SUMMARY OF ENTITY DOCUMENT REQUIREMENTS

The following is a summary of the entity documentation that a landowner will be required to provide as part of MALPF’s due diligence review if such landowner is an entity. You should note that in addition to MALPF requiring this documentation as part of its due diligence review, the Title Company will also require receipt of this documentation as part of its title insurance underwriting requirements.

A. Limited Liability Company (LLC) – Most common entity for holding title to real estate
1. Articles of Organization filed with SDAT
   a. This is the document which creates the LLC
      i. Copies are generally available on SDAT website unless it was created many years ago
      ii. Except under special circumstances, a certified copy from SDAT is not required.
   b. If the LLC is formed in a jurisdiction other than Maryland, this document may be known by a different name, such as “Certificate of Formation” in Delaware.

2. Operating Agreement
   a. This is the document which governs the management of the LLC and is of critical importance as it governs how transactions entered into by the LLC are authorized and specifies the party(ies) authorized to enter into transactions on behalf of the LLC.
   b. The Operating Agreement is not filed with SDAT and is not a public record.
   c. Unless the LLC is a single-member LLC, every LLC should have an Operating Agreement.
      i. An LLC is a “pass-through” entity and, therefore, if there is only one member it is permissible to not have an operating agreement since that single member will have the authority to bind the LLC.
   d. If the LLC is formed in a jurisdiction other than Maryland, this document may be known by a different name, such as “Limited Liability Company Agreement” in Delaware.

3. Certificate of Good Standing from SDAT confirming that the LLC is duly organized and currently in good standing to transact business in the State of Maryland
   a. If the LLC is not in good standing but has not been forfeited/terminated by the owners, it is generally a result of failure to file the annual personal property tax return and the owners will be required to make the past-due filings and have the LLC reinstated.
   b. If the LLC was formed in a jurisdiction other than Maryland, the landowner will be required to obtain the equivalent certificate from the Secretary of State of the State of
formation and will be required to obtain from SDAT a certificate of authority to transact business in the State of Maryland.

4. Certificate certifying a roster of all current members of the LLC.
   a. Landowner attorney should prepare. If Landowner has not engaged an attorney for the easement transaction, the AAG can provide a form for Landowner’s use.
   b. All members of the LLC are typically required to sign the Easement on behalf of the LLC
      i. In instances where it is impractical to have all members sign the Easement, then in lieu of the certification of the roster of all members, a Consent of Members executed by all Members and authorizing the execution of the Easement in accordance with the terms of the Operating Agreement will be required.

5. If one or more of the Members of the LLC is an entity, the applicable entity documentation for that Member will also need to be provided.

B. Limited Partnership (LP) or Limited Liability Limited Partnership (LLP)

1. The documentation for both LP and LLP are similar and since use of an LLP for holding title to a MALPF easement property will be fairly uncommon, the following requirements all pertain specifically to LPs.

2. Certificate of Limited Partnership filed with SDAT
   a. This is the document which forms the LP
      i. Copies are generally available on SDAT website unless it was created many years ago
      ii. Except under special circumstance, a certified copy from SDAT is not required.

3. Limited Partnership Agreement
   a. This is the document which governs the management of the LP and is of critical importance as it governs how transactions entered into by the LP are authorized and specifies the General Partner of the LP. In an LP, all transactions are generally authorized solely by the General Partner except for extraordinary transactions which may require the consent of the limited partners as well.
   b. The Limited Partnership Agreement is not filed with SDAT and is not a public record.
   c. Every LP must have a Limited Partnership Agreement. The Limited Partnership Agreement will specify the name of the General Partner

4. Certificate of Good Standing from SDAT confirming that the LP is duly organized and currently in good standing to transact business in the State of Maryland
a. If the LP is not in good standing but has not been forfeited/terminated by the owners, it is generally a result of failure to file the annual personal property tax return and the owners will be required to make the past-due filings and have the LP reinstated.

b. If the LP was formed in a jurisdiction other than Maryland, the landowner will be required to obtain the equivalent certificate from the Secretary of State of the State of formation and will be required to obtain from SDAT a certificate of authority to transact business in the State of Maryland.

5. The Easement will be signed by the General Partner on behalf of the LP. Limited Partners do not sign the Easement.
   a. If the General Partner is an entity, the applicable entity documentation for that entity will be required.

C. Corporation

1. Articles of Incorporation filed with SDAT
   a. This is the document which creates the corporation.
      i. Copies are generally available on SDAT website unless it was created many years ago
      ii. Except under special circumstance, a certified copy from SDAT is not required.

2. Bylaws
   a. This is the document which governs the management of the Corporation and is of critical importance as it governs how transactions entered into by the Corporation are authorized and specifies the officers authorized to enter into transactions on behalf of the Corporation.

   b. The Bylaws are not filed with SDAT and are not a public record. Every corporation must have Bylaws.

3. Certificate of Good Standing from SDAT confirming that the Corporation is duly incorporated and in good standing to transact business in the State of Maryland.
   a. If the Corporation is not in good standing but has not been forfeited/terminated by the owners, it is generally a result of failure to file the annual personal property tax return and the owners will be required to make the past-due filings and have the Corporation reinstated.

   b. If the Corporation was formed in a jurisdiction other than Maryland, the landowner will be required to obtain the equivalent certificate from the Secretary of State of the State of formation and will be required to obtain from SDAT a certificate of authority to transact business in the State of Maryland.
4. A corporate resolution and incumbency certificate which authorizes the transaction and the execution of documents by the specified corporate officer(s) pursuant to the Bylaws.

   a. The Landowner should have its attorney prepare this document to ensure it is prepared in accordance with its bylaws.

D. Trust

1. Trust Agreement.

   a. This is the document which governs the Trust. Unless a Maryland Statutory Trust, the Trust Agreement is not on file with SDAT. Note that if the primary beneficiaries of the Trust are different from the Trustees that the beneficiaries may also need to execute the Deed of Easement (and preferably also the Application to Sell and the Option Contract). If Family lot election has been made, care should be taken to determine who should be eligible for those lots at the outset.

   b. If it is a Maryland Statutory Trust, then require
      i. Certificate of Trust from SDAT;
      ii. Trust Agreement (not filed with SDAT)
      iii. Certificate of Good Standing required from SDAT

E. As to all documents to be provided by Landowners, must receive copies of the original organizational documents and all amendments, if any. On a case by case basis, AAG will decide if an affidavit is required from landowner certifying that the documents delivered by landowner constitute the referenced agreement and all amendments in existence.