DRAFT

MEMORANDUM OF UNDERSTANDING

4600 Brandywine Associates, LLC (the "DEVELOPER"), in accordance with D.C. Law 1-95, D.C. Code Section 1-1-1141 et seq. (1987 Ed. as amended), and in consideration of the District of Columbia Government granting DEVELOPER's Planned Unit Development **("PUD")** application, known as **D.C. Zoning Commission Case No. 03-27, for the property located at 4600-4614 Wisconsin Avenue, NW in Square 1732, Lots 817 and 820, to construct a mixed-use, primarily residential, building of approximately 37,983 square feet of gross floor area that will include a maximum of 42 residential units and approximately 49 parking spaces (the "Project")**, does hereby commit to make a bona fide effort to utilize Local Small and Disadvantaged Business Enterprises (**"LSDBEs"**) in order to achieve, at a minimum, the goal of thirty-five percent (**35%**) LSDBE participation in the DEVELOPER'S adjusted development budget of _____ (the "35% Goal"). The 35% Goal in the amount of _____ is to be achieved in the contracted development costs in connection with the design, development, construction (including, but not limited to, pre-construction activities), maintenance and security for the project to be created as result of the Project, including janitorial, refuse collection, provision of supplies and other similar post-construction activities relating to the Project, in accordance with the following provisions.

A. **DEVELOPER** shall utilize the resources of the Office of Local Business Development ("OLBD"), including the Local Business Opportunity Commission's Directory of Certified Local Small and Disadvantaged Business Enterprises, and periodic updates, as the primary referral sources for LSDBEs. The primary contact for such referrals shall be the Director of the Office of Local Business Development (the "Director").

B. The appropriate representatives of **DEVELOPER** who negotiate, sign and are responsible for the implementation of the Memorandum of Understanding with the OLBD agree to meet with OLBD procurement and project officers to explore and develop ways for achieving the 35% Goal.

C. **DEVELOPER** agrees to make a continuing bona fide effort to utilize LSDBEs for certain goods and services as may be required by **DEVELOPER** to conduct its daily operations and understands that such efforts will accrue toward the 35% Goal.

D. Not later than (**45**) days following the approval of the PUD Project, **DEVELOPER** agrees to submit a local business plan (**Attachment A**) to OLBD for approval, which plan shall be incorporated in and made a part of this Agreement.

E. Not later than thirty (**30**) days following the filing of an application for a building permit pursuant to the approved **PUD**, **DEVELOPER** will submit to OLBD a more extensive plan listing all of the projected procurement items, quantities and estimated costs, bid opening and closing dates, and start-up and completion dates. This plan should indicate whether any items will be bid without restriction in the open market, or limited to LSDBEs certified by the Local Business Opportunity

ZONING COMMISSION
District of Columbia
CASE NO.03-27
EXHIBIT NO.31C

Commission.

F. The parties hereto understand and agree that the means of achieving the 35% Goal may vary according to the types of goods and services contracted for and the current availability of Certified LSDBBEs. However, **DEVELOPER** agrees to make a bona fide effort to achieve, at a minimum, the 35% Goal over the life of the project.

G. **DEVELOPER** further agrees to submit quarterly LSDBE contracting and subcontracting reports to OLBD no later than fifteen (**15**) days after the end of each calendar quarter; the quarterly report periods shall begin on January 1, April 1, July 1, and October 1. The quarterly report shall be submitted on a form provided by OLBD (**Attachment B**). These reports should include detailed documentation of outreach efforts to LSDBEs in order to determine bona fide efforts.

H. **DEVELOPER** agrees to meet quarterly with OLBD staff on a mutually agreeable schedule to discuss LSDBEs participation on the project.

I. In the event that there are no LSDBEs in the District of Columbia which manufacture, construct, distribute, install, or otherwise supply the goods and services required to develop, construct, renovate and/or maintain the Project, **DEVELOPER** agrees to make bona fide efforts to achieve the 35% Goal through a broad scale approach to contracts with other local business enterprises certified by the District.

J. **DEVELOPER** further agrees to include in the terms of its contractual agreements with the general/prime contractor and/or construction manager (in any of such events, the "Contractor"), language which puts the Contractor on notice that the contractor is expected to make a bona fide effort to achieve the 35% Goal in: (1) its own contracting with respect to the Project; and (2) engaging subcontractors to perform work on the Project.

K. **DEVELOPER** will publish, in a timely manner, in a newspaper of general circulation in the District of Columbia and in one or more other newspapers serving the District of Columbia local business community, a public notice to inform the business community as a whole of the overall project, including a general description of projected phases and anticipated time tables.

L. For purposes of this agreement, it is agreed that bona fide effort means that **DEVELOPER** will obtain the following commitments from its General Contractor ("**GC**"):

1. The **GC** will publish, in a newspaper of general circulation in the District of Columbia and in one or more other newspapers serving the district of Columbia local business community, a public notice designed to inform

the business community as a whole of specific contracting and subcontracting procurement opportunities.

2. The **GC** will publish public notices in a newspaper of general circulation in the District of Columbia and in one or more other newspapers serving the District of Columbia local business community, soliciting bids for products or services being sought, and will allow a reasonable time for all bidders to respond to invitations/requests for bids.

3. The **GC** will contact OLBD to obtain a current listing of all LSDBEs qualified to bid on major procurement as they arise.

4. The GC will negotiate with all bidders pre-qualified by **DEVELOPER.** and the GC, including LSDBEs to obtain each pre-qualified bidder's best and final price as understood in the marketplace.

5. The GC will not require that the LSDBEs provide bonding on contracts with a dollar value less than **$100,000**, provided that in lieu of bonding the GC may accept a job specific certificate of insurance.

6. The **GC** will design and include in all contracts and subcontracts a process for dispute settlement. This process shall incorporate an opportunity for the presentation of documentation involving the work performed and invoices regarding requests for payments. Included in the contract shall be a mutually agreed upon mediator and provisions for arbitration in accordance with the rules of the **American Arbitration Association.**

7. The **GC** and subcontractors shall strictly adhere to their contractual obligations to pay all subcontractors in accordance with the contractually agreed upon schedule of payments. In the event that there is a delay in payment to the **GC**, the **GC** is to immediately notify the subcontractor and advise the subcontractor as to the date on which payment can be expected.

8. The **GC** commits to pay all subcontractors, including LSDBEs, within fifteen **(15)** days following the GC's receipt of a payment, which includes funds for such subcontractors, from **DEVELOPER. DEVELOPER** agrees to require the project manager to establish a procedure for giving notice to the subcontractors of **DEVELOPER** payments to the **GC**.

M. In order to encourage **DEVELOPER** to develop creative, cost competitive ways in which to meet its 35% Goal, OLBD will give credit negotiated by the parties for the opening up of opportunities in areas not traditionally provided to LSDBEs and/or expansion of opportunities in existing areas.

N. If at the end of the first calendar quarter following the issuance of a building permit, **DEVELOPER** is unable to comply with the proposed local business

utilization plan for the Project, representatives of **DEVELOPER** and the Director of OLBD shall confer with a view toward adjusting goals and strategies to extend the time of performance based on facts and circumstances.

DATE THIS _____ DAY OF _____, 2004

OFFICE OF LOCAL BUSINESS DEVELOPMENT

BY: _____

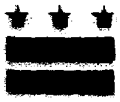
Director

4600 BRANDYWINE ASSOCIATES, LLC

BY: _____

Document #: 1434226 v.1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF LOCAL BUSINESS DEVELOPMENT



ATTACHMENT A

CONTRACTING AND SUB-CONTRACTING PLAN

IRB CLIENT/PRIVATE DEVELOPER: _____

_____

ADDRESS: _____

_____

TELEPHONE: _____ FAX: _____

TOTAL ESTIMATED CONTRACT AMOUNT: $_____

TOTAL ESTIMATED AMOUNT TO BE SUB-CONTRACTED $_____

TOTAL ESTIMATED LSDBE PARTICIPATION $_____

PERCENTAGE OF LSDBE CONTRACT AMOUNT (%)_____

NAME OF LSDBE LIAISON: _____

ADDRESS: _____

TELEPHONE: _____ FAX: _____

NAME OF GENERAL/PRIME CONTRACTOR
AND/OR CONSTRUCTION MANAGER: _____

ADDRESS: _____

_____

TELEPHONE: _____ FAX: _____

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF LOCAL BUSINESS DEVELOPMRNT

ATTACHMENT B

INDUSTRIAL REVENUE BOND AND PRIVATE DEVELOPMENT PROJECT
QUARTERLY LOCAL, SMALL AND DISADVANTAGE BUSINESS ENTERPRISES EXPENDITURE
REPORT FORM

QUARTER: _____, 2003 DATE PREPARED: _____

PROJECT NAME: _____

ADDRESS: _____

PROJECT CONTACT: _____ TELEPHONE: _____ FAX: _____

ANTICIPATED PROJECT COMPLETION DATE: _____

PART A. EXPENDITURE SUMMARY

QUARTER	TOTAL AMT. EXPENDED TO DATE	TOTAL AMOUNT EXPENDED WITH LSDBES TO DATE	LSDBES (%) OF EXPENDED AMT. TO DATE	TOTAL AMOUNT EXPENDED THIS QUARTER	TOTAL AMOUNT EXP. W/LSDBES THIS QUARTER	LSDBES (%) PERCENTAGE THIS QUARETR
1						
2						
3						
4						
TOTAL						

PART B. LOCAL, SMALL AND DISADVANTAGE
BUSINESS ENTERPRISE EXPEDITURE VERIFICATION

NAME OF LOCAL, SMALL AND DISADVANTAGE BUS. ENTERPRISE	LSDBE CERT. NUMBER	DATE OF AWARD	DATE OF PAYMENT.	DESCRIPTION OF GOODS/SERVICES	AMOUNT OF EXPENDITURE

OFFICE OF LOCAL BUSINESS DEVELOPMENT

LSDBE PRIME/SUBCONTRACT REPORTING FORM

Project Name: _____

Name _____ **Title** _____ **Phone Number** _____

Name of LSDBE and Certification Number	Type of Service/Work	Contract Award Amount And Contract Number	Date of Award	Payment Amount	Payment Date

Form OLBD/CE 2

OFFICE OF LOCAL BUSINESS DEVELOPMENT

LSDBE CONTACT DOCUMENTATION FORM

Project Name: _____

Name and Title _____

LSDBE Name/Certification Number	Person Contacted/Date	Telephone/Fax Number and/or E-mail Address	Type of Work	Response

Form OLBD/CE 1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF LOCAL BUSINESS DEVELOPMENT



ATTACHMENT C

INDUSTRIAL REVENUE BOND AND PRIVATE DEVELOPMENT PROJECTS

AREAS OF PROCUREMENT IN WHICH LSDBE UTILIZATION GOAL CAN BE ACHIEVED

Accounting Services
Advertising and Graphic Design
Antenna Systems
Architectural and Engineering Services
Audio/Visual Equipment
Bank/Financial Institutional Depository
Boiler Maintenance & Supplies
Bond/Computer Paper
Bottled Water Service
Building Supplies
Building/Facility Management Services
Cable Television Systems Technician
Carpentry
Carpet Cleaning
Carpet Leasing
Caterer
Catering and Food Service Equipment
Computer Equipment/Maintenance
Computer Software Development
Computer Supplies
Copiers
Courier/Messenger Services
Electrical Supplies
Electrician
Energy Management
Environmental Impact Studies

Cont. 2 – Attachment B

Fencing
Fire Supply/Equipment
Floral Arrangements Decorator
Food Service Equipment Repair
Fuel Oil Company
General Construction
General Maintenance
Generator Repairs & Supplies
Grounds Maintenance
HVAC Service/Maintenance
Insurance Agent
Interior Design
Janitorial Services and Supplies
Landscaping
Legal Services
Lighting
Locksmith
Minority/Women-Owned Banks
Motor Parts & Repairs
Moving Company
Office Equipment Lease/Purchase Maintenance
Office Furniture Lease/Purchase
Office Supplies
Paint Supplies
Paper Products (Janitorial)
Parking Management
Pest Control Firm
Plant Maintenance
Plumber
Pre-Construction and Post Construction Activities
Preventative Maintenance
Printing
Printing Services, Blueprints, Brochures, etc.
Public Relations Services
Recycling Programs
Roofing Repairs
Security Guard Company
Security Services/Systems
Signage
Site Improvements/preparation
Snow Removal Firm
Sound Systems Technician
Sprinkler Systems
Telecommunications Support Service