

AUTHORITY CONTINUING DISCLOSURE AGREEMENT

This Authority Continuing Disclosure Agreement (this “Agreement”) by and among the West Falls Community Development Authority, a political subdivision of the Commonwealth of Virginia (the “Authority”), and MuniCap, Inc. (the “Administrator”), is being entered into in connection with the issuance of \$13,000,000* West Falls Community Development Authority Revenue Bonds, Series 2022A (the “Bonds”). The Bonds were issued pursuant to a Trust Indenture dated as of _____ 1, 2022 (the “Indenture”), between U.S. Bank Trust Company, National Association, a national banking association, as Trustee (the “Trustee”), and the Authority.

The Administrator and the Authority hereby covenant and agree as follows:

Section 1. Purpose of the Authority Continuing Disclosure Agreement. This Agreement is being executed and delivered by the Authority and the Administrator for the benefit of the Bondholders and the Beneficial Owners of the Bonds.

Section 2. Definitions. Terms not otherwise defined herein shall have the meanings set forth in the Limited Offering Memorandum (defined below).

“Administrator” means MuniCap, Inc., or any successor appointed by the Authority hereunder.

“Annual Report” means the annual report prepared and disseminated to the MSRB containing the information set forth in Section 3(a) of this Agreement.

“Debt Obligation” means a debt obligation, lease, guarantee, derivative instrument or monetary obligation resulting from a judicial, administrative or arbitration proceeding.

“Developer” means FCGP Development LLC and DRI/TCC West Falls, LLC.

“Developer’s Continuing Disclosure Agreement” means the Developer Continuing Disclosure Agreement of even date herewith by and between the Administrator and the Developer.

“Financial Obligations” means any of the following (a) a Debt Obligation; (b) a derivative instrument entered into in connection with or pledged as security or a source of payment for an existing or planned Debt Obligation; or (c) the guarantee of a Debt Obligation or derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned Debt Obligation. The term “Financial Obligation” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Listed Events” means any of the events listed in Section 4 of this Agreement.

“Limited Offering Memorandum” means the Limited Offering Memorandum with respect to the Bonds dated _____, 2022, as amended or supplemented from time to time.

* Preliminary, subject to change.

“MSRB” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934, as amended, or any successor thereto or to the functions of the MSRB contemplated by this Agreement.

“Participating Underwriter” means Piper Sandler & Co.

“Person” means an individual, estate, trust, corporation, partnership, limited liability company or any other organization or entity (whether governmental or private).

“Rule” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, as in effect on the date of this Agreement, including any official interpretations thereof issued either before or after the effective date of this Agreement which are applicable to this Agreement.

Section 3. *Provision of Information.* (a) Beginning with the fiscal year ending June 30, 2022, the Administrator shall not later than March 31 of each year, commencing March 31, 2023, provide an Annual Report to the MSRB containing or incorporating by reference the following information as of June 30 of such year:

(i) The balance of the funds and accounts created under the Indenture and the Act, including funds held by the Authority;

(ii) Any changes to the Rate and Method since the report of the previous year;

(iii) Any changes in the methodology utilized for the levy of special assessments for the Authority;

(iv) Special Assessment roll for all taxable parcels within the District, including a breakdown showing: (i) the current taxable parcels in the District; (ii) the Special Assessment levied and assessed for each taxable parcel, including any adjustments to the Special Assessment as provided for in the Rate and Method; (iii) the amount of Special Assessments collected; (iv) any prepayments of the Special Assessments as provided for in the Rate and Method; and (v) any termination of the Special Assessments as provided for in the Rate and Method;

(v) For each land use class, the residential dwelling units, the building square footage, and the number of rooms that may be built on such parcel, each as applicable to such land use class and whether the land use class of any property has been changed since the prior Annual Report;

(vi) The total assessed valuations of land within the District by land use class and by parcel;

(vii) The amount of any pending appeals of assessed valuations of land within the Development;

(viii) The current ad valorem real property tax rate applicable to property within the Development;

(ix) The amount of the Special Assessments for property within the District and whether the levy of a Special Tax is anticipated in the next tax year;

(x) Update on all tax bill or Special Assessment delinquencies and collections of past due tax bills with respect to property in the District;

(xi) Any tax certificate sales of property in the District by affected tax parcel, building type, square footage and delinquency amount;

(xii) Calculation of debt service coverage with respect to the Bonds;

(xiii) Whether there are any defaults under the Indenture or the Development Agreement, which have resulted in mediation or litigation;

(xiv) A statement as to any material amendment or supplement to, or default under, the Comprehensive Agreement, the Memorandum of Understanding or the Special Assessment Agreement.

(b) If the Administrator is not able to provide the Annual Report to the MSRB within such time prescribed in subsection (a) of this section, then the Administrator in a timely manner will provide notice of the late submission of annual financial information to the MSRB.

(c) The Administrator shall file a report with the Authority, the Trustee and the Participating Underwriter certifying that the Annual Report has been provided to the MSRB pursuant to this Agreement and stating the date it was provided.

(d) The Administrator shall file in a timely manner with the MSRB a notice of any failure by the Authority to provide the information required by Section 3 on or before the date specified herein.

(e) In addition to the Annual Report, the Administrator shall promptly provide to the MSRB such continuing disclosure information provided to the Administrator (1) by the Authority pursuant to Section 4 below and (2) by the Developer as more particularly set forth in the Developer's Continuing Disclosure Agreement.

(f) Unless otherwise required by the MSRB, all notices, documents and information provided to the MSRB (including without limitation filings made under Section 4) shall be provided to the MSRB's Electronic Municipal Market Access (EMMA) system, the current Internet Web address of which is www.emma.msrb.org or in accordance with any other electronic filing systems or procedures authorized by the Securities and Exchange Commission for satisfying the filing requirements of the Rule. All notices, documents and information provided to the MSRB (including without limitation filings made under Section 4) shall be in an electronic format as prescribed by the MSRB, together with any cover sheet or identifying information prescribed by the MSRB.

Section 4. Reporting of Significant Events. The Administrator shall promptly file with the MSRB a notice of the occurrence of any of the following Listed Events within 10 business days of the occurrence of any of such Listed Events:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on any credit enhancement, if any, reflecting financial difficulties;
- (v) Any change or substitution in any credit or liquidity providers, if any, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to rights of Bondholders, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) Defeasances;
- (x) The release, substitution or sale of property securing repayment of the Bonds, if material;
- (xi) (1) Any change in the rating, if any, on the Bonds and/or (2) a change in the Authorized Denominations of the Bonds;
- (xii) Bankruptcy, insolvency, receivership or similar event of the Authority;

Note to paragraph (xii): For the purposes of the event identified in paragraph (xii), the event is considered to occur when any of the following occur: The appointment of a receiver, fiscal agent or similar officer for the Authority in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Authority, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Authority.

- (xiii) The consummation of a merger, consolidation or acquisition involving the Authority or sale of all or substantially all of the assets of the Authority, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) Appointment of a successor or additional trustee or the change of name of a trustee, if material;

- (xv) Incurrence of a Financial Obligation of the Authority, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Authority, any of which affect Bondholders, if material;

Note to paragraph (xv): In determining whether an event triggers notice under paragraph (xv), the Authority will consider a variety of factors including, but not limited to, the source of repayment for the subject Financial Obligation and whether such source also serves as the source of repayment of the Bonds. The Authority notes that the Bonds are not backed by the Authority's full faith and credit.

- (xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Authority, any of which reflect financial difficulties;

Note to paragraph (xvi): If the Authority provides a notice under paragraph (xvi), such notice will indicate that the Bonds are not backed by the Authority's full faith and credit.

- (xvii) Any failure of the Authority to transfer the Special Assessments Revenues and Special Tax Revenues, if any, to the Trustee as required by the Indenture, the Memorandum of Understanding and the Special Assessment Agreement; and

- (xviii) The notices provided to the Administrator by the Developer as more particularly set forth in Section 4 of the Developer's Continuing Disclosure Agreement.

The Administrator shall promptly provide the Authority and the MSRB with notice of the occurrence of any of the Listed Events of which the Administrator has actual knowledge or of which the Administrator has received a notice from the Authority, the Developer or the Trustee. For purposes of this section, "actual knowledge" of the Administrator of the occurrence of such Listed Events shall mean actual knowledge by an officer of the Administrator with responsibility for matters regarding the District or with responsibility for matters contained herein. Actual knowledge of the Listed Events specified by clause (vi) of this Section, shall mean receipt by an officer of the Administrator with responsibility for matters regarding the District or for the matters contained herein of a letter of Bond Counsel addressed to the Administrator explicitly pertaining to the Bonds, and providing such opinion or specifying such event and its effect on such tax status.

The Authority shall promptly (and in any event in time for the Administrator to provide a timely notice thereof in accordance with this Agreement) provide the Administrator and the Participating Underwriter with notice of the occurrence of any of the Listed Events. Whenever the Administrator obtains knowledge of the occurrence of a Listed Event, the Administrator shall promptly notify the Trustee, the Authority and the Participating Underwriter in writing.

Section 5. *Limitation on Remedies.* The Authority and the Administrator shall be given written notice at the addresses set forth in Section 11 below of any claimed failure by the Authority or the Administrator (as the case may be) to perform its obligations under this Agreement, and the Authority or the Administrator (as the case may be) shall be given 15 days to remedy any such claimed failure. Any suit or other proceeding seeking further redress with regard to any such claimed failure by the Authority or the Administrator (as the case may be) shall be limited to specific performance as the adequate and exclusive remedy available in connection with such action. If the Developer fails to provide the Administrator with the continuing disclosure event notices required under the Developer's Continuing Disclosure Agreement, then the

Authority shall pursue any remedies available under the Developer's Continuing Disclosure Agreement. Services and payment will be provided to the Administrator pursuant to the Administration Services Agreement.

Section 6. *Limitation on Forum.* Any suit or other proceeding seeking redress with regard to any claimed failure by the Authority to perform its obligations under this Agreement must be filed in the Commonwealth of Virginia.

Section 7. *Limited Liability of Authority.* Any and all obligations of the Authority arising out of, or related to, this Agreement are special obligations of the Authority and may not constitute a general obligation debt of the Authority or a pledge of the Authority's full faith and credit, and the Authority's obligations to make any payments hereunder, including any and all payments to the Administrator, are restricted entirely to the Special Assessment Revenues and the Special Tax Revenues, if any, or from the proceeds of the Bonds and from no other source. No person, including any holder of a Bond, shall have any claim against the Authority or any of its officers, officials, agents or employees for damages suffered as a result of the Authority's failure to perform in any respect any covenant, undertaking, or obligation under this Agreement, the Bonds or any other agreement, document, instrument or certificate executed, delivered or approved in connection with the issuance, sale and delivery of the Bonds (collectively, the "Bond Documents") or as a result of the incorrectness of any representation in, or omission from, any of the Bond Documents, except to the extent that any such claim is properly payable from the Special Assessment Revenues and the Special Tax Revenues, if any, pursuant to the Bond Documents, provided however, that, subject to Sections 5 and 6 above, nothing contained herein shall be construed to preclude any action or proceeding in any court or before any governmental body, agency or instrumentality against the Authority or any of its officers, officials, agents or employees to enforce the provisions of this Agreement or any of the Bond Documents, and, provided, further, that the limitation on liability of the Authority set forth in this Section 7 shall in no way supersede the limitations on remedies in Section 5 above.

Section 8. *Limited Liability of the Administrator.* No Person shall have any claim against the Administrator, or any of its officers, officials, agents or employees for damages suffered as a result of the Administrator's failure to perform in any respect any covenant, undertaking, or obligation under this Agreement; provided, however, that nothing contained herein shall be construed to preclude any action or proceeding in any court or before any governmental body, agency or instrumentality against the Administrator or any of its officers, officials, agents or employees to specifically enforce the provisions of this Agreement. The Administrator shall not be responsible for the content of information provided to the Administrator by other parties and included in the Annual Report.

Section 9. *Nature and Obligation of Authority.* (a) The Authority agrees (i) to use commercially reasonable efforts to hire and retain the Administrator or another competent individual or entity to perform the duties and obligations of the Administrator relating to the continuing disclosure as set forth in Sections 3 and 4 and (ii) to require the Administrator, or such other competent individual or entity, to perform its obligations hereunder.

(b) If, despite commercially reasonable efforts, the Authority is unable to hire or retain the Administrator or another competent individual or entity to perform the duties and obligations

of the Administrator as described in paragraph (a) above, the Authority agrees it will still provide or cause to be provided the information described in clauses (i), (ii), (iii), and (x) through (xv) of Section 3 and in Section 4 to the MSRB as required by such Sections.

(c) If the Authority is performing the duties and obligations of the Administrator as described in paragraph (b) above, the Authority shall be entitled to be reimbursed for any and all reasonable costs and expenditures associated with its performance of such duties and obligations.

(d) It is hereby acknowledged by the parties to this Agreement that any and all (i) fees or costs necessary to hire and retain the services of the Administrator or (ii) costs and expenditures of the Authority associated with its performance of the duties and obligations of the Administrator constitute Administrative Expenses as provided in the Indenture.

Section 10. Termination of Reporting Obligation. The Administrator's and the Authority's obligations under this Agreement shall terminate at such time that the Bonds are no longer Outstanding under the Indenture.

Section 11. Notices. Any notice or communications to or among any of the beneficiaries to this Agreement must be given as follows:

If to Developer: FCGP Development LLC
c/o Hoffman & Associates, Inc.
760 Maine Avenue SW
Washington, D.C. 20025
Attention: [_____]

and

DRI/TCC West Falls, LLC
c/o TC MidAtlantic Development V, Inc.
[_____]
Attention: [_____]

With a copy to: [_____]

If to the Authority: West Falls Community Development Authority
300 Park Avenue
Falls Church, Virginia 22046
Attention: Wyatt Shields, Falls Church City Manager

With a copy to: Carol McCoskrie, Esq.
Falls Church City Attorney
300 Park Avenue
Falls Church, Virginia 22046

If to the Administrator: MuniCap, Inc.
8965 Guilford Road, Suite 210

Columbia, Maryland 21046
Attention: Keenan Rice, President

If to the Trustee: U.S. Bank Trust Company, National Association
Three James Center
1051 East Cary Street, Suite 600
Richmond, Virginia 23219
Attention: Global Corporate Trust

Section 12. *Amendment; Waiver.* Notwithstanding any other provision of this Agreement, the Authority and the Administrator may amend this Agreement (and the Administrator shall agree to any amendment so requested by the Authority which does not impose any greater duties, nor greater risk of liability, on the Administrator) and any provision of this Agreement may be waived, provided that the following conditions are satisfied:

(a) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds (assuming the Rule applied), after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the Authority, or type of business conducted; and

(b) The amendment or waiver either (i) is approved by the Holders of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of the Holders, or (ii) does not, in the opinion of nationally recognized bond counsel satisfactory to the Authority, materially impair the interests of the Holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of this Agreement, the Administrator shall describe any such amendment or waiver in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type of information being presented by the Authority.

Section 13. *Default.* In the event of a failure of the Authority or the Administrator to comply with any provision of this Agreement, any Holder or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Authority or the Administrator, as the case may be, to comply with its obligations under this Agreement. A default under this Agreement shall not be deemed an event of default under the Indenture, and the sole remedy under this Agreement in the event of any failure of the Authority or the Administrator to comply with this Agreement shall be an action to compel performance.

Section 14. *Beneficiaries.* This Agreement shall inure solely to the benefit of the Authority, the Administrator, the Trustee and the Holders and the Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 15. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

Section 16. *Counterparts.* This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 17. *Administrator.* Initially, MuniCap, Inc. has been hired to perform the duties and obligations of the Administrator hereunder pursuant to an Agreement for Administrative Services, dated the date of delivery of the Bonds, between MuniCap, Inc. and the Authority.

**WEST FALLS COMMUNITY
DEVELOPMENT AUTHORITY**

By: _____
Name: _____
Title: _____

MUNICAP, INC., as Administrator

By: _____
Keenan Rice
President