


## MEMORANDUM

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September 2, 2010

**TO:** Board of Mayor and Aldermen

**FROM:** Eric S. Stuckey, City Administrator   
Russ Truell, Assistant City Administrator/CFO

**SUBJECT:** Subscription Agreement with Bailard Real Estate Trust for Pension Investment

### Purpose

The purpose of this memo is to present for consideration an agreement with Bailard Real Estate Investment Trust I, Inc., to manage up to five percent (5%) of the pension assets for investment in income-producing real estate.

### Background

The City of Franklin Pension Committee has reviewed the asset allocation of the Pension Plan assets on a regular basis. In order to obtain the highest probability of funding the contracted benefits promised to employees with the least risk, an allocation of five percent has been given to income-producing real estate properties. The Committee instructed our Investment Advisor to conduct an RFP process for potential money managers for this allocation, and the Investment Advisor screened applicants and brought three finalists to the attention of the Committee. Presentations by representatives of the companies were made to the Committee on June 10 and the Committee voted at its August 26 meeting to select Bailard Real Estate Investment Trust (REIT) as the best candidate.

### Financial Impact

The Committee voted to invest \$2 million of the Pension Plans' \$43 million in this particular investment.

### Recommendation

Subject to final review by the City Attorney, the Pension Plan attorney, and the Trustee, staff recommends approval of the Pension Committee recommendation to enter into a subscription agreement with Bailard Real Estate Trust.



- (b) in the case of a Subscriber who is an existing investment advisory client of Bailard, to purchase such additional Shares as may be necessary to meet from time to time Bailard's real estate allocation guideline applicable to such Subscriber's portfolio; and
- (c) until notice to the contrary is given to the REIT, to participate in and adopt the terms of the Dividend Reinvestment Plan described in the Confidential Offering Memorandum, unless the Subscriber has indicated that the Subscriber elects not to participate in the Dividend Reinvestment Plan by checking the box below. **THE ELIGIBILITY OF ANY SUBSCRIBER TO PARTICIPATE IN THE DIVIDEND REINVESTMENT PLAN WILL DEPEND UPON SUCH SUBSCRIBER CONTINUING TO BE AN ACCREDITED INVESTOR (AS DESCRIBED IN SECTION 5 BELOW) OR THE BOARD OF DIRECTORS OF THE REIT OTHERWISE DETERMINING THAT ISSUANCE OF SHARES BY THE REIT TO SUCH SUBSCRIBER FALLS WITHIN AN EXEMPTION FROM REGISTRATION.**

- I/WE CHOOSE NOT TO PARTICIPATE IN THE DIVIDEND REINVESTMENT PLAN.** Please mail or wire transfer all cash distributions to my/our (please check one):
  - Primary Mailing Address set forth on page 4 of this Subscription Agreement.
  - Bailard-managed general investment advisory account set forth on page 4 of this Subscription Agreement (for existing Bailard investment management clients only).
  - Other address or investment account (please describe here):

**THE SUBSCRIBER MAY SUBSEQUENTLY ELECT TO WITHDRAW FROM THE DIVIDEND REINVESTMENT PLAN BY NOTIFYING THE REIT IN WRITING AT LEAST 10 DAYS PRIOR TO AN ISSUE DATE.**

**2. Subscriber Information.** (Complete all applicable items)

- **Account Registration Title (please fill out as it should read on the statement and for registration)**

- **Individual's or Co-Subscribers' Form of Ownership (please check one):**

- Community Property
- Joint Tenancy With Right of Survivorship
- Tenants in Common
- IRA (please select an IRA type below)

Name of Individual	Birth Date	Social Security Number
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Name(s) of Co-subscribers	Birth Date	Social Security Number
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**IRA Types: Please check the box applicable for the IRA Account:**

- Individual IRA       Rollover IRA       Roth IRA       Conversion IRA
- Conversion Roth IRA       Transfer IRA       Spousal IRA

*If an IRA account using UMB Bank, n.a. as custodian, a completed IRA Application need to be attached, if a Spousal IRA, two applications will need to be filled out, and a Transfer IRA, will require a Bailard IRA Transfer Request. All forms may be requested from Bailard.*

**Type of Organization (please check one):**

Partnership

Corporation

- **Partnership\*** (Please enclose a copy of the Partnership Agreement or a certificate from a government authority stating the identity and existence of the partnership.)

Name of Partnership

Name of Partner (First, Middle, Last)

Partner's Birth Date

Partner's Social Security Number

- **Corporation/Other\*** (Please enclose certified articles of incorporation, a government-issued business license or other document that reflects the existence of the entity, as well as a corporate resolution or secretary's certificate listing the person(s) authorized to conduct transactions in the account.)

Name of Corporation

Symbol (if publicly traded)

Taxpayer ID Number

Name of Authorized Trader

Birth Date

Social Security Number

- **Trust\*** (including corporate pension plans) (Please enclose a copy of the First Page and Signature Page of the Trust Agreement.)

(1) Name of Trustee

Trustee's Birth Date

Trustee's Social Security Number

As Trustee for (Name of Trust)

Date of Trust Instrument

Taxpayer ID Number

(2) Name of Trustee

Trustee's Birth Date

Trustee's Social Security Number

As Trustee for (Name of Trust)

Date of Trust Instrument

Taxpayer ID Number

***\*Attach a separate list for additional investors, trustees, authorized traders and general partners of a partnership, including full name. Social security number and date of birth for additional authorized traders is optional.***

- **Gift or Transfer to Minor**

Name of Custodian

Custodian's Birth Date

Custodian's Social Security Number

As Custodian for (Minor's Name)

under the (Minor's State of Residence)

Uniform Gift or Transfer to Minor's Act (as applicable in the minor's state of residence).

*Documents provided in connection with your subscription agreement will be used solely to verify your identity. The REIT will have no obligation to enforce or observe the terms of any such document.*

**3. Other Subscriber Information.**

- (a) **Subscriber's Address** (principal business address if an entity):  
Number and Street (required; post office boxes are not acceptable):

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Mailing Address (if different from above):

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Subscriber's Primary Telephone Number: ( ) \_\_\_\_\_

Subscriber's Business Telephone Number: ( ) \_\_\_\_\_

Subscriber's Facsimile Telephone Number: ( ) \_\_\_\_\_

Subscriber's Email Address: \_\_\_\_\_

If the Subscriber is an individual (or individuals), please fill in the state of residence: \_\_\_\_\_

If the Subscriber is an entity, please fill in the state of formation or incorporation: \_\_\_\_\_

- (b) **Status of Subscriber.** Please check one:

- Investment Advisory Client of Bailard
- Employee of Bailard
- Relative of an employee of Bailard
- Other

- (c) **Citizenship.** Please check the applicable box:

- U.S.
- Resident Alien (must have a U.S. taxpayer ID number and domestic address)
- Non-Resident Alien (Country of Citizenship) \_\_\_\_\_ (for non-resident aliens, a copy of an unexpired government issued photo ID must be included with the application)

- (d) **Account Information.** If the Subscriber is an existing Bailard investment advisory client, then the Subscriber's Bailard-managed general investment advisory account from which funds may be withdrawn pursuant to Section 1 and other provisions of this Subscription Agreement is as follows:

Bank Name: \_\_\_\_\_

ABA#: \_\_\_\_\_

Firm Name (if any): \_\_\_\_\_

Firm Number (if any): \_\_\_\_\_

Client Account Name: \_\_\_\_\_

Client Account Number: \_\_\_\_\_

- (e) **Duplicate Statements Authorization.** I/we authorize the REIT and its transfer agent, UMB Bank, n.a, to send duplicate statements to the entity listed below:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

\_\_\_\_\_

**4. Taxpayer Information.**

Subscriber (as payee) is required to provide the REIT (as payer) with the Subscriber's correct taxpayer identification number(s). Accounts that have missing or incorrect taxpayer identification numbers, or with respect to which the Subscriber has not certified are Subscriber's taxpayer identification numbers and that such subscription is not subject to backup withholding, shall be subject to backup withholding currently at a rate of 28% on interest, dividends and other payments. Backup withholding is not an additional tax; the tax liability of persons subject to backup withholding will be reduced by the amount of tax withheld.

- (a) **Subscriber's Taxpayer Identification Number(s).** For most individual investors, this is the Subscriber's Social Security Number. Under penalties of perjury, the Subscriber hereby declares that the Subscriber is a U.S. person (including a U.S. resident alien) and that the following is the Subscriber's taxpayer identification number or, if applicable, the Subscriber is waiting for a taxpayer identification number to be issued:

#: \_\_\_\_\_

- (b) **Backup Withholding.** Under penalties of perjury, the Subscriber hereby declares that the Subscriber is not subject to backup withholding, because (i) the Subscriber is exempt from backup withholding, or (ii) the Subscriber has not been notified by the Internal Revenue Service (the "IRS") that the undersigned is subject to backup withholding as a result of failure to report all interest or dividends, or (iii) because the IRS has notified the Subscriber that the Subscriber is no longer subject to backup withholding.

**YOU MUST CROSS OUT 4(b) ABOVE IF YOU HAVE BEEN NOTIFIED BY THE IRS THAT YOU ARE CURRENTLY SUBJECT TO BACKUP WITHHOLDING BECAUSE OF UNDERREPORTING OF INTEREST OR DIVIDENDS.**

- (c) **Certification of Non-Foreign Status.** Under the Internal Revenue Code of 1986, as amended (the "Code"), the REIT must withhold tax with respect to certain transfers of property if a Stockholder in the REIT is a foreign person. To inform the REIT that no withholding is required with respect to your interest in it, the undersigned Subscriber hereby certifies as follows:
  - (i) the prospective Stockholder is not a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust or a foreign estate for purposes of United States income taxation; and
  - (ii) the Subscriber's state of residence (if an individual or individuals) or state of formation or incorporation and principal business address (if an entity) is as set forth above in "Other Subscriber Information."

The Subscriber hereby agrees to inform the REIT promptly if such Subscriber becomes a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust or a foreign estate for purposes of United States income taxation. The Subscriber understands that this certification may be disclosed to the IRS by the REIT and that any false statement the Subscriber has made hereunder could be punished by fine, imprisonment, or both. Under penalties of perjury, the undersigned, by executing this Subscription Agreement, declares that the undersigned has examined this certification and to the best knowledge and belief of the undersigned it is true, correct and complete, and, if the Subscriber is not an individual, further declares that the person executing and delivering this Subscription Agreement on behalf of the Subscriber is duly authorized to act for the Subscriber in subscribing for the Shares.

Print Name of Subscriber:

Print Name of Subscriber:

\_\_\_\_\_

\_\_\_\_\_

Authorized Signature:

Authorized Signature:

\_\_\_\_\_

\_\_\_\_\_

5. **Certain Representations of Subscriber as to an Accredited Investor.** The Subscriber hereby represents and warrants to the REIT that the Subscriber is an “Accredited Investor” (as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended (the “Securities Act”)) on the basis that the Subscriber is described in and has checked the applicable box or boxes below:

- a natural person whose individual net worth (determined by subtracting total liabilities from total assets), or joint net worth with his or her spouse, is in excess of \$1 million (excluding the value of the primary residence of such natural person)
- a natural person whose individual income (without including any income of the Subscriber’s spouse) was in excess of \$200,000, or joint income with the Subscriber’s spouse was in excess of \$300,000, in each of the two most recent years, and has a reasonable expectation of reaching the same income level in the current year
- a trust, not formed for the specific purpose of acquiring Shares, with total assets in excess of \$5 million and whose purchase is directed by a person with such knowledge and experience in financial and business matters that such person is capable of evaluating the merits and risks of the prospective investment
- a bank (as defined under Section 3(a)(2) of the Securities Act) or a savings and loan association or other institution (as defined in Section 3(a)(5)(A) of the Securities Act) whether acting in its individual or fiduciary capacity
- a broker dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended
- an insurance company as defined in Section 2(13) of the Securities Act
- an investment company registered under the Investment Company Act of 1940, as amended (the “Investment Company Act”), or a business development company as defined in Section 2(a)(48) of the Investment Company Act
- a Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958, as amended
- a plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, with total assets in excess of \$5 million
- an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, as amended (hereafter “ERISA”):
  - (a) whose decision to invest in the REIT is being made by a plan fiduciary, as defined in Section 3(21) of ERISA, which is either a bank, savings and loan association, insurance company or registered investment adviser, or
  - (b) with total assets in excess of \$5 million, or
  - (c) that is “self-directed” solely by person(s) who are “Accredited Investors”
- a private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940, as amended
- an organization described in Section 501(c)(3) of the Code, a corporation, a Massachusetts or similar business trust, or a partnership not formed for the specific purpose of acquiring Shares, with total assets in excess of \$5 million
- a revocable trust (including a revocable trust formed for the specific purpose of acquiring Shares) and the grantor and settlor of such trust is an Accredited Investor
- an entity (e.g., a private company, partnership or limited liability company) in which all of the equity owners are Accredited Investors
- Other, as provided in Rule 501 of Regulation D as promulgated under the Securities Act

Please describe: \_\_\_\_\_  
\_\_\_\_\_

- not an Accredited Investor

6. **Closings.** On each Issue Date on which the Subscriber purchases Shares, the Subscriber or Bailard, as the case may be, shall transfer funds to the REIT in accordance with Section 1 hereof. Once such funds are duly transferred and received by the REIT, the REIT shall record, or cause to be recorded on its behalf, the Subscriber as a Stockholder of the REIT. The Subscriber shall have no rights with respect to any Shares subscribed for hereunder until such time as the Subscriber shall become a Stockholder in accordance with the foregoing.
7. **Manner and Amount of Payment.**
- (a) Subscribers who have existing investment advisory accounts with Bailard, Inc.: On each appropriate Issue Date, Bailard shall transfer funds from such Subscriber's investment advisory account to and for the account of the REIT in an amount equal to that portion of the specified dollar amount subscribed for herein and such further amounts as needed to meet Bailard's real estate asset allocation guideline applicable to such Subscriber.
  - (b) Other Subscribers: Subscribers who do not have existing investment advisory accounts with Bailard shall deliver a check or wire transfer funds payable to Bailard Real Estate Investment Trust I, Inc. on the Issue Date and such Stockholder will be admitted as a Stockholder in an amount equal to the specified dollar amount subscribed for herein and on any other applicable Issue Date.
8. **Restrictions on Transfer or Assignment of Shares.** The Shares of the REIT to be issued hereunder are subject to the restrictions on transfer and redemption set forth and described in the Confidential Offering Memorandum and the REIT's Articles of Incorporation.
9. **Acknowledgments of Subscriber.** The Subscriber hereby acknowledges that:
- (a) This subscription is irrevocable until termination of the offering and shall constitute a binding commitment thereafter if accepted by the REIT on or before such date. The Subscriber understands and agrees that the REIT will, at any time prior to acceptance, have the right to accept or reject (for any reason or no reason at all) this Subscription Agreement, in whole or in part; that the same shall be deemed to be accepted by the REIT only when it has been signed by the REIT; and that the REIT shall have the right to accept or reject subscriptions in any order it shall determine. The Subscriber further understands that any future subscription to purchase Shares (pursuant to the Dividend Reinvestment Plan or otherwise) shall be subject to the acceptance and approval of the REIT at the time of such subscription. The Subscriber acknowledges that the REIT may terminate the offering at any time. In the event that the offering is terminated or this Subscription Agreement is rejected by the REIT for any reason, the Subscriber shall have no claim against the REIT, or its directors, officers, employees, affiliates, agents or representatives, of any kind or nature whatsoever.
  - (b) The REIT will be organized and operated so as to be exempt from registration under the Investment Company Act, and from the provisions of that statute designed to protect investors.
  - (c) Due to the restrictions on transfer and assignment of this Subscription Agreement and the Shares issued hereunder, the Subscriber may be required to bear the economic risk of an investment in the Shares purchased hereunder for an indefinite period of time.
  - (d) If at the time of subscription the Subscriber is and thereafter ceases to be an eligible REIT investor under the Articles of Incorporation of the REIT, the REIT may upon notice redeem such Subscriber's Shares in whole or in part at any time following the date the Stockholder ceases to be such an eligible REIT investor. All Shares redeemed by the REIT as described in this Section 9(d) shall be redeemed at the most recent Net Asset Value per Share set for the Issue Date occurring on or next following the date that the REIT gives notice of the redemption to the Subscriber.
  - (e) The value of the Shares of the REIT determined in accordance with the portfolio valuation mechanism described in Section IV of the Confidential Offering Memorandum is inexact and may not reflect the actual value of the REIT's underlying assets. To the extent that the REIT chooses in its sole discretion to redeem the Subscriber's Shares at the request of the Subscriber or as described in clause (d) above, such Shares shall be redeemed at the most recent Net Asset Value per Share set for the Issue Date occurring on or next following the date that the REIT receives such Subscriber's



request or gives such Subscriber notice of the redemption, as the case may be, which may not reflect the actual net asset value per Share for the Shares or the actual value of the REIT's underlying assets.

- (f) Delivery to the Subscriber of the Confidential Offering Memorandum and other information relating to the REIT and the Shares, prior to the determination by the REIT of the suitability of the Subscriber as a Stockholder, does not constitute an offer of Shares until such determination of suitability has been made.
- (g) The Subscriber understands that the REIT is relying upon the representations, warranties, agreements, undertakings and acknowledgments made by the Subscriber in this Subscription Agreement in determining the Subscriber's suitability as a Stockholder and as a basis for the exemption from registration of the Shares.

**10. Covenants of the Subscriber.** The Subscriber hereby covenants and agrees that:

- (a) So long as the Subscriber holds Shares or has the right to acquire such Shares, the Subscriber shall disclose to the REIT in writing such information with respect to direct and indirect ownership of Shares of the REIT as the REIT may deem necessary to ascertain and to establish compliance with provisions of the Code applicable to the REIT or to comply with requirements of any other appropriate taxing authority.
- (b) The Subscriber shall indemnify and hold the REIT and its affiliates harmless from and against any and all loss, cost, damage or liability due to or arising out of a breach of any representation, warranty, covenant or agreement of the Subscriber in this Subscription Agreement or any other document furnished by such Subscriber to the REIT.
- (c) The Subscriber will immediately provide the REIT with corrected information in the event any information given in this Subscription Agreement was incorrect.
- (d) The Subscriber will promptly notify the REIT (and, in particular, prior to the acquisition of additional Shares by the Subscriber pursuant to the Dividend Reinvestment Plan or otherwise) of any changes in the information given in this Subscription Agreement, including, without limitation, any changes in such Subscriber's status as an "Accredited Investor."

**11. General Representations of Subscriber.** The Subscriber hereby represents and warrants to, and covenants with, the REIT as of the date of this Subscription Agreement and as of each applicable Issue Date that:

- (a) The Shares being subscribed for by the Subscriber will be acquired for the account of the Subscriber for investment only and not with a view to, or with any intention of, a distribution or resale thereof, in whole or in part, or the grant of any participation therein.
- (b) The Shares are being sold in a transaction which is exempt from the registration requirements of the Securities Act, and of state securities laws, and the Shares will be subject to transfer restrictions under the Securities Act and applicable state securities laws (in addition to certain transfer restrictions under the Articles of Incorporation of the REIT) and must be held indefinitely and may not be transferred
  - (i) except as permitted under the Articles of Incorporation of the REIT and (ii) unless subsequently registered under the Securities Act and applicable state securities laws or unless there is delivered to the REIT an opinion of counsel satisfactory to the REIT that such registration is not required. The REIT does not have any obligation or intention to, and the Subscriber has no right to require the REIT to, register the Shares for sale under the Securities Act or any state securities laws.
- (c) The Subscriber has received and has reviewed the Confidential Offering Memorandum, including, without limitation, Section V thereof relating to the risk factors and conflicts of interest associated with the offering and the information regarding the investment management fee to be paid by the REIT to Bailard, and all Appendices, Exhibits and Supplements (if any) thereto (collectively, the "Disclosure Documents"). The Subscriber has had an opportunity to (i) discuss questions concerning the contents of the Disclosure Documents and this offering with representatives of the REIT and (ii) obtain any additional information necessary to verify the accuracy of information furnished in

connection therewith which the REIT possesses or can acquire without unreasonable effort or expense. The Subscriber is not relying upon any forward-looking statements contained in the Disclosure Documents as the basis for an investment in the Shares.

- (d) The Subscriber is able to bear the economic risk of an investment in the Shares, has adequate means of providing for the Subscriber's current needs and personal contingencies, and has no need for liquidity in connection with an investment in the Shares. The Subscriber's overall commitment to investments that are not readily marketable is not disproportionate to the net worth of the Subscriber, and the Subscriber's investment in the Shares will not cause such overall commitment to become excessive.
- (e) The Subscriber, either alone or with the Subscriber's designated purchaser representative, has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of an investment in the Shares. The Subscriber, either alone or with the Subscriber's designated purchaser representative, has evaluated such merits and risks and has determined that the Shares are a suitable investment for the Subscriber.
- (f) If a Subscriber is a plan subject to ERISA, the undersigned represents that the investment of the undersigned in the Shares satisfies the diversification requirements of ERISA, is prudent in light of the facts and circumstances (including possible limitations on the marketability of the Shares), provides the plan with sufficient liquidity, is an investment the fiduciary or fiduciaries are authorized to make under the appropriate governing instrument and investment policies of the plan, is otherwise in accordance with the documents and instruments governing the plan, and would not result in a "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the Code.
- (g) If the Subscriber is a corporation, partnership, trust or other form of business entity, the Subscriber agrees, warrants and represents that it is authorized and otherwise duly qualified to subscribe for the Shares. If the Subscriber is a corporation, (i) the Subscriber has been duly incorporated and is validly existing under the laws of its jurisdiction of organization with full corporate power and authority to execute this Subscription Agreement and (ii) upon execution and delivery by the Subscriber, this Subscription Agreement will constitute the valid, binding and enforceable obligation of the Subscriber. If the Subscriber is one of the aforementioned entities, it hereby agrees to supply any additional written information concerning the representations and certifications in this Subscription Agreement that the REIT may reasonably require.
- (h) If the Subscriber is a corporation, partnership, trust or other form of business entity, the execution and delivery of this Subscription Agreement and any other documents executed and delivered by the undersigned in connection herewith do not, and the performance and consummation of the terms and transactions set forth or contemplated herein will not, contravene or result in a default under any provision of existing law or regulations to which the undersigned is subject, the provisions of the trust instrument, charter, by-laws or other governing documents of the undersigned or any indenture, mortgage or other agreement or instrument to which the undersigned is a party or by which it is bound and does not require on the part of the undersigned any approval, authorization, license, or filing from or with any foreign, federal, state or municipal board or agency which has not been obtained or duly made.
- (i) The Subscriber has not relied in any way on any information with respect to the proposed investment in the REIT or the REIT generally other than the Disclosure Documents. The Subscriber expressly acknowledges that such Subscriber has not relied upon any prior materials, information or communications from or on behalf of the REIT in making such Subscriber's investment decision. The Subscriber acknowledges that the REIT is not rendering any advice or recommendation to invest in the REIT.
- (j) The Subscriber, if a resident of a foreign jurisdiction, has considered the effect of the securities laws of such jurisdiction on his or her potential purchase of the Shares and such laws do not in any way prohibit, otherwise conflict with, or impose any substantive or procedural limitations on, such potential purchase.

12. **Restriction on Assignment of Subscription Agreement.** Neither this Subscription Agreement nor any rights or interest herein may be assigned by the Subscriber or by the REIT nor may the obligations of the Subscriber be assumed or performed by another, without the express prior written consent of the REIT. The REIT may withhold consent in its sole and absolute discretion.
13. **Notices.** The address of each Subscriber for all purposes shall be as set forth above in “Other Subscriber Information.” A Subscriber may change any address for purposes hereof by sending written notice of such change of address to the REIT in accordance with the provisions hereof. Any notice or communication to be given under this Subscription Agreement shall be made in writing and, unless otherwise herein provided, shall be deemed to be given when sent by certified or registered mail, return receipt requested, to such party at such address.
14. **Applicable Law.** This Subscription Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of the State of Maryland.
15. **Counterparts.** This Subscription Agreement may be executed through the use of separate signature pages or in any number of counterparts, and each of such counterparts shall, for all purposes, constitute one agreement binding on all parties.
16. **Binding Effect.** Except as otherwise provided herein, this Subscription Agreement shall be binding upon and inure to the benefit of the parties and their heirs, executors, administrators, successors, legal representatives and assigns.
17. **Integration.** This Subscription Agreement constitutes the entire agreement among the parties pertaining to the subject matter contained in this Subscription Agreement and supersedes all prior understandings of the parties.
18. **Survival.** The representations, warranties, covenants and agreements set forth in this Subscription Agreement shall survive the acceptance of this Subscription Agreement by the REIT.
19. **Notices to Investor.** The undersigned has read all of the investor notices set forth on pages i and ii of the Confidential Offering Memorandum.
20. **Certification.** By my signature below, I certify, on my own behalf or on behalf of the undersigned entity which I am authorized to represent, that:
  - (a) The Subscriber is not involved, directly or indirectly, in any money laundering activities and the funds used to make the investment which is the subject of this Subscription Agreement are not derived from any criminal or otherwise unlawful activities; and
  - (b) The information provided by the Subscriber in this Subscription Agreement is true and correct and any documents provided herewith are genuine.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Subscription Agreement has been duly executed by the Subscriber as of the date of the Subscriber's signature set forth below and, if accepted by the REIT, has become a Subscription Agreement binding on the REIT as of the date of the signature acceptance set forth below.

INDIVIDUALS:

\_\_\_\_\_  
Signature of Natural Person

\_\_\_\_\_  
Printed Name of Natural Person

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Co-Investor, if any)

\_\_\_\_\_  
(Printed Name of Co-Investor)

Date: \_\_\_\_\_

ENTITIES:

Name of Corporation, Trust or other Entity

(Please Print): \_\_\_\_\_

By: \_\_\_\_\_

(signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Co-Signature (if any): \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Accepted and Agreed to:

BAILARD REAL ESTATE INVESTMENT TRUST I, INC.

By: \_\_\_\_\_  
Duly Authorized Officer

Date: \_\_\_\_\_