agreement and the parties' respective obligations hereunder are and shall at all times continue to be absolute, present, primary and unconditional in all respects, and shall at all times be valid and enforceable irrespective of any other agreements or circumstances of any nature whatsoever which might otherwise constitute a defense to this Agreement and/or the obligations of the parties hereunder or the obligations of any other person or party (including, without limitation, the Company and/or Owner) relating to this Agreement or the obligations of the parties hereunder or otherwise. This Agreement constitutes the entire Agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter contained in this Agreement.

11. Amendment and Waiver. This Agreement may not be amended except by a writing signed by all Indemnitors and the Indemnitee, nor shall observance of any term of this Agreement be waived without the prior written consent of the Indemnitee.

12. Governing Law. The terms of this Agreement shall be governed by and construed under the substantive laws of the State of New York, without reference to principles of New York conflict of laws. With respect to any claim or cause of action in connection with the execution or performance of, or arising under this Agreement, each party hereto (i) irrevocably submits to the nonexclusive personal jurisdiction of any federal or state court located in the State of New York, (ii) irrevocably waives any objection he may have to the laying on of venue of any suit, action or proceeding arising out of or relating to this Agreement brought in any such court, (iii) irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum, (iv) irrevocably waives the right to object, with respect to such claim, suit, action or proceeding brought in any such court, that such court does not have jurisdiction over such party, (v) **IRREVOCABLY WAIVES ANY RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING WITH RESPECT TO SUCH CLAIM, SUIT, ACTION OR PROCEEDING** and (vi) consents to the service of process in any such action or proceeding by the mailing of copies thereof by certified or registered first class mail to the address to which notice is to be given pursuant to the provisions of this Agreement, in which case service shall be deemed complete, without the necessity of filing proof of service, five (5) days after such mailing, and the party served will have twenty (20) days after such service is complete to answer or otherwise respond to the summons and complaint or other process so served, or to the service of process by other means provided for by law.

13. Counterparts. This Agreement may be signed in any number of counterparts and delivered by facsimile copy or .pdf copy, each of which when so executed and delivered shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

14. Severability. All provisions contained in this Agreement are severable and the invalidity or unenforceability of any provision shall not affect or impair the validity or enforceability of the remaining provisions of this Agreement.

15. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

16. Advice of Counsel; Drafting. Each party hereto acknowledges that he has freely executed this Agreement after independent investigation, with the advice of independent counsel and without fraud, duress, or undue influence, and that he understands the content of this Agreement. Each party hereto agrees and acknowledges that no one party drafted this Agreement such that any rule requiring a contract to be interpreted against the drafter shall not apply to this Agreement.

17. Joint and Several Obligations. Each Indemnitor shall be jointly and severally liable for the performance of each Indemnitor's obligations hereunder or otherwise.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date first above written.

INDEMNITORS:

Address: _____

Address: _____

[Signature Page to Indemnification Agreement]

Schedule 1

Loan Documents

EXHIBIT 31.1
CERTIFICATION

I, Jeffrey A. Gould, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 of BRT Apartments Corp.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2022

/s/ Jeffrey A. Gould

Jeffrey A. Gould

President and

Chief Executive Officer

EXHIBIT 31.2
CERTIFICATION

I, David W. Kalish, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 of BRT Apartments Corp.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2022

/s/ David W. Kalish

David W. Kalish

Senior Vice President - Finance

EXHIBIT 31.3
CERTIFICATION

I, George Zweier, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 of BRT Apartments Corp.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2022

/s/ George Zweier

George Zweier
Vice President and
Chief Financial Officer

EXHIBIT 32.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

**PURSUANT TO 18 U.S.C. SECTION 1350
(SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002)**

I, Jeffrey A. Gould, do hereby certify, pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge, based upon a review of the Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 of BRT Apartments Corp. ("the Registrant"), as filed with the Securities and Exchange Commission on the date hereof (the "Report"):

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

Date: May 10, 2022

/s/ Jeffrey A. Gould

Jeffrey A. Gould
President and
Chief Executive Officer

EXHIBIT 32.2

CERTIFICATION OF SENIOR VICE PRESIDENT-FINANCE

**PURSUANT TO 18 U.S.C. SECTION 1350
(SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002)**

I, David W. Kalish, do hereby certify, pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge, based upon a review of the Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 of BRT Apartments Corp. ("the Registrant"), as filed with the Securities and Exchange Commission on the date hereof (the "Report"):

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

The foregoing certification is being furnished pursuant to 18 U.S.C. Section 1350. It is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and it is not to be incorporated by reference into any filing of the Company, regardless of any general incorporation language in such filing.

Date: May 10, 2022

/s/ David W. Kalish
David W. Kalish
Senior Vice President - Finance

EXHIBIT 32.3

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

**PURSUANT TO 18 U.S.C. SECTION 1350
(SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002)**

I, George Zweier, do hereby certify, pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of my knowledge, based upon a review of the Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 of BRT Apartments Corp. ("the Registrant"), as filed with the Securities and Exchange Commission on the date hereof (the "Report"):

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

The foregoing certification is being furnished pursuant to 18 U.S.C. Section 1350. It is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and it is not to be incorporated by reference into any filing of the Company, regardless of any general incorporation language in such filing.

Date: May 10, 2022

/s/ George Zweier
George Zweier
Vice President and
Chief Financial Officer