

**AGREEMENT AND LEASE
(Claude Pepper Park)**

BY AND BETWEEN

**THE CITY OF NORTH MIAMI,
a municipal corporation of the State of Florida**

AND

**REDWOOD CP DEV, LLC,
a Florida limited liability company**

_____, 2023

INDEX¹

ARTICLE 1 Premises - General Terms of Agreement and Lease.....	2
Section 1.1. Lease of Land and Air Rights	2
Section 1.2. Term of Agreement and Lease	2
Section 1.3. Conditions Precedent to Effectiveness of Agreement.....	3
Section 1.4. Review Period	4
Section 1.5. Pre-Commencement Period.....	5
Section 1.6. Subsequent Inspections	8
Section 1.7. Performance of Site Work.....	9
ARTICLE 2 Definition of Certain Terms	10
ARTICLE 3 Rent and Developer Contributions.....	20
Section 3.1. Minimum Rent	20
Section 3.2. Developer Contributions	21
Section 3.3. Late Payments; Sales Tax	21
Section 3.4. Submission to Condominium Ownership	21
ARTICLE 4 Development of Project	22
Section 4.1. Permitted Uses.....	22
Section 4.2. Phased Development	22
Section 4.3. Development	22
Section 4.4. Plans and Specifications.....	24
Section 4.5. Entitlements; Applications; Cooperation	24
Section 4.6. Connection Rights	25
Section 4.7. City's Rights As Sovereign.....	25
Section 4.8. Bonds.....	25
Section 4.9. Green Practice Standard	26
Section 4.10. Certain Deliveries.....	26
Section 4.11. Ownership of Improvements.....	26
Section 4.12. Designation of the City's Representative	26
Section 4.13. Adjustment of Property Descriptions.....	28
Section 4.14. Managed Interference.....	28
ARTICLE 5 Payment of Impositions	28
Section 5.1. Developer's Obligations for Impositions.....	28
Section 5.2. Contesting Impositions.....	29
Section 5.3. Separate Tax Parcels	30

¹ NTD: To be updated prior to execution.

ARTICLE 6 Surrender30

 Section 6.1. Surrender of Property30

 Section 6.2. Removal of Personal Property or Fixtures30

 Section 6.3. Rights to Personal Property After Termination or Surrender30

 Section 6.4. Survival31

ARTICLE 7 Insurance and Indemnification31

 Section 7.1. Insurance31

 Section 7.2. Indemnification31

 Section 7.3. Waiver of Subrogation32

ARTICLE 8 Operation.....32

 Section 8.1. Control of Property.....32

 Section 8.2. Repair and Relocation of Utilities.....32

 Section 8.3. Rights to Erect Signs; Revenues Therefrom33

 Section 8.4. Designation of Buildings by Name34

 Section 8.5. Developer's Signs in Park.....34

ARTICLE 9 Repairs and Maintenance34

 Section 9.1. Maintenance of Property34

 Section 9.2. Operation of CP Park and JCC.....34

ARTICLE 10 Compliance with Laws and Ordinances.....35

 Section 10.1. Compliance by Developer35

 Section 10.2. Contest by Developer35

ARTICLE 11 Changes and Alterations to Improvements35

ARTICLE 12 Discharge of Obligations35

 Section 12.1. Developer's Duty35

 Section 12.2. City's Duty36

ARTICLE 13 Use of Property; Environmental Matters36

 Section 13.1. Use of Property by Developer36

 Section 13.2. Environmental - Definitions.....36

 Section 13.3. Developer's Environmental Covenant.....37

 Section 13.4. Developer's Duty and City's Right of Enforcement37

 Section 13.5. Survival of Obligations37

ARTICLE 14 Entry on Property by City38

 Section 14.1. Inspection of Property38

Section 14.2. Limitations on Inspection.....	38
ARTICLE 15 Limitation of Liability.....	38
Section 15.1. No Consequential Damages	38
Section 15.2. Nonrecourse	38
ARTICLE 16 Damage and Destruction.....	39
Section 16.1. Restoration After Casualty	39
Section 16.2. Restoration of CP Park and JCC	39
Section 16.3. Temporary Abatement.....	39
Section 16.4. Termination of Agreement.....	40
ARTICLE 17 Transfers and Assignment, Lease Bifurcation, Integrated Developments and Subleases	40
Section 17.1. Right to Transfer Leasehold.....	40
Section 17.2. Bifurcation of Lease	43
Section 17.3. Master Covenants for Integrated Project.....	45
Section 17.4. Parcel Development Regimes	46
Section 17.5. Rights to Sublease and Non-Disturbance Agreements	48
Section 17.6. Waiver of Landlord Lien.....	49
Section 17.7. Opportunity Zone Programs.....	49
ARTICLE 18 Financing and Rights of Lenders	50
Section 18.1. Right to Mortgage Leasehold.....	50
Section 18.2. Right to Pledge Equity Interests.....	50
Section 18.3. Notice of Lender's Interest	51
Section 18.4. Notices to Lender(s).....	51
Section 18.5. Termination of Leasehold Estate under this Agreement and New Lease.....	52
Section 18.6. Termination of Leasehold Estate under this Agreement and New Sublease.....	53
Section 18.7. Other Subleases and Space Leases.....	54
Section 18.8. No Subordination or Mortgaging of the City's Fee Title	54
Section 18.9. No Personal Liability	54
Section 18.10. Priority of Multiple Security Interests.....	54
Section 18.11. Further Assurances.....	55
Section 18.12. Third Party Beneficiary	55
ARTICLE 19 Eminent Domain	56
Section 19.1. Definitions.....	56
Section 19.2. Effect of Taking	57

ARTICLE 20 Default by Developer or City.....59

- Section 20.1. Events of Default of Developer.....59
- Section 20.2. Failure to Cure Default by Developer59
- Section 20.3. Lender Right to Cure Developer Default60
- Section 20.4. Surrender of Property62
- Section 20.5. Rights of the City After Termination62
- Section 20.6. No Waiver by the City62
- Section 20.7. Events of Default of City62
- Section 20.8. Failure to Cure Default by City62
- Section 20.9. No Waiver by Developer.....63

ARTICLE 21 City Transfers and Fee Mortgages64

- Section 21.1. City's Right to Convey64
- Section 21.2. Release of City64
- Section 21.3. Development Rights.....64
- Section 21.4. Purchase Option64
- Section 21.5. Fee Mortgages.....66

ARTICLE 22 Notices67

- Section 22.1. Addresses67
- Section 22.2. Method of Transmitting Notice.....68

ARTICLE 23 Quiet Enjoyment68

ARTICLE 24 Certificates by City and Developer68

- Section 24.1. Developer Estoppel Certificates.....68
- Section 24.2. City Estoppel Certificates.....69

ARTICLE 25 Construction of Terms and Miscellaneous.....69

- Section 25.1. Severability.....69
- Section 25.2. Captions.....69
- Section 25.3. Relationship of Parties69
- Section 25.4. Recording70
- Section 25.5. Construction70
- Section 25.6. Consents70
- Section 25.7. Entire Agreement70
- Section 25.8. Further Assurances.....70
- Section 25.9. Successors and Assigns.....70
- Section 25.10. Holidays71
- Section 25.11. Schedules/Exhibits71
- Section 25.12. Brokers71
- Section 25.13. Performance under Protest71
- Section 25.14. Unavoidable Delay71

Section 25.15. Time of the Essence	71
Section 25.16. Radon	71
Section 25.17. Governing Law.....	71
Section 25.18. Counterparts	71
Section 25.19. Attorneys' Fees	72
Section 25.20. Waiver of Jury Trial	72
Section 25.21. Venue	72
Section 25.22. Provisions not Merged With Deed	72
Section 25.23. Documents Incorporated and Order of Precedence.....	73
Section 25.24. Public Disclosures	73
 ARTICLE 26 Representations and Warranties.....	 73
Section 26.1. The City's Representations and Warranties.....	73
Section 26.2. Developer's Representations and Warranties	73
 ARTICLE 27 Dispute Resolution.....	 73
Section 27.1. Mediation	73
Section 27.2. Arbitration	74
Section 27.3. Other Disputes.....	74
 ARTICLE 28 Community Benefits	 75
Section 28.1. Community Benefits Plan	75
Section 28.2. Reporting.....	75
Section 28.3. Costs of Plan.....	75
Section 28.4. Enforcement	75

LIST OF EXHIBITS²

Exhibit A	Description of Overall Land
Exhibit A-1	Description of Development Site
Exhibit B	Master Development Plan for Project
Exhibit C	Park Improvements Rider
Exhibit D	Projected Timeline for Project
Exhibit E	Community Benefits Plan

LIST OF SCHEDULES

Schedule 1.3	Confirmation of Date(s) Certificate
Schedule 7	Insurance Requirements
Schedule 17.2(a)	Form of Bifurcation of Agreement and Lease
Schedule 17.5	Form of Recognition and Non-Disturbance Agreement
Schedule 24.2	City Estoppel Certificate
Schedule 25.4	Memorandum of Agreement and Lease

² NTD: To be updated prior to execution

**AGREEMENT AND LEASE
(Claude Pepper Park)**

THIS AGREEMENT AND LEASE (Claude Pepper Park) (the "Agreement") is made as of _____, 2023, by and between the CITY OF NORTH MIAMI, a municipal corporation of the State of Florida (the "City"), having its principal office and place of business at 776 NE 125th Street, North Miami, Florida 33161, and REDWOOD CP DEV, LLC, a Florida limited liability company ("Developer"), having an office and place of business at 545 NW 26th Street, Suite 620, Miami, Florida 33127.

W I T N E S S E T H:

A. The City owns certain real property consisting of approximately 28.66 acres of land located at 1255 NW 135th Street and 1525 NW 135th Street in the City of North Miami, Florida, as more particularly described and/or depicted on Exhibit A attached hereto (the "Overall Land"), upon which is located (i) the existing park known as Claude Pepper Park, consisting of approximately 15 acres of land comprised of various fields (soccer, football, baseball, etc.), basketball courts, tennis courts, bleachers, surface parking, lighting and other improvements (collectively, "CP Park"), (ii) the existing community center known as Joe Celestin Center, consisting of approximately 2.43 acres of land and containing a 20,000+/- square foot community center facility and surfacing parking lots (the "JCC"), and (iii) an adjacent vacant site, consisting of approximately 11.23 acres of undeveloped land as more particularly described on Exhibit A-1 attached hereto (the "Development Site"). Capitalized terms used herein (including those used in these Recitals without definition) shall have the definitions and meanings set forth in Article 2 hereof and/or as elsewhere defined herein.

B. The City recognizes the potential for public and private benefit through improvements to CP Park, the renovation of the JCC and an overall unified mixed-use development of the adjacent Development Site, to serve as a positive model for the community and economic development in the western portions of the City of North Miami. In furtherance thereof, on August 31, 2022, the City issued a Request for Proposals under RFP No. 70-21-22 (the "RFP") from qualified and experienced developers and/or development teams for the design, development and financing of improvements to CP Park, renovations to the JCC and the development of the Development Site with a mixed-use project containing, *inter alia*, housing for seniors, retail/commercial uses and workforce housing. Developer submitted a proposal dated September 26, 2022 to the City in response to the RFP, and Developer was selected as the top-ranked bidder by the City at its Special Council Meeting of November 18, 2022.

C. On [_____] , 2023, the City Council of the City of North Miami passed and adopted Resolution No. R-23-[_____] , authorizing and approving the execution of this Agreement by the City, on the terms and conditions hereinafter set forth.

D. The City desires to lease the Development Site and related Property to Developer and Developer desires to lease the Development Site and related Property from the City pursuant to and upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and of the rent, covenants, and agreements hereinafter set forth, the parties do hereby covenant and agree that the foregoing recitals are true and correct, and further agree as follows:

ARTICLE 1

Premises - General Terms of Agreement and Lease

Section 1.1. Lease of Land and Air Rights. In accordance with (a) the powers granted to the City pursuant to authority properly delegated by the Florida legislature; (b) the Code; and (c) the authority to lease real property and air rights over real property belonging to the City; and, for and in consideration of the rents, covenants and agreements set forth herein, the City, pursuant to the terms of this Agreement, agrees to and does hereby lease and demise unto Developer, and Developer agrees to and does hereby take and lease, upon and subject to the conditions and limitations herein expressed, the Development Site and related Property for and during the Lease Term. Developer shall have and hold, exclusively, the development rights pertaining to the Development Site, subject to the terms, conditions, covenants and provisions set forth herein. For the avoidance of doubt, CP Park and the JCC are not and shall not be leased to Developer pursuant to this Agreement. Accordingly, Developer shall be responsible only for the construction and completion of the Park Improvements pursuant to the terms of this Agreement (including the Park Improvements Rider), with the City retaining title to and possession of the land and Existing Improvements comprising CP Park and the JCC, as improved with the Park Improvements.

Section 1.2. Term of Agreement and Lease

(a) The term of this Agreement shall commence on the Effective Date and continue throughout the entire Pre-Commencement Period and end on the last day of the Lease Term. The term of the leasehold estate under this Agreement shall be a period of ninety-nine (99) years, commencing on the Commencement Date for the Development Site or the first Phase thereof (as applicable) and ending on the date that is ninety-nine (99) years thereafter (the "Lease Term"). Provided that no Event of Default exists at the expiration of the Lease Term, the Lease Term shall automatically extend for one (1) additional period of ninety-nine (99) years upon the same terms and conditions as provided in this Agreement for the original Lease Term. The City and Developer agree that, despite the Effective Date of this Agreement, except as otherwise expressly provided herein, Developer shall not be deemed to have accepted possession of the Development Site, any Phase or any other real property comprising the Property for purposes of commencement of the Lease Term until the occurrence of the Commencement Date for the applicable portion of the Property.

(b) The Lease Term shall commence, at Developer's option, with respect to the entire Development Site or each Phase of the Project, on a Phase-by-Phase basis, on the Commencement Date for the Development Site or such Phase; it being the intention of the Parties that Developer have the right to commence the Lease Term with respect to the entire Development Site or on a Phase-by-Phase basis on the terms and conditions set forth in this Agreement. Whether the Lease Term commences with respect to the Development Site

or one or more (but less than all) Phases, the Lease Term shall end on the date provided in Section 1.2(a), as same may be extended pursuant to the terms thereof. Similarly, if Developer exercises its right to bifurcate the leasehold estate under this Agreement pursuant to the terms of Section 17.2, the term of each Bifurcated Lease shall be coterminous with the Lease Term, such that each Bifurcated Lease shall commence on the Commencement Date for the Phase(s) of the Project leased pursuant to the Bifurcated Lease and end on the last day of the stated Lease Term set forth in Section 1.2(a), as same may be extended pursuant to the terms of such Bifurcated Lease.

(c) The City shall deliver possession of the Development Site (or applicable Phase(s) thereof) to Developer on the Commencement Date therefor at which time the Lease Term shall commence with respect to the Development Site (or such Phase(s), as applicable) and Developer shall take possession thereof. The Development Site or applicable Phase(s) thereof shall be vacant, free of rubbish, litter, debris or other materials, and otherwise in the condition required by this Agreement at the time possession or control thereof is delivered to Developer under this Agreement.

(d) The City agrees that (i) during the Review Period and at other reasonable times (including during the Pre-Commencement Period) upon reasonable advance notice, Developer may enter upon the Overall Land to perform studies, tests, evaluations and similar type inspections as contemplated by the terms of Section 1.4 and Section 1.5, and (ii) during the Pre-Commencement Period, Developer may begin the Site Work on the Overall Land (including any portion of the Development Site where the Lease Term has not yet commenced) as contemplated by the terms of Section 1.7. Developer's inspection rights and right to begin Site Work hereunder shall include inspections of CP Park and the JCC and Site Work associated with the Park Improvements as may be needed to perform Developer's obligations with respect to the Park Improvements in accordance with this Agreement and the Park Improvements Rider.

Section 1.3. Conditions Precedent to Effectiveness of Agreement. This Agreement shall not become effective unless and until the City Council shall have approved the execution of this Agreement and this Agreement has been executed and delivered by the City and Developer. The date on which this Agreement becomes effective as provided herein is called the "Effective Date" and, upon the Effective Date, this Agreement shall be a binding contract and agreement between the City and Developer. If Developer does not elect to terminate this Agreement during the Review Period or pursuant to any other right to terminate provided herein, the City shall deliver and Developer shall take possession of the Development Site or the applicable Phase(s) thereof in the condition required by this Agreement on the Commencement Date for the Development Site or such Phase(s), as applicable. The Commencement Date shall mark the commencement of the Lease Term and leasehold estate under this Agreement as hereinabove provided. The Effective Date, the Commencement Date, the Pre-Commencement Period and the expiration of the Lease Term will be confirmed in the Confirmation of Date(s) Certificate in the form attached hereto as Schedule 1.3 upon written request of either party following the occurrence of any such dates. Each party shall respond promptly to any request for a Confirmation of Date(s) Certificate hereunder. Each Bifurcated Lease shall include a provision regarding confirmation of the effective date, commencement date and term thereof through a similar Confirmation of Date(s) Certificate consistent with this provision.

Section 1.4. Review Period.

(a) During the Review Period, Developer, its employees, agents, consultants and representatives, shall be entitled, at Developer's sole cost and expense, to investigate and evaluate the Development Site and related Property. Such right of investigation shall include the right to enter the Development Site, and perform any studies, tests or inspections thereof as Developer may deem necessary or appropriate, including without limitation assessments of soil and subsurface conditions, utility services and environmental audits (including Phase I, Phase II and any other audit recommended by Developer's environmental consultant), title review, reports and commitments, and surveys of the Development Site. Developer shall also have the right to enter the Overall Land and perform comparable studies, tests or inspections of CP Park and the JCC, areas adjacent thereto and the Existing Improvements thereon, as Developer may deem necessary or appropriate in connection with the Park Improvements and Project. The City agrees to cooperate reasonably with any such investigations, tests, samplings, analyses, inspections, studies or meetings made by or at Developer's direction.

(b) If Developer's inspections reflect site conditions that indicate Developer will not be able to develop Developer's intended Improvements on the Property or any portion thereof or the Park Improvements as contemplated in this Agreement or any unforeseen conditions that would adversely impact the development of the Project or the Park Improvements or increase the scope or cost of the Project or Park Improvements or require redesign of same (such as, by way of example and not limitation, remediation of environmental conditions; underground conditions or facilities that require relocation and/or cannot be relocated; protected archeological conditions; etc.), then Developer shall have the right, in its sole discretion, to terminate this Agreement and its obligations hereunder as to the Project or any Phase(s) by giving written notice to the City prior to the end of the Review Period. In such event, this Agreement shall terminate (in whole or with respect to the applicable Phase(s), as applicable) as of the date the City receives such notice of termination. Developer shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 1.4(b) if Developer does not notify the City of such termination prior to the expiration of the Review Period.

(c) Developer shall indemnify, defend and hold the City harmless from and against any and all damages, mechanics' liens, liabilities and losses to the extent caused by Developer's entry onto the Overall Land or any inspections performed by Developer thereon pursuant to this Section 1.4, but expressly excluding any damages, liabilities or losses arising out of latent defects, the displacement or disturbance of hazardous materials not placed on the Overall Land by Developer or the discovery of pre-existing conditions. While performing any inspections on the Overall Land and Existing Improvements thereon, Developer shall maintain insurance coverage in accordance with Section I of Schedule 7 attached hereto. If Developer terminates this Agreement, Developer shall promptly repair any damage caused by Developer's inspections and restore the Overall Land and Existing Improvements to its and their pre-inspection condition, provided that Developer shall have no obligation to repair or restore any latent or pre-existing condition or any hazardous materials not placed on the Overall Land by Developer. The indemnity

and repair obligations described in this paragraph shall survive any termination of this Agreement.

(d) In addition to the foregoing, if any unknown site conditions are discovered at any time after the Review Period and are of a nature that they could not have reasonably been anticipated (e.g., underground protected archeological conditions), then, in such event, Developer shall have the same rights as Developer has under this Section 1.4 with respect to site conditions discovered during the Review Period, including, without limitation, the right to terminate this Agreement (in whole or with respect to any affected Phase). Any delays resulting from such newly discovered site conditions shall be deemed Unavoidable Delays for purposes of this Agreement and all time periods under this Agreement, including the commencement of Rent and the payment and performance of any Developer Contributions, shall be extended by the reasonable time necessary to accommodate redesign and lengthened construction schedules resulting from such site conditions.

(e) The Park Improvements Rider shall terminate simultaneously with any termination of this Agreement in its entirety under this Section.

Section 1.5. Pre-Commencement Period. During the Pre-Commencement Period, the Parties hereby agree as follows:

(a) The City shall have the right to continue to use and operate the Overall Land and Existing Improvements in the same manner and for the same purposes as the City used and operated the Overall Land and Existing Improvements prior to the Effective Date. The City shall vacate the Development Site or any portion thereof in the condition required under this Article 1 on or before the Commencement Date and deliver exclusive possession of same to Developer for development of the Project in accordance with the terms of this Agreement. If the City fails to vacate the Development Site or any portion thereof and deliver exclusive possession thereof to Developer when required hereunder, same shall constitute an Unavoidable Delay.

(b) The City shall, at the City's sole cost and expense, maintain, manage and operate the Overall Land and Existing Improvements in the ordinary course of business and in a manner consistent with the City's management practices during the five (5) year period prior to the Effective Date. Without limitation the foregoing, the City shall (i) maintain and keep the Overall Land, the Existing Improvements and all portions thereof in the same condition as existed on the Effective Date, reasonable wear and tear excepted, (ii) not make any material changes or alterations to the Existing Improvements that would impact the Park Improvements, except for repairs made in the ordinary course of business consistent with the City's past practices and in accordance with Laws and Ordinances, and (iii) be solely responsible for all costs and expenses of any kind or nature associated with the foregoing, including without limitation capital expenditures, taxes and insurance costs.

(c) The City shall maintain insurance in such amounts, providing such coverages and from insurers meeting all of the criteria required of Developer during periods of operation of the Improvements on the Property pursuant to Article 7 hereof and Schedule

7 attached hereto; provided, however, that such insurance may be furnished by the City under a blanket policy carried by it, under a separate policy therefor or under any combination of self-insurance, primary insurance or umbrella insurance policies carried by the City so long as the coverages required under this provision are provided. Notwithstanding anything herein to the contrary, any insurance required to be maintained by the City hereunder may be maintained in whole or in part under a commercially reasonable plan of self-insurance or self-insured retention. Any insurance maintained by the City under this provision, whether through third party insurers or self-insurance, shall name Developer and its designees as additional insured. Prior to the Effective Date and thereafter from time to time upon Developer's request, the City shall provide Developer with certificates or other satisfactory evidence that confirms the City's maintenance of insurance in compliance with this provision.

(d) The City shall, promptly upon the City's obtaining knowledge thereof, provide Developer with any written notices received from any Governmental Authorities concerning any violations of any Laws or Ordinances. The City shall faithfully observe and comply with all Laws and Ordinances affecting the Overall Land, the Existing Improvements or any portion thereof or the use thereof, including without limitation those relating to the correction, prevention and abatement of unsafe conditions and those relating to the handling and disposal of hazardous substances and any other environmental concerns.

(e) The City represents and warrants that, as of the Effective Date, there are no parties in possession or with a right to possession of the Development Site other than the City, nor are there any leases, licenses or occupancy agreement in effect with respect to the Development Site. The City shall not enter into any lease, license or agreements for occupancy of the Development Site or any portion thereof or otherwise create any rights of occupancy or possession in the Development Site during the Pre-Commencement Period.

(f) Any service contracts (for security, maintenance, pest control, trash removal, equipment leases or any other services) with respect to or affecting the Development Site or any portion thereof entered into by the City shall be the sole responsibility of the City and shall not be assigned to or assumed by Developer (before or after the Commencement Date).

(g) The City shall not encumber title to the Development Site or any portion thereof with any liens, charges, easements, restrictions, covenants or other encumbrances of any kind or nature whatsoever (or allow same to be so encumbered). If any mechanic's lien or other lien is filed against the Development Site or any portion thereof, the City will discharge same of record no later than the earlier of (i) fifteen (15) days after notice of the filing thereof, or (ii) the Commencement Date, failing which Developer may discharge the same of record by payment, bonding or otherwise, as Developer may elect, and bill the City for all costs and expenses incurred in connection therewith. The City shall reimburse Developer for any costs incurred by Developer hereunder promptly (and, in any event, within fifteen (15) days) after invoice.

(h) If the Existing Improvements shall be damaged by Casualty during the Pre-Commencement Period, the City shall promptly notify Developer of such damage, shall properly secure, at its sole cost and expense, the damaged Existing Improvements to a safe condition in compliance with Laws and Ordinances, and shall, after settling its insurance claim (if any), at the City's sole cost and expense, (i) restore or rebuild the Existing Improvements to the condition that existed prior to the Casualty, or (ii) replace the Existing Improvements with such other improvements as the City shall determine to make, provided that any modifications proposed by the City shall be in compliance with all Laws and Ordinances and consistent with the Park Improvements required of Developer pursuant to this Agreement, unless the Parties otherwise agree in writing. The City shall notify Developer of the restoration and/or replacements it will make within forty-five (45) days after the occurrence of the Casualty. After settling its insurance claim (if any), the City shall proceed with commercially reasonable diligence to perform the work it has elected to perform hereunder to completion, at its sole cost and expense, and all such work shall be carried out in accordance with the terms of this Agreement and applicable Laws and Ordinances. The City shall have the right and authority to adjust and/or settle any insurance claims and receive any insurance proceeds from a Casualty during the Pre-Commencement Period. Any Casualty to the Existing Improvements during the Pre-Commencement Period shall constitute an Unavoidable Delay with respect to the construction and performance of the Park Improvements under this Agreement (and shall toll the obligation to perform same) for the period beginning with the date of the Casualty until the date the Existing Improvements are restored as required herein. Notwithstanding the foregoing, if a Casualty to the Existing Improvements will delay or otherwise impact the Park Improvements and/or any portion of the Project, Developer shall have the right (but not the obligation), in its sole discretion, to assume responsibility for the restoration of the Existing Improvements by written notice to the City and, from and after the date of the City's receipt of such notice, the City and Developer shall jointly adjust and settle any insurance claims under the City's insurance, Developer shall be entitled to the insurance proceeds from the Casualty for the restoration of the Existing Improvements (which shall be used solely for the restoration of the Existing Improvements and the Park Improvements that the City indicated would be made by it hereunder), and Developer shall be responsible for the restoration of the Existing Improvements in conjunction with the Park Improvements in accordance with the terms and conditions of this Agreement and the Park Improvements Rider (as though such restoration work were included in and part of the Park Improvements).

(i) During the Pre-Commencement Period, the City and Developer shall not be deemed principal and agent, landlord and tenant, sublandlord and subtenant, or parties to a partnership, joint venture or association of any kind by virtue of this Agreement. Accordingly, this Agreement creates (i) a contract between the Parties governing their respective rights and obligations with respect to the Overall Land and Existing Improvements during the Pre-Commencement Period, and (ii) as of the commencement of the Lease Term for the Development Site or any Phase thereof, a lease between the Parties (with the City, as landlord and Developer, as tenant) with respect to the Development Site or such Phase (as applicable) automatically effective as of the Commencement Date through the end of the Lease Term pursuant to the terms hereof. During the Pre-Commencement Period, the City shall remain the legal and equitable owner of the Development Site and does not intend to nor does it grant Developer an equitable

ownership interest in the Development Site or any portion thereof unless and until the Commencement Date for the Development Site or such portion has occurred. As such, the City retains all of the benefits and burdens of ownership in the Overall Land, including the Development Site, during the Pre-Commencement Period, except as otherwise expressly provided herein.

(j) The Development Site and the JCC currently share the same tax folio number (folio no. 06-2123-000-0050) on the Miami-Dade County Property Appraiser's website. Within fifteen (15) days following the Effective Date, the City shall request from and apply to the Miami-Dade County Property Appraiser for a folio split between the Development Site and the JCC such that each parcel will have separate and independent tax folio numbers. The City shall diligently pursue the foregoing tax folio split, and the Developer shall cooperate with the City's efforts to obtain same, with the common goal that the JCC have a separate tax folio number from the Development Site as soon as reasonably feasible.

(k) The following provisions of this Agreement shall not apply until the Commencement Date occurs: Article 3 (except Section 3.2(a)), Article 4 (except Section 4.12), Articles 5 through 14 (inclusive), Articles 16 through 21 (inclusive), and Article 28.

Section 1.6. Subsequent Inspections. Prior to the expiration of the Pre-Commencement Period, (i) from time to time, upon Developer's request, the Parties shall conduct a walkthrough inspection of the Overall Land (including the Development Site, but excluding any portions thereof for which the Lease Term has commenced) and Existing Improvements (herein, collectively, the "inspected premises") to confirm that the City is in compliance with the operational covenants set forth in Section 1.5 in all material respects, and (ii) Developer, its employees, agents, consultants and representatives, shall be entitled, at Developer's sole cost and expense, to update any studies, tests or inspections of the inspected premises conducted by Developer during the Review Period, as Developer may deem necessary or appropriate, including without limitation updating assessments of soil and subsurface conditions, utility services and environmental audits (including Phase I, Phase II and any other audit recommended by Developer's environmental consultant), title review, reports and commitments, and surveys for the inspected premises. The City agrees to cooperate reasonably with any such investigations, tests, samplings, analyses, inspections, studies or meetings made by or at Developer's direction during the Pre-Commencement Period. If the results of Developer's additional inspections reflect site conditions that were not known by Developer during the Review Period, Developer shall have the same rights and remedies with respect to such site conditions as those set forth in Section 1.4; provided, however, that if any new site condition is the result of the City's failure to comply with any operating covenants of the City set forth in Section 1.5, then the following provisions shall apply:

(a) The City shall, at no expense to Developer, repair, correct, cure, remediate and/or take such other action as may be necessary to restore the inspected premises to the condition that existed at the end of the Review Period (as previously repaired, corrected, cured, remediated or restored, if applicable). The City agrees that it shall, at no expense to Developer, commence, perform and complete all such work in compliance with all Laws and Ordinances with commercially reasonable diligence and as soon as reasonably practicable, pursuant to a time schedule to be mutually agreed to by the

Parties and using consultants and other licensed and insured contractors approved by Developer. Notwithstanding the foregoing, the City shall not be obligated to repair, correct, cure, remediate and/or take such other action as may be necessary to restore the inspected premises to the extent that any new site condition was caused by Developer or any Affiliate of Developer, which shall be the responsibility of Developer at its expense.

(b) The City's work under this provision shall not be discharged until the City has (i) repaired, corrected, cured, remediated and/or otherwise restored the inspected premises as required herein, without condition or controls from any governmental authority or other third party and paid all consultants/contractors evidenced by final lien waivers, (ii) restored the affected portions of the inspected premises to a good and safe condition in full compliance with all applicable Laws and Ordinances, and (iii) vacated the inspected premises in the condition required herein. As part of the obligations of the City under this provision, the City shall provide Developer with customary and satisfactory evidence (e.g., with respect to environmental remediation, a "no further action" determination without conditions or engineering controls from each governmental authority with jurisdiction over the matter, except reasonable conditions and engineering controls that do not affect, in any material respect, Developer's ability to develop the Project or perform the Park Improvements) that the City has fully satisfied all obligations under this Section in compliance with all applicable Laws and Ordinances promptly following the completion of same.

(c) At Developer's option, the Pre-Commencement Period shall be extended until the date the City's work under this Section is fully satisfied in accordance with subsection (b) above, provided that if Developer does not elect to so extend the Pre-Commencement Period, the Parties shall work together in good faith to develop and implement a plan that coordinates Developer's use and development of the Project and Park Improvements with the City's performance of its work hereunder without (or with minimal) interference between the work of the Parties.

(d) Developer shall not be responsible under this Agreement for any claims, losses or damages, administrative and judicial proceedings and orders, judgments, or other remedial action requirements, or enforcement actions of any kind, and/or any costs and expenses incurred in connection therewith, arising out of any site conditions that are required to be cured, corrected, remediated or restored by the City under this provision or any other provision of this Agreement, all of which shall be the responsibility of the City, and the City shall indemnify, defend and hold the Developer harmless from and against any and all damages, mechanics' liens, liabilities and losses with respect to same.

Section 1.7. Performance of Site Work. From and after the Entitlement Date, irrespective of whether the Pre-Commencement Period has ended or the Commencement Date for the Development Site or any Phase has occurred, Developer, at Developer's option, shall have the right to commence and perform Site Work on the Overall Land (or any portion thereof), which, in the case of the Park Improvements, shall be performed in accordance with the Park Improvements Rider. Such right to perform the Site Work after the Entitlement Date, but prior to the Commencement Date, shall include the right to access the Overall Land (or any portion thereof) for such purposes and to secure the Development Site with a gated fence limiting access to the

Property, *inter alia*, for safety and security reasons. In the event access to the Property or any portion thereof is so secured by Developer for the Site Work during the Pre-Commencement Period, the Lease Term shall not be deemed to have commenced with respect to the Property or any such portion until the Commencement Date; however, Developer shall have the right to perform the Site Work on the portion of the Property under Developer's control on the terms and conditions set forth in this Lease applicable to the Property during the Lease Term (excluding the provisions hereof referenced under Section 1.5(k), except for Article 4, Article 7, and Articles 10 through 14 (inclusive), which shall apply to the Site Work), provided that the foregoing shall not release the City from its obligation to comply with the operational covenants set forth in Section 1.5 within the control of the City (other than those covenants that require occupancy or possession of the Property).

ARTICLE 2

Definition of Certain Terms

In addition to other capitalized terms as defined in the introductory recitals or elsewhere in this Agreement, the terms set forth below, when used in this Agreement (whether before or after this Article), shall be defined as follows:

(a) "Affiliate" or "Affiliated Person" shall mean, when used with reference to a specified Person:

(i) any Person that, directly or indirectly, through one or more intermediaries, Controls or is Controlled by or is under common Control with the specified Person;

(ii) any Person that, directly or indirectly, is the beneficial owner (herein a "beneficial owner") of ten percent (10%) or more of any stock, partnership interest or member interest of, or other beneficial interest in, the specified Person or Controls the specified Person;

(iii) any Person in which the specified Person is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any stock, partnership interest or members interest of, or other beneficial interest in, such Person or is Controls such Person; and

(iv) any Person in which any beneficial owner (as defined in clause (ii) above) is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any stock, partnership interest or members interest of, or other beneficial interest in, such Person or Controls such Person.

(b) "Agreement" shall mean this Agreement (including all Riders, Exhibits and Schedules) and all amendments, replacements, supplements, addenda or renewals thereof, but expressly excluding Bifurcated Leases.

(c) "Application" means any agreement, application, form, certificate, document, submission or instrument (or amendment of any of the foregoing): (i) necessary

or appropriate for the development, construction, operation, maintenance, repair or replacement of the Improvements permitted by this Agreement, including any application or form for any comprehensive plan amendments, zoning code text amendments or other legislation, Entitlements or Permits, Certificate of Occupancy, utility service or hookup, easement or relocation of same, covenant, condition, restriction, subdivision plat, or such other instrument as Developer may from time to time reasonably request in connection with the development, construction, operation, maintenance, repair or replacement of the Site Work or the Project or any Phase thereof; (ii) to allow Developer to obtain any grant, subsidy, loan, surtax proceeds, abatement, deferral or other benefit or incentive available for the Park Improvements, the Site Work or the Project (or any portion thereof), or providing relief from Impositions; or (iii) otherwise reasonably necessary and appropriate to perform the Site Work or to develop the Project or Park Improvements or to permit Developer to realize the benefits of the Property, the Project or the Park Improvements under this Agreement.

(d) "Bifurcated Lease" shall have the meaning ascribed to such term in Section 17.2(a).

(e) "Building(s)" shall mean the buildings or structures (as the context indicates) and other Improvements to be developed and constructed on, above, or below the Property or a portion thereof in accordance with the terms of this Agreement (including any replacements, additions and substitutes thereof).

(f) "Casualty" shall mean damage or loss to property caused by hurricane, windstorm, acts of God, fire, flood, theft, acts of sabotage or terrorism, or any damage or loss normally covered by special form property insurance policies or "all risk" or extended coverage insurance, including windstorm coverage.

(g) "Certificate of Occupancy" shall mean the temporary or permanent certificate issued by the Governmental Authority authorized to issue a certificate of occupancy or certificate of completion, as applicable, evidencing that the applicable Building(s) is (are) ready for occupancy in accordance with Laws and Ordinances.

(h) "City" shall mean the City of North Miami, a municipal corporation of the State of Florida. If fee simple title to the Overall Land or portions thereof are transferred by the City, references to the City shall mean the owner(s) at the time in question of the City's interest in the Overall Land and portions so transferred.

(i) "City Council" shall mean the City Council of the City of North Miami, Florida.

(j) "City's Designated Representative" shall mean the City Manager for the City or the individual designated from time to time, by written notice to Developer, as the City Manager's designee to serve as and carry out the responsibilities of the City's Designated Representative under this Agreement.

(k) "Claims" shall have the meaning ascribed to such term in Section 7.2(a).

(l) "Code" shall mean the Code of Ordinances of the City of North Miami, Florida, as amended from time to time.

(m) "Commencement Date" shall mean, with respect to the Development Site or any Phase, the date that is ten (10) Business Days following written notice from Developer that the Lease Term will commence with respect to the Development Site or such Phase (as applicable), but in no event earlier than the Entitlement Date. If the Lease Term commences on a Phase-by-Phase basis, references to the Commencement Date in this Agreement shall mean the Commencement Date for the Phase or Phases where the Commencement Date has occurred (whether or not so stated).

(n) "Commencement of Construction" and "commenced" when used in connection with construction of any Phase shall mean the visible start of work on the site of such Phase, including on-site utility, excavation or soil stabilization work. In order to meet the definition of "Commencement of Construction" or "commenced", such visible start of work must occur after Developer has received a Permit for the particular Phase of the Project on which construction is proposed to commence.

(o) "Completion of Construction" shall mean, (i) with respect to any Phase, the date a Certificate of Occupancy is issued for that Phase, and (ii) with respect to the Park Improvements, the date a Certificate of Occupancy (or certificate of completion or substantial equivalent) or final sign-off from the City (in its regulatory capacity) is issued for the Park Improvements, as the context requires.

(p) "Control" (and grammatical variations thereof) means, as applied to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and operation of such Person or the day-to-day management of such Person, whether through the ownership of voting securities or other ownership interests, by contract or otherwise.

(q) "County" and "Miami-Dade County" shall mean Miami-Dade County, a political subdivision of the State of Florida.

(r) "CP Park" shall have the meaning ascribed to such term in the Recitals.

(s) "Default Rate" shall mean the lesser of (i) an interest rate equal to twelve percent (12%) per annum, or (ii) the maximum rate permitted by law.

(t) "Developer" shall mean, on the Effective Date, Redwood CP Dev, LLC, a Florida limited liability company. Thereafter, "Developer" shall mean the owner(s) at the time in question of Developer's interest under this Agreement.

(u) "Developer Contributions" shall mean, collectively, the contributions due from Developer pursuant to Section 3.2.

(v) "Development Site" shall have the meaning ascribed to such term in the Recitals.

(w) "Effective Date" shall mean the date on which this Agreement shall become effective as provided in Section 1.3.

(x) "Entitlements" means (i) Rezoning of the Property to PD-3 zoning district and Future Land Use Map Amendment, or other zoning district that is appropriate for the development of the Improvements; (ii) Planned Corridor District (PCD) Overlay to increase the height and density currently allowed for the Property, together with PCD for the 138th Street or 17th Avenue Corridor to allow additional height and density, or other overlay appropriate for the development of the Improvements; (iii) Development Review Committee Approval of the Master Plan for the Project; (iv) final Master Site Plan approval and conditional use approval for the Project from the City Council; and (v) such other approvals, variances, waivers, legislation, special exceptions, agreements, documents, instruments and other authorizations as may be required for the development of the Project from the various Governmental Authorities as well as public and/or private companies having jurisdiction over or providing utilities or other municipal services to the Property. As used herein, the term "Entitlements" excludes Permits.

(y) "Entitlement Date" shall mean the date Developer receives the Entitlements, with, in the case of matters subject to appeal, all applicable appeal periods having expired and with no appeals having been filed (or, in the event an appeal is filed, the same has been resolved (by judgement, settlement or otherwise) on terms and conditions reasonably acceptable to Developer with no further appeals taken). If the Lease Term commences on a Phase-by-Phase basis, the Entitlement Date shall mean the date Developer receives final, non-appealable Entitlements in accordance herewith for the applicable Phase.

(z) "Event(s) of Default" shall have the meaning ascribed to such term in Section 20.1 (as to Events of Default of Developer) and Section 20.7 (as to Events of Default of City), as the context dictates.

(aa) "Existing Improvements" shall mean the buildings, structures and other improvements and appurtenances existing on the Overall Land (excluding the Development Site) as of the Effective Date, consisting of the improvements comprising the JCC and the various fields (soccer, football, baseball, etc.), basketball courts, tennis courts, bleachers, surface parking, lighting and other improvements existing upon or within CP Park.

(bb) "Fee Estate" means the City's fee estate in the Property, including the City's reversionary interest in the Property after the expiration of the Lease Term.

(cc) "Governmental Authority" or "Authorities" shall mean each and every governmental agency, authority, bureau, department, quasi-governmental body, or other entity or instrumentality having or claiming jurisdiction over the Property (or any activity this Agreement allows), including the United States government, the State of Florida and County governments and their subdivisions and municipalities (including the City), and all other applicable governmental agencies, authorities, and subdivisions thereof. Governmental Authority or Authorities shall also include the City Council and any planning commission, board of standards and appeals, department of building and zoning,

board of adjustment, zoning board of appeals, or similar body having or claiming jurisdiction over the Property or any activities on or at the Property.

(dd) "Impositions" shall mean all ad valorem taxes, special assessments, sales taxes and other governmental charges and assessments levied or assessed with respect to the Property and the activities conducted thereon or therein.

(ee) "Improvements" shall mean the Buildings, parking areas, above and below surface improvements, utilities, utility lines and appurtenant equipment, vaults, infrastructure and other improvements to be developed and constructed on, above or below the Development Site or a portion thereof or adjacent thereto as part of the Project on the Development Site, but excluding any tenant improvements, tenant interior work or tenant build-out. If this Agreement terminates with respect to any Phase of the Project, or any Phase is otherwise released from the terms and conditions of this Agreement, then, as used herein, the term "Improvements" shall exclude the applicable Phase and Building(s) and other improvements thereon.

(ff) "JCC" shall have the meaning ascribed to such term in the Recitals.

(gg) "Laws and Ordinances" or "Laws or Ordinances" shall mean all present and future applicable laws, ordinances, rules, regulations, authorizations, orders and requirements of all federal, state, county and municipal governments, the departments, bureaus or commissions thereof, authorities, boards or officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions having or acquiring jurisdiction over all or any part of the Property.

(hh) "Lease Term" shall have the meaning ascribed to such term in Section 1.2(a) and shall include any extension thereof in accordance with the terms of this Agreement.

(ii) "Lease Year" shall mean each separate and consecutive period of twelve (12) full calendar months beginning upon the first day of the first month following the Commencement Date and upon each anniversary of such date thereafter, provided that Developer may, with the written consent of the City, cause the Lease Year to be a calendar year. The first Lease Year shall include any partial month (and, if Lease Years are adjusted to coincide with calendar years, any partial year) at the beginning of the Lease Term, anything herein to the contrary notwithstanding.

(jj) "Leasehold Mortgage" shall mean a mortgage or mortgages or other similar security agreements given to any Leasehold Mortgagee of the leasehold interest of Developer hereunder, and shall be deemed to include any mortgage or trust indenture under which this Agreement shall have been encumbered, as modified, amended, restated, renewed and consolidated from time to time.

(kk) "Leasehold Mortgagee" shall mean a Lender holding a Leasehold Mortgage.

(ll) "Lender" shall mean a Federal or State bank, savings bank, association, savings and loan association, credit union, commercial bank, foreign banking institution,

trust company, family estate or foundation, insurance company (whether foreign or domestic), pension fund, an institutional investor such as a publicly held real estate investment trust, an entity that qualifies as a "REMIC" under the Internal Revenue Code of 1986, as amended, or other public or private investment entity; a brokerage or investment banking organization; an employees' welfare, benefit, pension or retirement fund; an institutional leasing company; an entity qualified to provide funding under the EB-5 program pursuant to USCIS (United States Citizenship and Immigration Service) guidelines; any Governmental Authority insured by a governmental agency or similar institution authorized to take mortgage loans in the State of Florida, in all events whether acting individually or in a fiduciary or representative capacity (such as an agency capacity), or any combination of Lenders. The term Lender also includes (x) a Person that is controlled by, controls or is under common control with a Lender as described in this paragraph, (y) any Person which is a party to a bond financing, as the initial purchaser or indenture trustee of a bond, certificate, warrant or other evidence of indebtedness, or any fiduciary of such issuer, owner or holder, or any provider of credit enhancement and/or liquidity support for such indebtedness, and/or (z) any Person providing purchase money financing in connection with a sale, assignment or transfer of this Agreement or any interest herein. References to Lender under this Agreement shall mean an entity or entities meeting the above definition that is a Leasehold Mortgagee or a Subleasehold Mortgagee or a Mezzanine Financing Source (or any combination thereof).

(mm) "Master Covenants" shall mean those certain covenants, conditions, restrictions and easements for the Project to be recorded in the Public Records of Miami-Dade County, Florida, which, *inter alia*, will govern the relationship of some or all of the Phases of the Project and/or portions of the Project leased pursuant to this Agreement and/or the Bifurcated Leases; govern the use of certain components of the Property (which may include, without limitation, walkways, promenades, driveways, parking facilities, park areas, project-wide lighting and signage, and other shared components, areas and facilities) shared by some or all of the Property leased pursuant to this Agreement and/or the Bifurcated Leases; establish easements for access, pedestrian and vehicular ingress and egress, utilities, structural support, encroachments, loading areas and other common property easements; address landscaping, maintenance and repairs of shared facilities, and financial contributions by each Phase of the Project and/or portions of the Project leased pursuant to this Agreement and any Bifurcated Leases to cover the cost of the foregoing; and establish certain maintenance and use standards with respect to the Property, as modified, amended, restated, supplemented and extended from time to time.

(nn) "Master Plan" means the master development plan for the Project attached hereto as Exhibit B, as modified and amended from time to time pursuant to the terms of this Agreement.

(oo) "Mezzanine Financing" shall mean a loan or equity investment made by the Mezzanine Financing Source to provide financing or capital for the Project or any portion thereof, which shall be subordinate to the first Leasehold Mortgage and may be secured by, *inter alia*, a Mortgage and/or a pledge of any direct or indirect equity or other ownership interests in Developer or a Sublessee or structured as a preferred equity investment with "mezzanine style remedies", the exercise of which would result in a change of control.

(pp) "Mezzanine Financing Source" shall mean a Lender or preferred equity investor selected by Developer or a Sublessee to provide Mezzanine Financing.

(qq) "Minimum Rent" means the minimum annual rent to be paid as set forth in Section 3.1.

(rr) "Mortgage" or "Mortgages" shall mean Leasehold Mortgage(s) or Subleasehold Mortgage(s) (or both) as the context dictates.

(ss) "Mortgagee" or "Mortgagees" shall mean Leasehold Mortgagee(s) or Subleasehold Mortgagee(s) (or both) as the context dictates.

(tt) "New CP Park Improvements" shall mean those certain upgrades, replacements, renovations and/or improvements to the Existing Improvements at CP Park described in the Park Improvements Rider, as modified and amended from time to time pursuant to the terms of this Agreement.

(uu) "New JCC Improvements" shall mean those certain additions, replacements, renovations and/or improvements to the JCC described in the Park Improvements Rider, as modified and amended from time to time pursuant to the terms of this Agreement.

(vv) "Overall Land" shall have the meaning ascribed to such term in the Recitals.

(ww) "Parcel Component" shall mean a portion of the leasehold estate under a Bifurcated Lease which is designated as a unit, element, lot, parcel or other component in a Parcel Development Regime. In the event that any Parcel Component is submitted to a commercial condominium, cooperative or other collective form of ownership, it shall nevertheless be deemed a single Parcel Component for purposes of such Bifurcated Lease, and the master association, property owner's association, condominium association or other entity primarily responsible for the infrastructure and/or other common or shared components of the Parcel Component shall be deemed to be the "owner" or Sublessee of the Parcel Component for purposes of the Parcel Development Regime. Any Parcel Component may be submitted by Developer to the condominium, cooperative or other collective form of ownership regardless of use (whether residential, retail, office or other use), provided that Developer may restrict transferees and future tenants under this Agreement or a Bifurcated Lease from converting any Parcel Component to the condominium form of ownership, in its sole discretion.

(xx) "Parcel Declaration" shall mean the declaration of covenants, conditions, easements and/or restrictions and all other documents necessary or required to submit the leasehold estate created by a Bifurcated Lease to a Parcel Development Regime, as amended and supplemented from time to time.

(yy) "Parcel Development Regime" shall mean the leasehold estate under a Bifurcated Lease that consists of a mixed-use development divided into multiple subparts or components (such as, by way of example and not limitation, a vertical subdivision consisting of a multi-level podium containing parking, retail and other commercial uses,

together with improvements constructed above such podium (e.g. towers consisting of housing for seniors or workforce housing), or a single building consisting of retail, commercial, residential and/or other components) pursuant to a Parcel Declaration, whereby the leasehold estate under such Bifurcated Lease is submitted to a commercial condominium, cooperative or other collective form of ownership.

(zz) "Parcel Manager" means any master association, property owner's association, condominium association or other entity primarily responsible for the infrastructure and/or other common or shared components serving some or all of the Parcel Components within the Parcel Development Regime. If any Parcel Component in the Parcel Development Regime is submitted to a commercial condominium, cooperative or other collective form of ownership, the term "Parcel Manager" for purposes of the Bifurcated Lease shall nevertheless mean and refer to the master association, property owner's association, condominium association or other entity for the Parcel Development Regime (and not the master association, property owner's association, condominium association or other entity primarily responsible for the infrastructure and/or other common or shared components of the Parcel Component).

(aaa) "Park Improvements" shall mean, collectively, the New CP Park Improvements and the New JCC Improvements.

(bbb) "Park Improvements Rider" shall mean the Park Improvements Rider attached hereto as Exhibit C, as modified, amended, restated and supplemented from time to time.

(ccc) "Party" or "Parties" (whether or not by use of the capitalized term) shall mean jointly or individually (as the context dictates) the City and Developer.

(ddd) "Permit" shall mean any permit issued or to be issued by the appropriate Governmental Authority, including but not limited to applicable permits for construction, demolition, installation, foundation, dredging, filling, the alteration or repair or installation of sanitary plumbing, water supply, gas supply, electrical wiring or equipment, elevator or hoist, HVAC, sidewalk, curbs, gutters, drainage structures, paving and the like.

(eee) "Permitted Uses" shall mean any lawful uses or purposes.

(fff) "Person" (whether or not by use of the capitalized term) shall mean any natural person, trust, firm, partnership, corporation, limited liability company, joint venture, association or any other legal or business entity or investment enterprise.

(ggg) "Phase" or "Phases" shall have the meaning ascribed to such term(s) in Section 4.2.

(hhh) "Phase 1 Improvements" means housing for senior citizens with a minimum of 200 residential units and supportive services, of which ten percent (10%) will consist of affordable housing, forty percent (40%) will consist of workforce housing and fifty percent (50%) will consist of market rate housing.

(iii) "Plans and Specifications" means plans and specifications for the Buildings and other Improvements to be constructed as part of the Project or any Phase thereof, prepared by a licensed architect, submitted in such machine-readable format as is then customary in the architectural profession, consisting of architectural plans; elevations and sections indicating principal areas, core design and location; location, number, and capacity of elevators; basic structural system; minimum estimated electrical capacity and distribution system; general type of plumbing system; façade, placement, and orientation; and principal types of HVAC systems. Developer may modify the Plans and Specifications at any time or from time to time and, in such event, the "Plans and Specifications" shall mean the original Plans and Specifications as so modified.

(jjj) "Pre-Commencement Period" shall mean the period from the Effective Date through the Commencement Date, provided that if the Lease Term commences with respect to each Phase on a Phase-by-Phase basis, the Pre-Commencement Period for each Phase shall end on the Commencement Date for such Phase.

(kkk) "Pre-Phase 1 Transfer" shall have the meaning ascribed to such term in Section 17.1(a).

(lll) "Project" shall mean the overall development of the Buildings and other Improvements on the Development Site, in one or more Phases, as contemplated by this Agreement. If this Agreement terminates with respect to any Phase of the Project, or any Phase is otherwise released from the terms and conditions of this Agreement, then, as used herein, the term "Project" shall exclude the applicable Phase.

(mmm) "Property" shall mean, collectively:

- (i) The Development Site;
- (ii) The Improvements and any other improvements now or hereafter existing on the Development Site;
- (iii) The airspace above the Development Site; and
- (iv) The subsurface rights under the Development Site, sidewalks, Improvements, streets, avenues, curbs and roadways comprising or abutting the Development Site, and all rights of ingress and egress thereto.

(nnn) "Rent" shall mean, collectively, (i) Minimum Rent and (ii) all other sums that this Agreement requires Developer to pay the City or a third party, whether or not expressly called Rent, except Minimum Rent and Developer Contributions.

(ooo) "Review Period" shall mean the period commencing on the Effective Date and ending on the date that is one hundred twenty (120) days after the Effective Date or earlier termination of this Agreement, subject to extension for an additional period of sixty (60) days by delivering to the City written notice of such extension and payment of a \$25,000 extension fee no later than the expiration of the Review Period.

(ppp) "RFP" shall have the meaning ascribed to such term in the Recitals.

(qqq) "Site Work" shall mean site development work, including infrastructure, road and utility work and other pre-development work associated with the Project and the Park Improvements that may precede commencement of development of a Phase.

(rrr) "Space Lease" shall mean a lease (other than this Agreement or a Bifurcated Lease), sublease, license or other agreement between Developer or a Sublessee and a third party for the use or occupancy of space on or within the Property. Subleases to commercial or residential tenants (as opposed to Subleases for a Phase or Parcel Component) constitute Space Leases.

(sss) "Space Lessee" shall mean the tenant/lessee, subtenant/sublessee, or licensee, or their successors or assigns, under a Space Lease.

(ttt) "Sublease" shall mean any instrument pursuant to which all or a portion of the Property is subleased or sub-subleased, including but not limited to a grant by Developer to a Sublessee for the right to develop a specific Phase(s) of the Project or Parcel Component, but expressly excluding any Space Leases.

(uuu) "Subleasehold Mortgage" shall mean a mortgage or mortgages or other similar security agreements given to any Subleasehold Mortgagee encumbering the subleasehold interest of a Sublessee under a Sublease, and shall be deemed to include any mortgage or trust indenture under which any Sublease shall have been encumbered, as modified, amended, restated, renewed and consolidated from time to time.

(vvv) "Subleasehold Mortgagee" shall mean a Lender holding a Subleasehold Mortgage.

(www) "Sublessee" shall mean the entity to which a Sublease is granted or its successors or assigns under any such Sublease.

(xxx) "Unavoidable Delays" shall mean delays beyond the control of a party required to perform, such as (but not limited to) delays due to strikes; slowdowns; lockouts; acts of God; floods; fires; unusually severe weather conditions (such as tropical storms or hurricanes); Casualty; any act, neglect or failure to perform of or by one Party that caused the other Party to be delayed in the performance of any of its obligations hereunder; war; enemy action; civil disturbance; acts of terrorism; sabotage; pandemic, epidemic or other health crises; restraint by court or public authority; economic or political conditions or events that result in a significant decline in economic activity that materially impair access to debt or equity markets (such as a temporary or long term liquidity crisis, major recession or an event like 9/11); litigation or administrative challenges by third parties to the execution or performance of this Agreement, the procedures leading to its execution or the Entitlements; inability to obtain labor, materials or supplies or material increases in construction costs; delays in settling insurance claims; moratoriums or other delays relating to Laws and Ordinances; and/or delays due to site conditions discovered pursuant to Section 1.4 or Section 1.6. The obligated party shall be entitled to an extension of time because of its inability to meet a time frame or deadline specified in this Agreement where

such inability is caused by an Unavoidable Delay, provided that such party shall, within thirty (30) days after it has become aware of such Unavoidable Delay, give notice to the other party in writing of the causes thereof and the anticipated time extension necessary to perform. Neither party shall be liable for loss or damage or deemed to be in default hereof due to any such Unavoidable Delay(s), provided that party has notified the other as specified in the preceding sentence and further provided that such Unavoidable Delay did not result from the fault, negligence or failure to act of the party claiming the delay. Failure to notify a party of the existence of Unavoidable Delays within the thirty (30) days of its discovery by a party shall not void the Unavoidable Delays, but the time period between the expiration of the thirty (30) days period and the date actual notice of the Unavoidable Delays is given shall not be credited to the obligated party in determining the anticipated time extension.

ARTICLE 3

Rent and Developer Contributions

Section 3.1. Minimum Rent. Developer shall pay to the City, annual minimum rent in advance in an amount equal to One Hundred Thousand and No/100 Dollars (\$100,000.00) per Lease Year ("Minimum Rent"), commencing on the tenth (10th) day of the eleventh (11th) Lease Year following the Commencement Date for the first Phase of the Project and the tenth (10th) day of each Lease Year thereafter during the Lease Term (and any extension thereof). At Developer's election, Developer shall have the right to pay Minimum Rent in equal monthly installments in advance on or before the tenth (10th) day of each calendar month in an amount equal to one-twelfth of the Minimum Rent due for the applicable Lease Year (in lieu of payment of the entire annual Minimum Rent in advance for such Lease Year) by written notice to the City of such election at any time during the Lease Term, whereupon Minimum Rent shall be payable in installments unless and until Developer elects in writing to revert to annual payments. If Developer exercises the Option to purchase Option Property pursuant to Section 21.4 of this Agreement, then, commencing with the tenth (10th) day of the first month following the Option Closing, annual Minimum Rent shall be adjusted and reduced by an amount equal to the product of (i) the then current annual Minimum Rent (as previously reduced hereunder, if applicable), *multiplied by* (ii) a fraction, the numerator of which is the number of Building(s) included in the Option Property at the Option Closing, and the denominator of which is the total number of Buildings included in the Master Plan following receipt of the Entitlements for the Project (excluding any Building previously purchased pursuant to the Option, if applicable). The denominator in the foregoing formula shall adjust (increase or decrease) with the number of Buildings approved under the Master Plan from time to time, but shall exclude any Building purchased pursuant to the Option. By way of example, if annual Minimum Rent is \$100,000, the Master Plan consists of five (5) Buildings and Developer acquires title to one (1) Building at an Option Closing, Minimum Rent following the Option Closing shall be reduced by \$20,000 (i.e., $\$100,000 \times 1/5^{\text{th}}$); thereafter, if a second Building is acquired under the Option and no additional Buildings have been added to the Master Plan, Minimum Rent shall be further reduced by \$20,000 to \$60,000 ($\$80,000 \times 1/4^{\text{th}}$), and so on. If Developer previously paid Minimum Rent in any Lease Year in which an Option Closing has occurred and the Minimum Rent paid exceeds the amount due under this Section as a result of the Option Closing, then the excess Minimum Rent paid shall be credited against the next ensuing installments of Minimum Rent due hereunder until fully credited. Developer shall pay all Florida

sales taxes due on Rent under this Agreement (if any), which shall be due and payable simultaneously with the applicable Rent payment hereunder.

Section 3.2. Developer Contributions. In addition to the Minimum Rent, Developer will make the following contributions to CP Park, the JCC and/or the City for the benefit of the City and its residents (collectively, the "Developer Contributions"):

(a) Upon execution of this Agreement, Developer shall establish a nonprofit foundation to be governed by a board of directors comprised of educators, business executives and community leaders whose mission is to provide benefits to the youth of the City that utilize CP Park and the JCC. In support of the foundation, Developer shall contribute Fifty Thousand and No/100 Dollars (\$50,000.00) annually to the foundation for a period of ten (10) Lease Years, commencing on the Commencement Date and on each anniversary thereof up to and including the tenth (10th) Lease Year. The nature and type of benefits supported by the foundation shall be subject to the approval of the City, which shall not be unreasonably withheld.

(b) Developer shall donate to the City a total of One Million and No/100 Dollars (\$1,000,000.00), which amount shall be earmarked by the City for programs that directly benefit the residents of the City (such as utilities, food pantry, etc.). The foregoing donation shall be paid in equal installments at the Commencement of Construction of each Phase of the Project. By way of example, if the Project consists of five (5) Phases, Developer will contribute Two Hundred Thousand and No/100 Dollars (\$200,000.00) at the Commencement of Construction of each Phase.

(c) Developer will perform and construct the Park Improvements pursuant to this Agreement and the Park Improvements Rider.

Section 3.3. Late Payments; Sales Tax. In the event that any payment of Rent or Developer Contributions under Section 3.2(a) and Section 3.2(b) due to the City shall remain unpaid for a period of thirty (30) days following written notice that such payment is due and unpaid, interest at the Default Rate shall accrue against the delinquent payment(s) from the original due date until the City receives payment. All Rent, Developer Contributions and other payments due and payable to the City under this Agreement shall be paid to the City at the address specified herein for notice to the City. The City's sole remedies for any breach by Developer of its obligations under this Article 3 shall be limited to the imposition of interest at the Default Rate provided in this Section and specific performance and, in consideration thereof, Developer waives all defenses, except the defenses of abatement or tolling of payments where applicable under this Agreement, in any action for specific performance brought by the City to enforce its rights under this Article.

Section 3.4. Submission to Condominium Ownership. To promote home ownership by residents in the City, Developer shall have the right (but not the obligation) to submit a Phase or Parcel Component to a condominium or other collective form of ownership and convey title to residential condominium units to unit purchasers. In such event, the Parties shall negotiate in good faith reasonable modifications to this Agreement (or Bifurcated Lease, as applicable) to implement such condominium regime, including, without limitation, modifications intended to facilitate mortgage loans and other financing for unit purchasers and the deletion of the City's right to

terminate this Agreement (or Bifurcated Lease, as applicable) with respect to the portion of the Property subject to the condominium regime.

ARTICLE 4

Development of Project

Section 4.1. Permitted Uses. During the Lease Term, the Property may be used for the Permitted Uses in accordance with the terms and conditions of this Agreement. The Parties recognize and acknowledge that the manner in which the Property and Improvements are developed, used and operated are matters of importance to the City and to the general welfare of the community. Accordingly, Developer agrees that, during the Lease Term, Developer will use reasonable efforts to create a development on the Property that provides strong access links between the Property, the JCC and CP Park, and enhances the surrounding community and economic development through a quality mixed-use residential and commercial development of character and operation consistent with that of similar, comparable projects and uses in the City of North Miami, Florida. Developer further agrees to work in good faith to provide priority to employees of the City who meet applicable affordable and/or workforce housing requirements with leasing opportunities in the residential component of the Project, subject to the requirements of any Laws and Ordinances and provided that such efforts shall not require Developer to delay the residential lease-up of the Improvements or have an adverse financial impact on the Project.

Section 4.2. Phased Development. Developer shall have the right to develop and construct the Buildings and other Improvements comprising the Project on the Property in one or more Phases, as determined by Developer, in its sole discretion. For purposes of this Agreement, each phase of the Project is referred to individually as a "Phase" and, if more than one, collectively, as the "Phases". Notwithstanding the fact that any Phase may be identified numerically on any plans or construction schedules for the Project, each Phase may be constructed and developed independently of the other Phases and in any sequence; provided, however, that the first Phase of the Project must include the Phase 1 Improvements as provided in Section 4.3. In addition, notwithstanding anything to the contrary contained in this Agreement, each Phase may be constructed and developed pursuant to this Agreement, a Bifurcated Lease, one or more Subleases or through a combination thereof. If this Agreement terminates with respect to any Phase of the Project, or any Phase is otherwise released from the terms and conditions of this Agreement for any reason (as a result of a bifurcation or otherwise), then, from and after the date the applicable Phase is released or removed from this Agreement, Developer shall have no further rights or obligations with respect to such Phase (with respect to the payment of Rent, payment of the Developer Contributions, payment of Impositions, construction, maintenance or repair, or otherwise) hereunder, except as otherwise expressly provided herein.

Section 4.3. Development. Subject to compliance with the provisions of this Agreement, Developer may perform any lawful construction on the Property without the consent of the City. Without limiting the foregoing, the Parties acknowledge and agree that the Master Plan is a conceptual development plan for the Property and includes presently proposed Phases of the Project, presently anticipated time frames for development, the presently proposed uses of the Project, and presently proposed scope of the Park Improvements (assuming receipt of all Entitlements for maximum development potential). A projected timeline for the Project

contemplated by the Master Plan is set forth on Exhibit D attached hereto. Developer and the City recognize and agree that the development plan for the Project will change over time based on market conditions and needs, and the scope of the Project and Park Improvements will change based on the Entitlements obtained for the Project, and that Developer requires the flexibility to react to those changing conditions and the actual Entitlements obtained from Governmental Authorities. Thus, the Master Plan should be considered a general guideline for the development of the Project on the Property, which Developer may modify from time to time in its sole discretion. Likewise, the projected time frames and sequence of development of the Project is market driven and, therefore, such time frames and sequencing set forth on Exhibit D are aspirational goals and may be changed from time to time by Developer in its sole discretion. However, notwithstanding the foregoing, with respect to the Park Improvements and the Phase 1 Improvements, Developer agrees as follows:

(a) Developer shall (i) use commercially reasonable efforts to submit Applications for the Entitlements within ninety (90) days following the Effective Date; subject, however, to Unavoidable Delay and a day-for-day extension due to any delay in the submission of Applications or other required documents for the Entitlements caused by or arising from delays by the City, including the City's failure to cooperate with Developer and join in or execute and deliver such Applications and other documents as required by Section 4.5, and (ii) pursue the Entitlements with commercially reasonable diligence.

(b) Developer shall cause Commencement of Construction of the Park Improvements to occur no later than twelve (12) months following the Entitlement Date, subject to extension (i) due to Unavoidable Delay, and (ii) for up to three (3) additional periods of one hundred eighty (180) days each by delivering to the City written notice of such extension and payment of a \$100,000 extension fee per extension no later than the then-applicable deadline (each a "Park Improvements Extension").

(c) Developer shall cause Commencement of Construction of the Phase 1 Improvements to occur no later than twenty-four (24) months following the Entitlement Date (the "Phase 1 Deadline"), subject to extension (i) due to Unavoidable Delay, and (ii) for an additional period of one hundred eighty (180) days by delivering to the City written notice of such extension and payment of a \$100,000 extension fee no later than the then-applicable deadline; provided, however, that in the event Developer exercises any Park Improvements Extension as provided in Section 4.3(b) above, the Phase 1 Deadline shall automatically be extended on a day-for-day basis by the number of days in each such Park Improvements Extension (and shall remain subject to further extension under clauses (i) and (ii) of this subsection). The Phase 1 Improvements shall be developed and constructed as part of the first Phase of the Project.

(d) Issuance of the permanent Certificate of Occupancy for the first Phase of the Project shall be conditioned upon Completion of Construction of the Park Improvements, except only if Completion of Construction of the Park Improvements is delayed due to Unavoidable Delay.

Developer shall promptly notify the City of all material changes to the Master Plan. All construction at the Property (including all on-site and off-site improvements required for the

Project) shall be performed in a good and workmanlike manner and in compliance with Laws and Ordinances and the Plans and Specifications for the Improvements. The City shall not be responsible for any costs or expenses of construction of the Buildings and Improvements, except as otherwise expressly provided in this Agreement or mutually agreed to by the Parties.

Section 4.4. Plans and Specifications. Developer shall submit to the City a courtesy copy of any Plans and Specifications for the Project or any Phase thereof at the same time that the Plans and Specifications are submitted for Entitlements and Permits, as applicable. If such Plans and Specifications are changed in any material respect, then Developer shall promptly deliver copies of such changes to the City for its information. Neither the retention of the Plans and Specifications nor any other action the City takes regarding the Plans and Specifications as owner of the Fee Estate shall constitute an opinion or representation by the City as to their sufficiency.

Section 4.5. Entitlements; Applications; Cooperation. Developer shall cause all applicable Applications to be submitted for the Project, each Phase and the Park Improvements. No construction of a Phase or any Improvements (including the Site Work) will commence without possession of all appropriate Entitlements and Permits for such Phase or Improvements from all Governmental Authorities. Developer shall not submit Applications or apply for the Entitlements or amendments to same in the City's name without the prior written consent of the City, which shall not be unreasonably withheld, conditioned or delayed. The City in the City's capacity as owner of the Fee Estate (and not as a municipality) shall reasonably cooperate, provided there is no material cost or increased obligation or liability to the City (other than its costs of review, which shall be at the City's sole cost and expense) with Developer (a) in obtaining applicable Entitlements, including where reasonably necessary joining in any documents for which the owner of the Fee Estate must join to bind the Property, (b) in executing and submitting Applications, including for any grants, subsidies, loans, surtax proceeds, abatements or other payments or financial incentives (from any Governmental Authority or any other source) that may be available to the City and that can be passed through to Developer to offset costs of the Project or Park Improvements, and (c) in joining in, executing and delivering any easement (or agreement required to relocate same), covenant, condition, restriction, plat or other instrument as Developer may from time to time reasonably request, including easements and other rights of access to the JCC, CP Park, the Development Site or any Phase thereof where the Commencement Date has not yet occurred, and any sidewalks, streets, roads and other areas adjacent to the Overall Land, in connection with the Park Improvements and the development, construction, operation, maintenance, repair or replacement of the Site Work or the Project or any Phase thereof. Developer shall reimburse the City's actual and reasonable third-party costs and expenses of such cooperation. The City assumes no liability by cooperating with Developer hereunder as owner of the Fee Estate and will not be entitled to any additional consideration for such cooperation if Developer secures any such grants, subsidies, loans or other payments or financial incentives or the Entitlements or any such easements, covenants, restrictions, plats or other instruments. If requested by Developer, the City (as fee owner of the Fee Estate) shall, within seven (7) Business Days after such request, execute, acknowledge and deliver any such documents or submit such Applications or such other instruments as may reasonably be required by Developer for such purposes, or cause the execution, acknowledgement, delivery or submission of same. In the event that the City fails to timely comply with such request, then Developer shall, after the expiration of such seven (7) Business Day period, notify the City Manager and City Attorney in writing of the need for such documents, Applications or other instruments and, in the event that the City fails to comply with such request

within five (5) days after Developer's second request, Developer shall have the right to execute, acknowledge, deliver and submit any such documents, Applications or other instruments for, on behalf of, and as attorney-in-fact for the City, in its capacity as fee owner of the Fee Estate.

Section 4.6. Connection Rights. The City grants to Developer, in connection with the Site Work, Project and Park Improvements, the non-exclusive right to construct utility infrastructure and connections and to tie-into existing infrastructure and utility connections serving the Property and to perform the Site Work as indicated on the Plans and Specifications, subject to the right of the City to construct above or below grade connections on any land or facilities, excluding the Overall Land, owned or operated by the City or any other Governmental Authority. The City shall cooperate with Developer as provided in Section 4.5 to effect the intent of this provision and to facilitate Developer's construction of any off-site standard and non-standard improvements and infrastructure required for the development of the Project, including performance of the Site Work.

Section 4.7. City's Rights As Sovereign. The City and Developer expressly acknowledge and agree that, notwithstanding any provision of this Agreement and the City's status as the owner of the Fee Estate and landlord during the Lease Term, the City retains all of its sovereign prerogatives and rights as a municipality under Florida law (but not in regard to its status as owner of the Fee Estate and the performance of its contractual duties hereunder) and shall, when acting in its regulatory capacity, not be estopped from withholding or refusing to issue any approvals of Applications or Entitlements; from exercising its planning or regulatory duties and authority; or from requiring development under present or future Laws and Ordinances applicable to the design, construction and development of the Buildings, Improvements and Project provided for in this Agreement. However, the City agrees that, during the Lease Term, the City's development regulations applicable to the development of the Project under Laws and Ordinances in effect as of the Entitlement Date shall govern the development and construction of the Project under this Agreement to the fullest extent permitted by law. To that end, at Developer's request, the City agrees to cooperate with Developer, in good faith and with reasonable diligence, with any efforts by Developer to seek approval from applicable Governmental Authorities under Chapter 163 of the Florida Statutes that such development regulations shall govern the development of the Project throughout the Lease Term, including without limitation the City's joinder in any Applications for and active support of such approval. Recognizing the public and private benefits afforded by the Project, the City agrees to use reasonable, diligent efforts to facilitate the approval and permitting process through the City in order to expedite the development of the Project and each Phase thereof as soon as reasonably practicable in an effort to assist Developer in achieving its development plan and timeline for the Project. In furtherance thereof, the City has or will designate the City's Designated Representative to serve as the City's point of contact and liaison with Developer in order to coordinate and facilitate the submission of Applications, Permit documents and the like across all of the various departments and offices of the City which have the authority, right or responsibility to review and approve same on behalf of the City.

Section 4.8. Bonds. The Parties agree that the Improvements are not a public building or public work as contemplated under Section 255.05, Florida Statutes. Prior to Commencement of Construction of each Phase, Developer shall deliver to the City executed performance and payment bond(s), or reasonably equivalent security (such as a guarantee), if required by the City to guarantee that the construction of the Improvements in such Phase will be completed and that

all contractors, subcontractors and suppliers will be paid. The amount of such bond(s) or other security shall be equal to the contract price between Developer and its direct general contractor(s) for such Phase or such other lesser amount as may be customary. If the security is in the form of bonds, each bond shall name the City, Developer and Developer's Lender(s) as dual obligees on the multiple obligee rider attached to the bonds, and shall be issued by a surety reasonably acceptable to the City. Developer shall have the right from time to time to substitute or replace, or cause its contractors to substitute or replace, such bonds or other security as deemed necessary by Developer for any portion of the work then being constructed. With respect to each Phase, any such performance and payment bond(s), or other security, and Developer's obligations thereunder (if any), shall terminate upon Completion of Construction of such Phase. The rights of the City under any bond(s) or other security shall be subordinate to the rights of any Lender.

Section 4.9. Green Practice Standard. To the extent required by Laws and Ordinances, all Buildings shall achieve LEED Certification or greater or the equivalent under a similar nationally recognized green practice standard.

Section 4.10. Certain Deliveries.

(a) Developer agrees to provide City with reasonably complete quarterly (during both design and construction) written updates regarding its progress and construction activities, including estimated timetables (with periodic updates), subleasing, list and status of existing Entitlements and Permits, list and status of Entitlements and Permits applied for, schedule update of all construction projects, disclosure of Unavoidable Delays, disclosure of changes in the Master Plan and such other information as the City may reasonably request and is not confidential. The progress reports shall be delivered to the City's Designated Representative. The provision of information and materials under this Section is intended solely for informational purposes (and not a warranty of any kind) to allow the City to monitor the progress of the Entitlements and development of the Project and each Phase thereof in an efficient fashion and not for purposes of consent or approval, except that the City shall be entitled to rely on the information provided by Developer regarding Unavoidable Delays and changes in the Master Plan.

(b) When Developer has obtained a Certificate of Occupancy at Completion of Construction of each Phase, Developer shall provide the City with a courtesy copy thereof and, when available, a courtesy copy of "as-built" Plans and Specifications and an "as-built" survey for such Phase, either of which may be in electronic format.

Section 4.11. Ownership of Improvements. All Buildings and Improvements and all material and equipment provided by Developer or on its behalf which are incorporated into or become a part of the Project shall, upon being added thereto or incorporated therein, and the Project itself, be owned by and remain the property of Developer during the Lease Term, but subject to the same (excluding any personal property of Developer, Sublessees or Space Lessees) becoming the property of the City as part of the Fee Estate at the expiration or termination of this Agreement and the Lease Term.

Section 4.12. Designation of the City's Representative. The City Manager and the City's Designated Representative shall have the power, authority and right, on behalf of the City,

in its capacity as the contract party under this Agreement and landlord of the Property, and without any further resolution or action of the City Council, to:

(a) review and approve documents, applications, lease assignments and requests required or allowed by Developer to be submitted to the City pursuant to this Article and this Agreement, including without limitation the Master Covenants and any Parcel Declaration;

(b) consent to actions, events, and undertakings by Developer for which consent is required by the City;

(c) make appointments of individuals or entities required to be appointed or designated by the City in this Agreement;

(d) execute Confirmation of Date(s) Certificates, grant extensions any deadlines, execute non-disturbance agreements, estoppel statements and certificates and instruments as provided elsewhere in this Agreement (whether in connection with this Agreement, any Bifurcated Lease, any Sublease, any Space Lease, the Master Covenants, any Parcel Declaration any Mortgage, any Mezzanine Financing, or otherwise);

(e) consent to (or join in) and execute any amendment or modification of any existing recorded covenants, easements and other instruments affecting the Property that require modification in order to develop the Project or any Phase pursuant to this Agreement;

(f) execute on behalf of the City any and all consents, agreements, easements, applications or other documents, needed to comply with applicable regulatory procedures and secure the Entitlements, Permits or any other approvals needed to accomplish the construction of any and all Improvements to the Property or for the Project;

(g) execute any and all documents on behalf of the City necessary or convenient to the foregoing approvals, consents, appointments and agreements;

(h) execute on behalf of the City any Bifurcated Leases and any other agreements or instruments necessary to effectuate the bifurcation of this Agreement as contemplated herein without the need for City Council approval; and

(i) amend this Agreement to correct any typographical or non-material errors or to address revisions or supplements to this Agreement that may arise if Developer undertakes a "for sale" condominium regime in connection with any portion of the Property (including any particular Phase or Parcel Component).

The City's Designated Representative may exercise the authority granted in this section, provided that (i) such exercise of authority shall be at no cost to the City other than its cost to review the proposed amendments, agreements, documents and other instruments or materials, and shall not impose additional obligations or liabilities or potential obligations or liabilities on the City beyond those set forth in this Agreement, and (ii) the form and provisions of such amendments,

agreements, documents and other instruments or materials shall be acceptable to the City's Designated Representative in his or her reasonable discretion.

Section 4.13. Adjustment of Property Descriptions. Developer shall have the right from time to time, following completion of construction of any Improvements located within the air rights or subsurface rights portion of the Property, to adjust and replace the description of such portions of the Property with actual legal descriptions of the Improvements prepared by a Florida licensed surveyor, which legal descriptions may include airspace or subsurface areas outside the actual location of Improvements, *inter alia*, to simplify the preparation of such legal descriptions given potential variations in the size and features of the Improvements, to accommodate potential settling of the Improvements, and to accommodate construction variations resulting from restoration and reconstruction after Casualty. Developer shall have the right from time to time to record notice in the Public Records of Miami-Dade County, Florida, of the actual location and legal description of such Improvements upon final determination thereof in accordance with this paragraph. Prior to recording, Developer shall provide a courtesy copy of each proposed notice to the City for comment (which must be reasonable) as to form, and the City shall have a period of ten (10) days within which to provide such comments or request a reasonable period of additional time to provide such comments, failing which same shall be deemed approved. Following recordation of such notice(s), the Property shall be deemed modified as provided therein for purposes of this Agreement.

Section 4.14. Managed Interference. The City acknowledges and agrees that (a) operations at CP Park and the JCC may be affected during performance of the Site Work as well as construction and operation of the Improvements and the Park Improvements, by or as a result of, *inter alia*, installation and construction of infrastructure and other Site Work on or about CP Park and the JCC, relocation of utilities and other infrastructure affecting CP Park and the JCC, general noise emanating from construction of the Project, vehicle and traffic noise (including loading and unloading of trucks) from construction and other large vehicles, construction staging, construction cranes and other heavy equipment, traffic congestion and the like, and (b) these customary conditions, activities and disruptions shall not constitute a nuisance or create any right in favor of the City to stop, delay or interfere with the construction or operation of the Project pursuant to this Agreement. If the Site Work or the development and construction of the Project necessitates the temporary closure of CP Park or the JCC, the City agrees to cooperate with Developer and to close CP Park and/or the JCC as required to enable the Site Work and development and construction of the Project (as applicable), upon Developer's reasonable advance notice. The City further agrees that the use of CP Park and the JCC shall not materially and adversely interfere with the Site Work or Developer's development and construction of the Project or Developer's use and operation of the Project during the Lease Term. The closure of all or a portion of CP Park and the JCC during the construction of the Park Improvements shall be governed by the Park Improvements Rider.

ARTICLE 5

Payment of Impositions

Section 5.1. Developer's Obligations for Impositions. Developer shall pay or cause to be paid, prior to their becoming delinquent, all Impositions, which at any time following the

Commencement Date and during the Lease Term have been, or which may become, a lien on the Property or any part thereof; provided, however, that:

(a) If, by law, any Imposition (for which Developer is liable hereunder) may be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Developer may, at its option, pay the same in installments, including any accrued interest on the unpaid balance of such Imposition, provided that Developer shall pay those installments which are to become due and payable after the expiration of the Lease Term, but which relate to a fiscal period fully included in the Lease Term; and

(b) Any Imposition for which Developer is liable hereunder relating to a fiscal period, a part of which period is included within the Lease Term and a part of which is included in a period of time after the expiration or termination of the Lease Term, shall be adjusted between the City and Developer as of the expiration or termination of the Lease Term so that Developer shall pay only that portion of such Imposition which is applicable to the period of time prior to expiration or termination of the Lease Term, and the City shall pay the remainder thereof if it is otherwise obligated to do so;

(c) Any Imposition relating to the period prior to the Commencement Date shall be the sole responsibility and obligation of the City;

(d) If the City transfers its Fee Estate in any portion of the Property and by virtue of such transfer, the Property becomes subject to ad valorem taxes which were not applicable to the Property or any portion thereof prior to such transfer, or if prior to or as a result of such transfer, the Property had become or becomes subject to ad valorem taxes which are not an Imposition, then from and after such transfer the new owner of the Fee Estate, and not Developer, shall be liable for and shall pay such taxes; and

(e) Upon the request of Developer, the City shall cooperate with Developer from time to time as needed for Developer to receive (i) any sales tax exemptions provided under any applicable Laws and Ordinances, (ii) any ad valorem tax exemption applicable to real property owned by a municipality under any applicable Laws and Ordinances, and (iii) any benefits to which Developer may be entitled, including but not limited to any entitlements as a result of the Project being in an enterprise, empowerment or opportunity zone.

Section 5.2. Contesting Impositions.

(a) Developer shall have the right to contest the amount or validity, in whole or in part, of any Imposition, for which Developer is or is claimed to be liable, by appropriate proceedings diligently conducted in good faith but only after payment of such Imposition, unless such payment or payment thereof under protest would operate as a bar to such contest or interfere materially with the prosecution thereof, in which event, notwithstanding the provisions of Section 5.1 herein, Developer may postpone or defer payment of such Imposition if:

(i) Neither the Property nor any part thereof would by reason of such postponement or deferment be in danger of being forfeited or lost; and

(ii) Upon the termination of any such proceedings, Developer shall pay the amount of such Imposition or part thereof, if any, as finally determined in such proceedings, together with any costs, fees, including counsel fees, interest, penalties and any other liability in connection therewith.

(b) The City shall not be required to join in any proceedings referred to in this Section 5.2 unless the provisions of any Laws and Ordinances, at the time in effect, shall require that the City is a necessary party to such proceedings, in which event the City shall participate in such proceedings at Developer's cost.

Section 5.3. Separate Tax Parcels. Upon Developer's request, the City shall cooperate with Developer and tenants under Bifurcated Leases in efforts to have the Miami-Dade County Property Appraiser issue separate tax folio numbers to (a) each Phase of the Project leased pursuant to this Agreement and/or such Bifurcated Leases, and (b) each Parcel Component in a Parcel Development Regime. To the extent that Developer's rights under this Agreement or any tenant's rights under a Bifurcated Lease are further partially assigned or subleased, the City also agrees to cooperate with Developer, each tenant under a Bifurcated Lease and any applicable Sublessee in efforts to have the Miami-Dade County Property Appraiser issue separate tax folio numbers to such assigned or subleased portion of the Property.

ARTICLE 6

Surrender

Section 6.1. Surrender of Property. Developer, on the last day of the Lease Term, or upon any earlier termination of this Agreement, shall surrender and deliver up the Property to the possession and use of the City without delay and, subject to the provisions of Article 16 and Article 19 herein, with the Buildings and Improvements in their then "as is" condition and subject to reasonable wear and tear, casualties and other events in the nature of an Unavoidable Delay excepted.

Section 6.2. Removal of Personal Property or Fixtures. Where furnished by or at the expense of Developer, Sublessee, or any Space Lessee, or secured by a lien held by either the owner or a lender financing same, signs, furniture, furnishings, movable trade fixtures, business equipment and alterations and/or other similar items may be removed by Developer, or, if approved by Developer, by such Sublessee, Space Lessee or lien holder at, or prior to, the termination or expiration of this Agreement; provided however, that if the removal thereof will damage a Building or necessitate changes in or repairs to a Building, Developer shall repair or restore (or cause to be repaired or restored) the Building to a condition substantially similar to its condition immediately preceding the removal of such furniture, furnishings, movable trade fixtures and business equipment, or pay or cause to be paid to the City the reasonable cost of repairing any damage arising from such removal.

Section 6.3. Rights to Personal Property After Termination or Surrender. Any personal property of Developer which shall remain in the Improvements or on the Property after the fifteenth (15th) day following the termination or expiration of this Agreement and the vacation by Developer from the Building, may, at the option of the City, be deemed to have been abandoned

by Developer and, unless any interest therein is claimed by a Lender, said personal property may be retained by the City as its property or be disposed of, without accountability, in such manner as the City may see fit.

Section 6.4. Survival. The provisions of this Article 6 shall survive any termination or expiration of this Agreement.

ARTICLE 7

Insurance and Indemnification

Section 7.1. Insurance. The City and Developer hereby agree that the terms and provisions governing the insurance required pursuant to this Agreement are contained in Schedule 7 attached hereto, which is hereby incorporated herein by reference. Developer acknowledges and agrees that the director of the City's Risk Management Department has the right from time to time to make reasonable revisions to the insurance requirements as set forth in Schedule 7, provided same are consistent with the insurance required of comparable tenants of City-owned property.

Section 7.2. Indemnification.

(a) Subject to the terms of Section 7.3, Developer shall indemnify and hold harmless the City and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which the City or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings ("Claims") arising out of, relating to or resulting from the performance of this Agreement by Developer or its employees, agents, officers, partners, members, principals or contractors; provided, however, that this indemnity shall not extend to or cover any Claims arising out of the negligence or willful misconduct of the City or its officers, employees, agents, contractors or instrumentalities or any liability of the City to third parties existing at or before the Commencement Date. Developer shall pay all Claims in connection with any matters indemnified hereunder and shall investigate and defend (with counsel reasonably approved by the City) all claims, suits or actions of any kind or nature in the name of the City, where applicable, with respect to such matters, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Subject to the terms of Section 7.3, Developer expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Developer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as provided herein.

(b) Subject to the limitations in Section 768.28 of the Florida Statutes (as amended), the City shall indemnify and hold harmless Developer and its employees, agents, officers, partners, members and principals from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which Developer or its employees, agents, officers, partners, members or principals may incur as a result of Claims arising out of, relating to or resulting from the performance of this Agreement by the City or its employees, agents, officers, contractors or instrumentalities; provided, however, that

this indemnity shall not extend to or cover any claims, losses or damages arising out of the negligence or willful misconduct of Developer or its employees, agents, officers, partners, members, principals or contractors. The City shall pay all Claims in connection with any matters indemnified hereunder, and shall investigate and defend all Claims, suits or actions of any kind or nature in the name of Developer, where applicable, with respect to such matters, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The City expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the City shall in no way limit the responsibility to indemnify, keep and save harmless and defend Developer or its employees, agents, officers, partners, members and principals as herein provided.

Section 7.3. Waiver of Subrogation. Developer waives all rights to recover against the City, its employees, agents, officers, contractors or instrumentalities, for any Claims arising from any cause covered by property insurance required to be carried by Developer hereunder. Developer shall cause its insurer(s) to issue appropriate waiver of subrogation rights endorsements to all such policies of insurance carried by Developer with respect to the Property. The City waives all rights to recover against Developer, its employees, agents, officers, partners, members, principals or contractors, for any Claims arising from any cause covered by property insurance (irrespective of whether the insurance is carried by Developer or the City). The City shall cause its insurer(s) to issue appropriate waiver of subrogation rights endorsements in favor of Developer to all such policies of insurance carried by the City in connection with the Property. Any self-insurance program of the City shall be deemed to include a full waiver of subrogation consistent with this Section.

ARTICLE 8

Operation

Section 8.1. Control of Property. The City hereby agrees that, subject to any express limitations imposed by the terms of this Agreement, Developer shall be free to perform and exercise its rights under this Agreement and shall have exclusive control and authority to develop, direct, operate, lease and manage the Property, including with respect to the Project and all Phases thereof, and the rental or sale of the Buildings and Improvements. Without limiting the foregoing, Developer is hereby granted the exclusive right to bifurcate the leasehold interest under this Agreement as contemplated in Section 17.2 and to enter into any Bifurcated Lease, Sublease, Space Lease, license or similar grant for any part or all of the Buildings and/or Improvements. Developer covenants and agrees to use reasonable efforts to operate the Property consistent with prudent business practices to promote economic development in the area surrounding the Property; provided, however, that nothing contained herein shall limit or restrict Developer's right to limit access to or close all or any portion of the Property on a temporary basis (i) when necessary to perform repairs or address events of Unavoidable Delay, (ii) to address appropriate security measures, (iii) in the case of an emergency, or (iv) for other reasonable closures that are necessary in Developer's reasonable judgment.

Section 8.2. Repair and Relocation of Utilities. Developer shall maintain and repair, and Developer shall have the right to replace, relocate, and remove, as necessary, utility facilities within the Property required for the development and construction of each Phase of the Project, or

for the operation of the Property and all existing and future Improvements. The City agrees to cooperate with Developer in relocating existing utility lines and facilities on or adjacent to the Property which need to be relocated to develop or improve the Project, including reasonable use of existing easements benefiting the Development Site or Overall Land and adjoining rights of way to the Overall Land, and the location and stubbing of utility connections leading to the Property in a manner consistent with the Plans and Specifications. Such relocation of existing utilities shall be at the sole expense of Developer.

Section 8.3. Rights to Erect Signs; Revenues Therefrom.

(a) The City hereby agrees that, to the extent permitted by law, Developer shall have the exclusive right, during the Lease Term, without the City's consent, to place, erect, maintain and operate, or cause, allow and control the placement, erection, maintenance and operation of any signs or advertisements in accordance with subparagraph (b) below, in or on the Property so long as such name does not negatively impact the reputation of the City or disparage the City. Developer shall be responsible for obtaining any and all Permits and licenses which may be required from time to time by any Governmental Authority for such signs and advertisements, and the City agrees to execute any consents reasonably necessary or required by any Governmental Authority as part of Developer's application for such Permits or licenses.

(b) The following types of signs and advertising shall be allowed, to the extent allowed by Laws and Ordinances:

(i) Signs or advertisements identifying the Buildings and Improvements to the Property and in particular office, residential (including multifamily, housing for seniors, condominium and any other form of residential use), retail and/or commercial uses therein or otherwise customary for mixed-use developments, and any "branding" graphics developed by Developer in connection with the Project, as well as signs indicating security features or rules and regulations as may pertain to any Improvements;

(ii) Signs or advertisements offering all or any portion of the Property for sale or rent; and

(iii) Signs or advertisements advertising or identifying any product, company, service or event as permitted under Laws and Ordinances, including without limitation signage requested or desired by a Lender or any other Person providing financing or any developer, contractor, subcontractor, supplier or joint venture participating in the Project or any portion thereof, including Developer and Developer's Affiliates.

(c) Developer shall have the right to remove any signs which, from time to time, may have become obsolete, unfit for use or which are no longer useful, necessary or profitable in the conduct of Developer's business, or in the occupancy and enjoyment of the Property by Developer, or any Sublessees or Space Lessees.

(d) As used in this Agreement, "sign(s)" shall be deemed to include any display of characters, letters, illustrations, logos or any ornamentation designed or used as an advertisement or to indicate direction, irrespective of whether the same be temporary or permanent, electrical, illuminated, stationary or otherwise.

(e) Developer shall be entitled but not required to rent or collect a fee for the display or erection of signs and advertisements, which fee (if collected) shall be retained by Developer.

Section 8.4. Designation of Buildings by Name. Developer shall have the right and privilege, without the City's consent, of designating name(s) by which the Buildings, the Project or any Phase thereof shall be known to the general public.

Section 8.5. Developer's Signs in Park. Developer shall be permitted to place directional and way-finding signs within the Overall Land at the sole expense of Developer and at locations and in sizes mutually agreed to by the City and Developer.

ARTICLE 9

Repairs and Maintenance

Section 9.1. Maintenance of Property. Throughout the Lease Term, Developer, at its sole cost and expense, shall keep the Property in good order and condition, and make all necessary repairs thereto, ordinary wear and tear and loss by Casualty excepted. The term "repairs" shall include all replacements, renewals, alterations, additions and betterments deemed necessary by Developer in its reasonable business judgment. All repairs made by Developer shall be at least substantially similar in quality and class to the original work, ordinary wear and tear and loss by Casualty excepted. Subject to Article 16, Developer shall keep and maintain all portions of the Property and all Improvements in reasonable order and operating condition, and reasonably free of dirt, rubbish and graffiti. Except as otherwise provided in this Agreement, the City shall have no obligation with respect to the maintenance and repair of the Property. Following completion of the Park Improvements pursuant to this Agreement, Developer shall have no obligation with respect to the maintenance and repair of CP Park or the JCC.

Section 9.2. Operation of CP Park and JCC. During the Lease Term, the City shall, at the City's sole cost and expense, maintain, manage and operate CP Park and the JCC in the ordinary course of business and in a manner consistent with the City's management practices for parks and community centers of comparable quality to CP Park and the JCC (as improved with the Park Improvements) in the City. The term "repairs" shall include all replacements, renewals, alterations, additions and betterments deemed necessary by the City in its reasonable business judgment. All repairs made by the City shall be at least substantially similar in quality and class to the Park Improvements, ordinary wear and tear and loss by Casualty excepted. Without limitation the foregoing, the City shall, during the Lease Term, (a) operate CP Park and the JCC as a public park and community center, (b) maintain and keep CP Park and the JCC and all portions thereof and improvements thereon (including the Park Improvements) in substantially similar condition as exist following completion of the Park Improvements, reasonable wear and tear and loss by Casualty excepted, and reasonably free of dirt, rubbish and graffiti, and (c) be solely

responsible for all costs and expenses of any kind or nature associated with the foregoing, including without limitation operating costs, capital expenditures, taxes and insurance costs.

ARTICLE 10

Compliance with Laws and Ordinances

Section 10.1. Compliance by Developer. Throughout the Lease Term, Developer, at Developer's sole cost and expense, shall promptly comply in all material respects with all Laws and Ordinances applicable to the Property or the Improvements, provided such Laws and Ordinances apply to similar properties located in the City of North Miami as the Property generally, and are not adopted specifically to apply to the Property or similar leases such as the leasehold interest under this Agreement. To the extent that Developer's compliance shall require the cooperation and participation of the City, the City agrees to so cooperate and participate.

Section 10.2. Contest by Developer. Developer shall have the right, after prior written notice to the City, to contest the validity or application of any Law or Ordinance by appropriate legal proceedings diligently conducted in good faith, in the name of Developer without cost or expense to the City, except as may be required in the City's capacity as a party adverse to Developer in such contest. If counsel is required, the same shall be selected and paid by Developer, except to the extent that the City is an adverse party to Developer, in which case Developer shall have no obligation to pay for the City's counsel. The City hereby agrees to execute and deliver any necessary Applications (including any papers, affidavits, forms or other documents) necessary for Developer to confirm or acquire status to contest the validity or application of any Laws and Ordinances, which Applications shall be subject to the reasonable approval of counsel for the City. The City shall not be required to join in any such contest unless its joinder is required for a contest to be valid.

ARTICLE 11

Changes and Alterations to Improvements

Developer shall have the right at any time and from time to time during the term of this Agreement, at its sole cost and expense and in its sole discretion, to expand, rebuild, alter and/or reconstruct the Buildings and Improvements, and to raze the Buildings and Improvements, provided that any material changes to the Phase 1 Improvements that either reduce the number of residential units or the number of such units allocated to affordable and workforce housing in any material respect shall require the consent of the City, in its sole but reasonable discretion. In connection with the foregoing, Developer shall obtain all approvals, Permits and authorizations required under applicable Laws and Ordinances

ARTICLE 12

Discharge of Obligations

Section 12.1. Developer's Duty. During the Lease Term, except for Leasehold Mortgages, Subleasehold Mortgages, Mezzanine Financing or as otherwise allowed under this

Agreement, Developer will discharge or cause to be discharged any and all obligations incurred by Developer which give rise to any liens on the Property, it being understood and agreed that Developer shall have the right to withhold any payment (or to transfer any such lien to a bond in accordance with applicable Laws and Ordinances) so long as it is in good faith disputing liability therefor or the amount thereof, provided (a) such contest of liability or amount operates as a stay of all sale, entry, foreclosure, or other collection proceedings in regard to such obligations, or disputed payments are escrowed while the parties negotiate the dispute, and (b) such action does not subject the City to any expense or liability (or Developer covers the cost thereof).

Section 12.2. City's Duty. During the Lease Term, the City will discharge any and all obligations incurred by the City which give rise to any liens on the Property, it being understood and agreed that the City shall have the right to withhold any payment so long as it is in good faith disputing liability therefor or the amount thereof, provided such contest of liability or amount operates as a stay of all sale, entry, foreclosure, or other collection proceedings in regard to such obligations, and such action does not subject Developer to any expense or liability (or the City covers the cost thereof).

ARTICLE 13

Use of Property; Environmental Matters

Section 13.1. Use of Property by Developer.

(a) Developer shall not knowingly permit the Property to be used for (i) any unlawful or illegal business, use or purpose, or for any business, use or purpose which is extra-hazardous or constitutes a legal nuisance of any kind (public or private); or (ii) any purpose that violates the Entitlements, Permits or other approvals for the Project issued by Governmental Authorities.

(b) No covenant, agreement, lease, Sublease, Space Lease, Leasehold Mortgage, conveyance or other instrument shall be implemented or executed by Developer whereby the Property or any portion thereof is restricted by Developer upon the basis of race, color, religion, sexual orientation, sex or national origin in the sale, lease, use or occupancy thereof. Developer shall comply with all Laws and Ordinances, in effect from time to time, prohibiting discrimination or segregation by reason of race, color, religion, sexual orientation, sex, or national origin in the sale, lease or occupancy of the Property.

(c) Except as otherwise specified, Developer may use the Property for the Permitted Uses and allowed under the Entitlements for the Project (provided Developer otherwise complies with the terms and conditions of this Agreement).

Section 13.2. Environmental - Definitions. For purposes of this Article 13 the following terms shall have the meaning attributed to them below:

(a) "Hazardous Materials" shall mean any toxic or hazardous substance, material, or waste, and any other contaminant, pollutant or constituent thereof, whether liquid, solid, semi-solid, sludge and/or gaseous, including without limitation, chemicals, compounds, pesticides, petroleum products including crude oil and any fraction thereof,

asbestos containing materials or other similar substances or materials which are regulated or controlled by, under, or pursuant to any Laws and Ordinances including, but not limited to, all Environmental Laws.

(b) "Environmental Laws" shall mean all applicable Laws and Ordinances, existing now or in the future during the Lease Term, as amended, modified, supplemented, superseded or replaced at any time during the Lease Term, that govern or relate to the existence, cleanup and/or remedy of contamination of property; the protection of the environment from spilled, deposited or otherwise emplaced contamination; the control of hazardous or toxic substances or wastes; the use, generation, discharge, transportation, treatment, removal or recovery of Hazardous Materials; or otherwise regulating the impact of human activities on the environment.

(c) "Clean-Up" shall mean any remediation and/or disposal of Hazardous Materials at or from the Property which is ordered by any Governmental Authority with jurisdiction over environmental matters.

Section 13.3. Developer's Environmental Covenant. Developer shall not knowingly cause or knowingly permit any Hazardous Materials to be brought upon, treated, stored, disposed of, discharged, released, produced, manufactured, generated, refined, or used upon, about or beneath the Property or any portion thereof by the Developer, its agents, employees, contractors, Sublessees, licensees, or invitees except as may be customarily used and required to construct the Improvements, or used in comparable Improvements or projects or in the ordinary course of business or as may be used in compliance with Environmental Laws. Developer shall not knowingly permit any activities on the Property that violate Environmental Laws. If Developer (or any lessees, sub-lessees or any other parties to which Developer grants any interest in the Property) should breach this covenant, Developer shall take (or cause the responsible party to take) all actions necessary to comply with all Environmental Laws and shall, at Developer's sole cost and expense, perform (or cause the performance of) any and all Clean-Up.

Section 13.4. Developer's Duty and City's Right of Enforcement. Developer, promptly upon learning of the occurrence of actions prohibited by Section 13.1 and Section 13.3, shall take reasonable steps to terminate same, including the bringing of a suit in Circuit Court of Miami-Dade County, if necessary, but not the taking or defending of any appeal therefrom. In the event Developer does not promptly take steps to terminate a prohibited action, the City may seek appropriate injunctive relief against the party or parties actually engaged in the prohibited action in the Circuit Court of Miami-Dade County without being required to prove or establish that the City has inadequate remedies at law. The provisions of this Section shall be deemed automatically included in all Leasehold Mortgages and any other conveyances, transfers and assignments under this Agreement, and any transferee who accepts such Leasehold Mortgage or any other conveyance, transfer or assignment hereunder shall be deemed by such acceptance to adopt, ratify, confirm and consent to the provisions of Section 13.1 and Section 13.3 and to the City's rights to obtain the injunctive relief specified therein.

Section 13.5. Survival of Obligations. The respective rights and obligations of the City and Developer under Sections 13.3 and 13.4 shall survive the expiration or termination of this Agreement for a period of two (2) years.

ARTICLE 14

Entry on Property by City

Section 14.1. Inspection of Property. The City, the City's Designated Representative and other authorized City representatives, upon reasonable advance written notice (e-mail being sufficient) and in the presence of a representative of Developer, shall have the right to enter the Property at reasonable times during normal business hours for the purpose of inspecting the same to insure Developer is in compliance with the provisions of this Agreement.

Section 14.2. Limitations on Inspection. The City, in its exercise of the right of entry granted to it in Section 14.1 herein, shall (a) not unreasonably disturb the occupancy of Developer, Sublessees or Space Lessees nor disturb their business activities or use of the Property; and (b) with respect to any residential, office and/or other Sublessee or Space Lessee, shall comply with all Laws and Ordinances governing or applicable to the City with respect to such uses and premises.

ARTICLE 15

Limitation of Liability

Section 15.1. No Consequential Damages. Whenever either party may seek or claim damages against the other party (whether by reason of a breach of this Agreement by such party, in enforcement of any indemnity obligation, for misrepresentation or breach of warranty, or otherwise), neither the City nor Developer shall seek, nor shall there be awarded or granted by any court or other adjudicator, any speculative, consequential, collateral, special, punitive, or indirect damages, whether such breach shall be willful, knowing, intentional, deliberate, or otherwise. The parties intend that any damages awarded to either party shall be limited to actual, direct damages sustained by the aggrieved party. Neither party shall be liable for any loss of profits suffered or claimed to have been suffered by the other. The limitation of liability herein shall not apply to any indemnification for third party claims available at law or pursuant to, but subject to the limitations in, Article 7. This provision shall survive the termination of this Agreement.

Section 15.2. Nonrecourse. Notwithstanding anything to the contrary in this Agreement, the liability under this Agreement of the City and Developer (including any tenant or post-foreclosure tenant) and each of their parent(s), subsidiary(ies), or affiliated corporations or other entities, and any of their constituent partners, joint venturers, or tenants-in-common, for damages or otherwise, shall be enforceable against, and shall not extend beyond, their interests in the Property (including the proceeds thereof). No property or assets whatsoever, except the City's or Developer's (as applicable) interest in the Property (including the proceeds thereof), shall be subject to levy, execution or any other enforcement procedure for the satisfaction of any remedies (monetary or otherwise) of the other party arising under or in connection with this Agreement. No shareholder, officer, member, manager, director, agent, or employee of Developer or the City shall have any personal liability under this Agreement. This provision shall survive the termination of this Agreement.

ARTICLE 16

Damage and Destruction

Section 16.1. Restoration After Casualty. If the Improvements shall be damaged by Casualty, Developer shall promptly notify the City of such damage, shall properly secure the damaged Improvements to a safe condition in compliance with Laws and Ordinances, and shall, after settling its insurance claim (if any), restore or rebuild the Improvements to the condition that existed prior to the Casualty with such alterations as Developer shall determine to make, and/or replace the Improvements with such other Improvements as Developer shall determine to make (including those that are larger, smaller or different in design, function or use), provided that the use of the Improvements following such restoration, rebuilding or replacement are consistent with the uses that existed prior to the Casualty or are otherwise permitted uses under this Agreement. If, however, the damage to the Improvements exceeds fifty percent (50%) of the replacement value of the Improvements prior to the Casualty, in lieu of restoring such Improvements, Developer shall have the right to raze the Improvements, remove the foundations, fill the site with dirt covered with topsoil and leave it as a level, safe vacant lot with grass and reasonable landscaping, and the City and Developer shall each have the right to terminate this Agreement as to such Phase or Phases which suffered the Casualty, whereupon this Agreement shall terminate as to such Phase(s) and Rent, the Developer Contributions and any other sums due to City hereunder shall be partially abated proportionately based on the value or square footage of the damaged Improvements relative to the value or square footage of the Project as a whole or any other fair and equitable basis. If it is reasonably necessary in Developer's judgment to demolish the Improvements (or portions thereof) for the purpose of restoring, rebuilding or replacing same with other Improvements that Developer may determine to make, Developer shall also have the right to raze the Improvements (or portions thereof) for such purpose. Developer shall notify the City of its election within one hundred eighty (180) days after the occurrence of the Casualty. Developer shall not raze or remove the Improvements or abandon portions thereof without terminating all affected Subleases and Space Leases. After settling its insurance claim (if any), Developer shall proceed with reasonable diligence to perform the work it has elected to perform hereunder, at its sole cost and expense, and all such work shall be carried out in accordance with the terms of this Agreement, including Articles 9 through 11. Developer shall have the sole right and authority to adjust and/or settle any insurance claims, subject to the rights of any Lender.

Section 16.2. Restoration of CP Park and JCC. If, following completion of the Park Improvements under this Agreement, CP Park or the JCC shall be damaged or destroyed by Casualty, the City, at its sole cost and expense, shall repair and restore CP Park and the JCC to the condition that existed prior to the Casualty and/or with park and community center improvements of a design, size and capacity as is then required by the needs of the City and its residents at the time of such repair or rebuilding, in the reasonable discretion of the City. Any Casualty to CP Park or the JCC prior to the completion of the Park Improvements shall be governed by the Park Improvements Rider.

Section 16.3. Temporary Abatement. After the occurrence of a Casualty, all Rent and periodic Developer Contributions shall be deferred until (a) the date Developer receives the proceeds from its rent or business interruption insurance, or (b) one (1) year after the occurrence of the Casualty, whichever shall first occur, at which time all such deferred Rent and periodic

Developer Contributions shall be due and payable. Except for the foregoing and except for the partial abatements elsewhere provided in this Article, Developer shall not be entitled to any other abatement of Rent or the Developer Contributions due to a Casualty.

Section 16.4. Termination of Agreement. Notwithstanding anything to the contrary contained herein, in the event that the Property or any part thereof shall be damaged or destroyed by Casualty during the last ten (10) years of the Lease Term and the estimated cost for repair and restoration exceeds an amount equal to twenty-five percent (25%) of the replacement value of the Improvements (or during the last five (5) years of the Lease Term and the estimated cost for repair and restoration exceeds an amount equal to ten percent (10%) of the replacement value of the Improvements), then Developer shall have the right to terminate this Agreement and its obligations hereunder (in whole or in part, as to the affected Phase, as applicable) by giving written notice to the City within one hundred eighty (180) days after such damage or destruction. In such event, (a) this Agreement shall terminate (in whole or in part as to the affected Phase, as applicable) fifteen (15) days following the City's receipt of notice of Casualty, and (b) the obligations of Developer to pay Rent under this Agreement shall cease as of the date of termination, provided that if this Agreement is terminated in part only with respect to any Phase(s), Rent and any other sums due to City hereunder shall partially abate proportionately based on the value or square footage of the damaged Improvements relative to value or square footage of the Project as a whole, or any other fair and equitable basis. In the event of any termination hereunder, Developer shall (i) properly secure the damaged Improvements to a safe condition in compliance with Laws and Ordinances (or, at the City's request, raze the Improvements, remove the foundations, fill the site with dirt covered with topsoil and leave it as a level, safe vacant lot with grass and reasonable landscaping), and (ii) retain any property insurance proceeds for its own account, in all cases subject to the rights of Lenders.

ARTICLE 17

Transfers and Assignment, Lease Bifurcation, Integrated Developments and Subleases

Section 17.1. Right to Transfer Leasehold. Prior to Completion of Construction of the Phase 1 Improvements and the Park Improvements, Developer shall not sell, assign or transfer this Agreement in its entirety or all of the interest of Developer as tenant hereunder to any Person that is not an Affiliated Person (herein, a "Pre-Phase 1 Transfer"), without first procuring the prior written consent of the City's Designated Representative, which consent shall not be unreasonably withheld, conditioned or delayed. Following Completion of Construction of the Phase 1 Improvements and the Park Improvements, and provided no Event of Default by Developer then exists under this Agreement, Developer may freely sell, assign or transfer this Agreement (in whole or in part) or any interest of Developer hereunder without restriction (except as otherwise expressly provided herein), upon notice to the City, but without the City's consent. In addition, at any time and from time to time, whether before or after the Completion of Construction of the Phase 1 Improvements and the Park Improvements, and provided no Event of Default by Developer then exists under this Agreement, Developer may freely sell, assign or transfer this Agreement (in whole or in part) or any interest of Developer hereunder to any Affiliated Person without restriction (except as otherwise expressly provided herein), upon notice to the City, but without the City's consent. As used in this Section, the term "transfer" shall include the transfer

of the direct or indirect ownership interests in Developer if such transfer (individually or in the aggregate) results in a transfer of more than fifty percent (50%) of the beneficial ownership of Developer and a change in Control of Developer. Transfers for estate planning purposes of direct or indirect ownership interests in Developer shall not require the consent of the City. The following provisions shall apply to transfers hereunder:

(a) If Developer desires to make a Pre-Phase 1 Transfer, Developer shall, in each instance, give written notice to the City's Designated Representative not less than ninety (90) days prior to the effective date of the proposed Pre-Phase 1 Transfer, which notice shall (i) specify the nature of the proposed Pre-Phase 1 Transfer and the proposed date thereof, (ii) identify the proposed transferee, (iii) include a copy of the proposed assignment and assumption agreement, which shall be in a commercially reasonable form, and (iv) include any other documents or financial information as the City's Designated Representative may reasonably require to evaluate the proposed transferee. Based on the standards and criteria set forth in this Section 17.1, the City's Designated Representative shall grant or deny consent to the Pre-Phase 1 Transfer no later than ninety (90) days following the City's Designated Representative's receipt of Developer's notice and all documentation reasonably required in connection therewith. If the City's Designated Representative fails to respond within said 90-day period, then the Pre-Phase 1 Transfer shall be deemed approved. If the City's Designated Representative denies consent to Developer's request for any Pre-Phase 1 Transfer, the City's Designated Representative must have a reasonable basis to do so and shall state the specific reasons for such disapproval in the notice of denial. The City acknowledges and agrees that it shall not be reasonable for the City's Designated Representative to deny consent to any transferee who is an Acceptable Developer. As used herein, "Acceptable Developer" shall mean a Person or Persons possessing: (x) a minimum of ten (10) years of experience in the development of mixed-use commercial developments in urban locations in the United States during the ten (10) year period immediately prior to the date of the proposed transfer, (y) a good reputation in the business community, and (z) adequate financial resources equivalent to the original Developer or otherwise sufficient for the performance of Developer's obligations under this Agreement with respect to the development of the Project or applicable Phase there. The requirements of an Acceptable Developer may be satisfied by the proposed transferee or the Person or Persons that directly or indirectly Control the proposed transferee. If the City Attorney determines that City Council approval is required for any Pre-Phase 1 Transfer under any Laws and Ordinances, then such approval shall be required hereunder in lieu of the consent of the City's Designated Representative, the City Manager shall use due diligence to present the request for the Pre-Phase 1 Transfer to the City Council as soon as reasonably practicable and the time for performance by the City hereunder shall be extended to provide such time as is necessary for the presentation to, and approval by, the City Council. Delays caused by the need for City Council approval shall extend the Lease Term one day for each day of such delay. Any attempted Pre-Phase 1 Transfer of this Agreement without the approval or deemed approval of the City's Designated Representative (or approval of the City Council, if required) shall be void and of no force or effect and shall not confer any interest or estate in the purported transferee.

(b) If consent to a transfer is not required under this Section (e.g., transfers to Affiliated Persons or following Completion of Construction of the Phase 1 Improvements

and the Park Improvements), Developer shall notify the City in writing of such transfer (for informational purposes only) and provide the City with copies of any executed transfer documents within thirty (30) days after the date of transfer.

(c) No transferee of Developer's interest in this Agreement shall be a Person who is prohibited by legislation then in effect from doing business with the City.

(d) The original Developer or then applicable transferor (as the case may be) shall be released of and from all obligations under this Agreement accruing after the effective date of such transfer, but only as to the portion of the Property so transferred, provided that, in the case of a Pre-Phase 1 Transfer, the City's Designated Representative has consented to (or, if required, the City Council has approved) such transfer as hereinabove provided. Such release shall be automatic and without the need for an instrument of release; however, the City shall execute and deliver a written release if requested by Developer promptly following such request. The City shall also execute any other assignment and/or transfer documents as may be reasonably requested by Developer to confirm the City's consent to and/or acknowledgement of any transfer hereunder, provided that the terms of such documents comply with the requirements hereof.

(e) Any transfer of all or any part of Developer's interest in this Agreement and the Property shall be made expressly subject to the terms, covenants and conditions of this Agreement, and such assignee or transferee shall expressly assume all of the obligations of Developer under this Agreement applicable to that portion of the Property being sold, assigned or transferred, and agree to be subject to all conditions and restrictions to which Developer is subject, but only for matters accruing while such assignee or transferee holds, and only related to, the sold, assigned or transferred interest. However, nothing in this subsection or elsewhere in this Agreement shall abrogate the City's right to payment of all Rent, the Developer's Contributions and other amounts due to the City which accrued prior to the effective date of such transfer.

(f) In connection with any transfer, Developer shall notify the City in writing of the name and address of the transferee and the post office address of the place to which all notices required by this Agreement are to be sent.

(g) Each transferee of Developer (and all succeeding and successor transferees) shall succeed to all rights and obligations of Developer under this Agreement with respect to the portion of the Property so transferred, including the right to mortgage, and further assign, sublease or transfer; subject, however, to all duties and obligations of Developer with respect to such portion of the Property, and to the terms of the document of assignment or transfer (including the Bifurcated Lease, if applicable), in and pertaining to the then remaining Lease Term.

(h) This Section shall not apply to any sale, assignment or transfer that results from a foreclosure, a deed or assignment in lieu of foreclosure or the exercise of any other remedies under any Leasehold Mortgage, Subleasehold Mortgage or any Mezzanine Financing, all of which shall be governed by Article 18 hereof (and not this Article).

Section 17.2. Bifurcation of Lease. Developer, at Developer's option, may effectuate a transfer of a portion of its rights hereunder pursuant to Section 17.1 through a bifurcation of the leasehold interest in this Agreement from time to time to facilitate the development and operation of the various components of the Project in Phases, subject to the terms and conditions hereof. Accordingly, if Developer desires to bifurcate its leasehold interest under this Agreement in connection with a transfer of any Phase of the Project, Developer shall so notify the City of such election simultaneously with Developer's notice of such transfer pursuant to Section 17.1, and the following provisions shall apply:

(a) Developer, the City and the transferee, shall promptly (and, in any event within thirty (30) days following Developer's request) enter into, execute and deliver a bifurcation of this Agreement in substantially the form attached hereto as Schedule 17.2(a). Contemporaneously therewith, the City and such transferee shall enter into a new lease with such transferee as the "tenant" and "developer" with respect to the bifurcated Phase of the Project (each a "Bifurcated Lease") in the form of this Agreement, but modified to delete the Sections hereof relating to the Pre-Commencement Period and as otherwise necessary to reflect that the Bifurcated Lease covers and affects the bifurcated Phase only. Such transferee shall be the "tenant" and "developer" under the Bifurcated Lease (irrespective of whether such entity is referred to as tenant or developer thereunder) and shall have all of the obligations and responsibilities of the Developer under this Agreement with respect to the bifurcated Phase of the Project as provided herein, in Schedule 17.2(a) and in the Bifurcated Lease.

(b) Any transferee of Developer's leasehold interest in this Agreement shall be obligated to comply with the terms and provisions of the Bifurcated Lease and shall be subject to the remedies and rights available to the City under the Bifurcated Lease in the event such transferee fails to perform its obligations thereunder.

(c) Each Bifurcated Lease shall specify the allocation of Rent, Developer Contributions and any other payments under this Agreement to be paid to the City thereunder, provided that (i) the sum of the Rent, Developer Contributions and other payments allocated under the Bifurcated Leases and this Agreement (in the event any portion of the Project is developed under this Agreement without bifurcation) shall equal the total Rent, Developer Contributions and other payments required by this Agreement, (ii) the Rent and Developer Contributions shall be allocated between this Agreement and the Bifurcated Lease proportionately based on the square footage of land hereunder and thereunder, the value or square footage of the Improvements hereunder and thereunder, or in any other fair and equitable manner. Except for the Rent and Developer Contributions specifically set forth in this Agreement (adjusted as provided in this paragraph), the City shall not be entitled to (and shall not impose or attempt to impose) any other rent, consideration or payments from Developer or any transferee under or with respect to a Bifurcated Lease.

(d) The Rent and Developer Contributions due and payable by Developer under this Agreement shall be adjusted and reduced, on a dollar-for-dollar basis, by the aggregate amount of Rent and Developer Contributions due and payable under the Bifurcated Leases, respectively. The bifurcation documents executed by the Parties pursuant to

Section 17.2(a) shall amend this Agreement to confirm such adjustment and reduction in Rent and Developer Contributions.

(e) Notwithstanding anything contained in this Agreement, upon the execution of a Bifurcated Lease:

(i) Neither Developer nor the City shall be obligated to perform any obligation under this Agreement to the extent such obligation pertains to, or is to be performed on, any the portion of the Property leased pursuant to such Bifurcated Lease, and Developer and the City shall be automatically released from any and all such obligations (including, without limitation, any obligation to (x) pay any rent allocated to such Bifurcated Lease, (y) develop the Phase of the Project governed by the Bifurcated Lease, and (z) maintain insurance for such Phase or portion of the Property);

(ii) No action or omission of, or default by, a tenant (or anyone acting by, through or under a tenant) under a Bifurcated Lease, including, without limitation, any failure to develop the Phase of the Project governed by the Bifurcated Lease, shall in any event constitute or give rise to a default, or any liability of Developer under this Agreement or deprive Developer of any of its rights under this Agreement, including without limitation the right to develop the remainder of the Project on the balance of the Property in accordance with this Agreement;

(iii) Developer shall retain all right, title and interest in and to this Agreement (and the leasehold estate arising hereunder), except only as it relates to the Phase of the Project governed by the Bifurcated Parcel, and the tenant under the Bifurcated Lease shall be solely responsible and bound by all of the terms, covenants, agreements provisions and conditions of the Bifurcated Lease with respect to the Phase leased thereunder; and

(iv) Neither Developer nor any assignee or successor thereof shall in any event be prohibited from developing any portion of the Project (or be in default hereunder, or have any liability), as a result of any failure of any tenant (or anyone acting by, through or under a tenant) under any Bifurcated Lease to develop the Phase of the Project governed by the Bifurcated Lease (notwithstanding that such failure may cause the Project to be developed other than in accordance with this Agreement).

Each Bifurcated Lease shall include provisions similar to the above confirming that (1) the tenant under such Bifurcated Lease shall not be obligated to perform any obligation under this Agreement or any other Bifurcated Lease, and (2) no action or omission of, or default by, Developer under this Agreement or any other tenant under any other Bifurcated Lease, shall constitute a default under such Bifurcated Lease; it being the intention of the Parties that this Agreement and each Bifurcated Lease shall not be cross-defaulted in any way.

(f) Each tenant under a Bifurcated Lease shall have the right to (i) further assign the Bifurcated Lease, and (ii) enter into subleases, licenses, concession agreements, management agreements, operating agreements and other arrangements for the purpose of implementing any use, operation or activity permitted under this Agreement, in accordance with the terms thereof.

Section 17.3. Master Covenants for Integrated Project. Although the Property may be leased pursuant to this Agreement and/or one or more Bifurcated Leases, the Project be an integrated mixed-use development, to be used for the Permitted Uses and developed (or redeveloped) from time to time pursuant to the terms of this Agreement and/or the Bifurcated Leases (as applicable). To promote the integrated and mixed-use nature of the Project, and to ensure that the common or shared components of the overall Project are maintained and benefit the Phases and other portions of the Project intended to be served thereby, each Phase of the Project may be subject to and benefited by the Master Covenants as follows:

(a) The Project may include certain common or shared components (such as, without limitation, walkways, promenades, driveways, parking facilities, park areas, project-wide lighting and signage, and other shared components, areas and facilities) located on more than one Phase of the Project. Pursuant to the Master Covenants, such common or shared components, areas and facilities will be (i) available for use by each Phase and other portions of the Property intended to be served thereby, and (ii) will be administered by a master association, property owner's association and/or other entity created for such purpose as more particularly provided in the Master Covenants.

(b) The City agrees to recognize and not disturb the rights of Developer, any tenant under a Bifurcated Lease, any transferee of this Agreement (and its or their respective Sublessees and other subtenants (including Space Lessees), licensees, employees, customers, guests, invitees and/or other permitted users) to the common or shared components, areas or facilities under the Master Covenants irrespective of whether this Agreement or any Bifurcated Lease controlling such components, areas or facilities may have terminated or expired. The City agrees from time to time, promptly upon request of Developer, any tenant under a Bifurcated Lease and/or any such transferee, to enter into an agreement in recordable form confirming such recognition and non-disturbance agreement, which agreement shall be on such other customary and reasonable terms as may be mutually acceptable to the parties. In addition, in the event this Agreement or any Bifurcated Lease is terminated with respect to any Phase of the Project that is encumbered by the Master Covenants, the City shall have the right, at its option (and for the benefit of itself and its tenants, subtenants, licensees, employees, customers, guests, invitees and/or other permitted users), to ratify and confirm that the Master Covenants encumber and apply to such Phase notwithstanding the termination of this Agreement or such Bifurcated Lease, whereupon such Phase shall continue to be burdened by and enjoy the benefits of the common or shared components, areas or facilities under the Master Covenants, subject to the terms and conditions thereof (including without limitation the continuing obligation to pay assessments for the privilege of using such facilities). Any subsequent lease(s) or other agreements of any kind or nature whatsoever affecting the common or shared components, areas and facilities encumbered by the Master Covenants shall be subject to the terms, conditions and provisions of the Master Covenants.

(c) The Master Covenants may be recorded against and encumber any Phase of the Project at any time during the Lease Term.

(d) The form and substance of the Master Covenants shall be subject to the prior approval of the City, which shall not be unreasonably withheld, conditioned or delayed, provided that the City's comments or objections to the terms and conditions of the Master Covenants shall be limited to the provisions thereof that will remain binding on the City notwithstanding the termination of this Agreement or any Bifurcated Lease. If the City does not approve or disapprove the form of the Master Covenants in writing within thirty (30) days following the City's receipt of the initial draft of the Master Covenants (or fifteen (15) days following any revised draft, as applicable), the Master Covenants shall be deemed approved. The City shall provide specific reasons in writing to Developer for any disapproval of the Master Covenants simultaneously with any written notice of disapproval given by the City hereunder. Amendments to the Master Covenants which are material and which, if same were in the original Master Covenants, would have required the City approval shall be subject to the same approval (and deemed approval) process as the original Master Covenants. The parties shall use commercially reasonable efforts to finalize the form of the Master Covenants within a period of sixty (60) days following the initial draft.

Section 17.4. Parcel Development Regimes. In addition to the integrated nature of the Phases governed by the Master Covenants, each Phase of the Project may also be developed as a mixed-use development with infrastructure and other common or shared areas or facilities serving the various components within such Phase. Accordingly, each tenant under a Bifurcated Lease shall have the right to submit all or a portion of the leasehold estate under its Bifurcated Lease to a "collective ownership" structure (i.e., a Parcel Development Regime where the Phase under such Bifurcated Lease is divided into more than one subparts or components), (i) comprised of two (2) or more Parcel Components, (ii) pursuant to a Parcel Declaration, and (iii) governed by a Parcel Manager. If all or a portion of the leasehold estate under any Bifurcated Lease is submitted to a Parcel Development Regime as contemplated above, the following provisions shall apply with respect to such Parcel Development Regime:

(a) The Parcel Declaration for such Parcel Development Regime will set forth the covenants, conditions and restrictions governing the common or shared components of the Parcel Development Regime in a manner analogous to the Master Covenants governing the common or shared components among the Phases within the Project. Likewise, the Parcel Manager will be the entity established to govern such shared components within the Parcel Development Regime in a manner analogous to the master association, property owner's association and/or other entity charged with responsibility for the common or shared components of the Project under the Master Covenants.

(b) Although the leasehold estate (or portions thereof) under a Bifurcated Lease may be submitted to a Parcel Development Regime containing two or more Parcel Components, the leasehold estate shall nonetheless be deemed a single leased parcel for purposes of such Bifurcated Lease and the tenant for purposes of the obligations of "tenant" under such Bifurcated Lease (at the tenant's option) may be the Parcel Manager; however, each tenant or Sublessee with respect to a Parcel Component will be entitled to all of the

benefits of the tenant under the Bifurcated Lease, but shall be required to comply with the obligations of the tenant under the Bifurcated Lease with respect to its Parcel Component only.

(c) The provisions of this Agreement shall not prohibit the tenant under a Bifurcated Lease, at its option, from assigning, without the consent of the City, (i) such Bifurcated Lease to the Parcel Manager for the Parcel Development Regime, and/or (ii) all of its obligations under such Bifurcated Lease to such Parcel Manager. The Parcel Manager created or established for the Parcel Development Regime shall be deemed a permitted (without the need for consent from the City) for purposes of this Agreement, irrespective of whether the Parcel Manager is an Affiliate of Developer. Upon the creation of a Parcel Development Regime and assignment of a Bifurcated Lease (or the tenant's obligations thereunder) to the Parcel Manager governing the Parcel Development Regime, the City agrees that Developer and any tenant under such Bifurcated Lease shall be automatically released from all liability for any obligations under such Bifurcated Lease.

(d) The City agrees to recognize and not disturb the rights of any tenant or Sublessee of a Parcel Component (and its or their respective subtenants (including Space Lessees), licensees, employees, customers, guests, invitees and/or other permitted users) to the common or shared components, areas or facilities under the Parcel Declaration irrespective of whether any applicable Bifurcated Lease or Sublease controlling such components, areas or facilities may have terminated or expired. The City agrees from time to time, promptly upon request of any tenant or Sublessee under the applicable Bifurcated Lease or Sublease to enter into an agreement in recordable form confirming such recognition and non-disturbance agreement, which agreement shall be on such other customary and reasonable terms as may be mutually acceptable to the parties (and, in any event, may be incorporated into any other recognition and non-disturbance provided to such tenant or Sublessee under this Agreement or the Bifurcated Lease, such as the non-disturbance agreement provided pursuant to Section 17.5). In addition, in the event of a termination of any Bifurcated Lease for any Phase that has been submitted to a Parcel Development Regime, the City shall have the right, at its option (and for the benefit of itself and its tenants, subtenants, licensees, employees, customers, guests, invitees and/or other permitted users), to ratify and confirm that the Parcel Declaration continues to encumber and apply to such Phase notwithstanding the termination of such Bifurcated Lease, whereupon such Phase shall continue to be burdened by and enjoy the benefits of the common or shared components, areas or facilities under the Parcel Declaration, subject to the terms and conditions thereof (including without limitation the continuing obligation to pay assessments for the privilege to use such facilities). Any subsequent Sublease(s), Space Leases or other agreements of any kind or nature whatsoever affecting any common or shared components, areas and facilities encumbered by the Parcel Declaration shall be subject to the terms, conditions and provisions of the Parcel Declaration.

(e) Each Parcel Declaration may be recorded against and encumber a Phase of the Project at any time following Commencement of Construction of such Phase, but shall not be recorded against any Phase where construction has not yet commenced without the prior approval of the City.

(f) The form and substance of each Parcel Declaration shall be subject to the prior approval of the City, which shall not be unreasonably withheld, conditioned or delayed, provided that the City's comments or objections to the terms and conditions of such Parcel Declaration shall be limited to the provisions thereof that will remain binding on and must be recognized by the City notwithstanding the termination of the rights of any tenant or Sublessee of a Parcel Component within the Parcel Development Regime. If the City does not approve or disapprove the form of Parcel Declaration in writing within thirty (30) days following the City's receipt of the initial draft thereof (or fifteen (15) days following any revised draft, as applicable), the Parcel Declaration shall be deemed approved. The City shall provide specific reasons in writing to Developer and any tenant under the applicable Bifurcated Lease for any disapproval of the Parcel Declaration simultaneously with any written notice of disapproval given by the City hereunder. Amendments to the Parcel Declaration which are material and which, if same were in the original Parcel Declaration, would have required the City approval, shall be subject to the same approval (and deemed approval) process as the original Parcel Declaration. The parties shall use commercially reasonable efforts to finalize the form of each Parcel Declaration within a period of sixty (60) days following the initial draft.

(g) In the event that the subleasehold estate under a Sublease of a portion of the Property under this Agreement or a Bifurcated Lease is submitted to a Parcel Development Regime, the terms and provisions of this Section 17.4 shall apply equally to such Sublease with the intent that (i) any Sublessee under such Sublease (and its subtenants (including Space Lessees), licensees, employees, customers, guests, invitees and/or other permitted users) shall have the same rights as a tenant under a Bifurcated Lease (and its subtenants (including Space Lessees), licensees, employees, customers, guests, invitees and/or other permitted users) with respect to such Parcel Development Regime, and (ii) the City shall recognize all such rights and comply with its obligations hereunder with respect to such Sublease (in the same manner as required herein with respect to a Bifurcated Lease), notwithstanding the termination of this Agreement or any Bifurcated Lease.

Section 17.5. Rights to Sublease and Non-Disturbance Agreements. Developer shall have the right to enter into and/or consent to a Sublease or Space Lease without any approval or consent of the City; however, notwithstanding any other provisions of this Agreement, no Sublease or Space Lease shall relieve Developer of any obligations under the terms of this Agreement. The City agrees to grant recognition and non-disturbance agreements for Space Lessees or Sublessees in substantially the form attached hereto as Schedule 17.5 within thirty (30) days following written request, provided that the following conditions are met:

(a) with respect to any Space Lease, such Space Lease is on market terms (provided that, for the avoidance of doubt, the foregoing condition shall apply to a Space Lease for commercial or retail rental space within the Project to a Space Lessee conducting business in such space, but shall not apply to any Sublease in the nature of a "master sublease" of a Phase or Parcel Component pursuant to which the Sublessee further subleases the premises to one or more sub-Sublessees for its use);

(b) the rights and obligations of the sublessor and Sublessee under the Space Lease or Sublease shall be consistent with the terms and conditions of this Agreement or the Bifurcated Lease applicable to the subleased premises;

(c) the Space Lessee or Sublessee shall not be in default of the terms and conditions of its Space Lease or Sublease (as applicable) beyond applicable notice and cure periods; and

(d) the Space Lessee or Sublessee shall agree to attorn to the City.

Developer shall provide written notice to the City specifying the name and address of any Sublessee or Space Lessee that requires a recognition and non-disturbance agreement under this Section, which notice shall include a copy of the applicable Sublease or Space Lease. The City agrees that it will grant such assurances (including recognition and non-disturbance agreements as hereinabove provided) to such Space Lessees or Sublessees so long as they remain in compliance with the terms of their Space Leases or Subleases, and provided further that any such Space Leases or Subleases do not extend beyond the expiration of the Lease Term. Any and all Subleases of a Phase or Parcel Component may include lender protection provisions consistent with the provisions of this Agreement that benefit Lenders, including without limitation Article 18 and 20 hereof, and all such provisions shall be recognized by the City. Space Lessees who are residential tenants under Space Leases shall not be entitled to recognition or non-disturbance agreements under this provision.

Section 17.6. Waiver of Landlord Lien. In order to enable Developer and its Sublessees and Space Lessees to secure financing for the purchase of fixtures, equipment and/or any other item of personalty of any kind now or hereafter located on or in the Property, whether by security agreement and financing statement, mortgage or other form of security instrument, the City hereby waives and will from time to time, within seven (7) Business Days following written request, execute and deliver an acknowledgment that it has waived its "landlord's" or other statutory or common law or contractual liens securing payment of rent or performance of Developer's other covenants under this Agreement as to such fixtures, equipment or other items personalty (and does not have rights to a lien against such property). In the event that the City fails to timely comply with such request, then Developer shall, after the expiration of such seven (7) Business Day period, have the right to execute such acknowledgment on behalf of and as attorney-in-fact for the City.

Section 17.7. Opportunity Zone Programs. The City agrees to cooperate with Developer in executing any statements, certifications, applications and other documentation that may be required for Developer to develop and operate the Project or any Phase thereof, or otherwise facilitate Developer's ability to qualify as a "Qualified Opportunity Fund" or designate the Project, under the Opportunity Zone program regulations codified in Section 1400Z-2 of the Internal Revenue Code, as may be amended from time to time. In furtherance thereof, the parties agree that (a) an assignment of this Agreement to a Qualified Opportunity Fund managed by Developer or any entity affiliated with Developer shall not require the City's consent under this Article 17, and (b) the City shall provide recognition and non-disturbance agreements for any Sublessee that is a Qualified Opportunity Fund or that enhances or provides benefits to the community in which the Project is located.

ARTICLE 18

Financing and Rights of Lenders

Section 18.1. Right to Mortgage Leasehold. Developer and each Sublessee shall have the right from time to time, and without the prior consent of the City, to mortgage and otherwise encumber their leasehold estates under this Agreement, any Sublease and the leasehold estate, in whole or in part (with respect to the Property or any Phase or any part thereof), by a Leasehold Mortgage or Subleasehold Mortgage or Mortgages to any Mortgagee. Such Mortgages shall be expressly subject to the terms, covenants and conditions of this Agreement (and the Sublease, if applicable), and the right, title and interest of the City herein and in the Fee Estate, but subject at all times to the rights granted in this Article 18 and elsewhere in this Agreement to Mortgagees. The granting of a Mortgage or Mortgages against all or part of the leasehold estate in the Property shall not operate to make the Mortgagee(s) thereunder liable for performance of any of the covenants or obligations of Developer or Sublessee under this Agreement or a Sublease, except in the case of a Mortgagee who owns or is in possession and control of all or a portion of the Property, and then only for the applicable portion of the Property, and during its period of ownership or possession and control, but the City shall always have the right to enforce the leasehold obligations under this Agreement against such portion of the Property, including such obligations accruing prior to such period of ownership or possession and control, subject to the terms hereof, except, in each instance, as otherwise provided herein or in any subordination and recognition agreement between the City and such Mortgagee. The amount of any such Mortgage may be increased whether by an additional mortgage and agreement consolidating the liens of such Mortgages or by amendment to the existing Mortgage, and any such Mortgage may be amended, restated, replaced, extended, increased, refinanced, consolidated or renewed from time to time, all without the consent of the City. Such Mortgage(s) may, *inter alia*, contain a provision for an assignment of any rents, revenues, monies or other payments due to Developer or Sublessee as a landlord (but not from Developer or Sublessee to the City) and a provision therein that the Mortgagee(s) in any action to foreclose a Mortgage shall be entitled to the appointment of a receiver. Any transfer (a) resulting from the foreclosure of a Mortgage or any conveyance, assignment or other transfer in lieu of foreclosure of a Mortgage or other appropriate proceedings in the nature thereof, (b) made to the purchaser at foreclosure of a Mortgage or to the grantee of a conveyance, assignment or transfer in lieu of foreclosure of a Mortgage (including Mortgagee, any nominee of Mortgagee or a third party buyer), or (c) made by Mortgagee or its nominee to a third party following the enforcement by Mortgagee of its Mortgage, shall not require the consent of the City and shall not constitute a breach of any provision or a default under this Agreement.

Section 18.2. Right to Pledge Equity Interests. Developer, each Sublessee and the direct and indirect owners of equity interests in Developer and each Sublessee, shall have the right from time to time, and without the prior consent of the City, to pledge and otherwise encumber any of its respective direct or indirect equity or ownership interests (whether stock, partnership interest, beneficial interest in a trust, membership interest or other interest of an ownership or equity nature) (herein, "equity interests" or "ownership interests") to secure a loan made by a Mezzanine Financing Source. The granting of such pledge or other security shall not operate to make the Mezzanine Financing Source thereunder liable for performance of any of the covenants or obligations of Developer or such Sublessee under this Agreement or a Sublease. The amount of any such Mezzanine Financing may be increased, and such Mezzanine Financing may be

modified, amended, restated, replaced, extended, increased, refinanced, consolidated or renewed from time to time, all without the consent of the City. Any transfer of any direct or indirect ownership interest in Developer or any Sublessee from the foreclosure by any Mezzanine Financing Source of a pledge of ownership interests in Developer or such Sublessee or other appropriate proceedings in the nature thereof, or any transfer made to the purchaser at a foreclosure of such pledge of ownership interests, or any conveyance, assignment or transfer in lieu of such foreclosure (including any transfer to the Mezzanine Financing Source, any nominee of Mezzanine Financing Source or a third party buyer), or any change of control or other transfer of any direct or indirect ownership interest in Developer or such Sublessee to the Mezzanine Financing Source or its nominee resulting from the exercise by the Mezzanine Financing Source of any other rights or remedies under any Mezzanine Financing documents, including without limitation any pledge or other security agreements or any partnership agreement, operating agreement or other organizational documents, shall not require the consent of the City and shall not constitute a breach of any provision or a default under this Agreement.

Section 18.3. Notice of Lender's Interest. Written notice of each Mortgage shall be delivered to the City specifying the name and address of the Mortgagee to which notices shall be sent and the City shall be furnished a copy of each such recorded Mortgage. The City shall also receive notice of the name and address of any Mezzanine Financing Source who desires notice and the benefit of the rights of Mezzanine Financing Sources under this Agreement. For the benefit of any Lender entitled to notice as hereinafter provided in this Article 18 or any other provision of this Agreement, the City agrees, subject to all the terms of this Agreement, without the consent of such Lender, not to accept or consent to a surrender, cancellation or termination of this Agreement, or enter into any material amendment or modification to this Agreement, at any time (a) with respect to a Mortgage, during any period that such Mortgage shall remain a lien on Developer's or a Sublessee's leasehold estate (as applicable), and (b) with respect to Mezzanine Financing, during any period that the Mezzanine Financing Source holds an equity interest (directly or indirectly), or is secured by a pledge of ownership interests, in Developer or any Sublessee (as applicable). No Lender shall be bound by any material amendment or modification of this Agreement made without its prior written consent as hereinabove provided, and no sale or transfer of the City's Fee Estate or any portion thereof to Developer shall terminate this Agreement by merger or otherwise so long as the lien of any Mortgage remains undischarged. The City also agrees to abide by any subsequent written notice from Developer or any Sublessee and any Lender jointly notifying the City that such Lender's consent is also required to effectuate any other modification, change, waiver, consent, approval or other matter relative to this Agreement. Upon the City's request, Developer shall from time to time confirm and update the names and addresses of the Lenders entitled to the Lender protections set forth in this Article 18 and Article 20 of this Agreement based on Developer's then current records. No Lender shall be entitled to the benefits of a Lender under this Agreement unless City has been notified of such Lender's interest as hereinabove provided.

Section 18.4. Notices to Lender(s). No notice of default under Section 20.1 or notice of failure to cure a default under Section 20.2(a) shall be deemed to have been given by the City to Developer unless and until a copy has been given to each Lender who shall have notified the City of its respective interests pursuant to Section 18.3. The City agrees to accept performance and compliance by any such Lender of and with any of the terms of this Agreement with the same force and effect as though kept, observed or performed by Developer, provided such act or performance is timely under Section 18.5, Section 20.2 or Section 20.3. Nothing contained herein

shall be construed as imposing any obligation upon any such Lender to so perform or comply on behalf of Developer.

Section 18.5. Termination of Leasehold Estate under this Agreement and New Lease.

(a) In addition to any rights any Lender may have by virtue of Article 20 herein, if this Agreement shall terminate prior to the expiration of the Lease Term (whether pursuant to the terms of this Agreement, the rejection of this Agreement in a bankruptcy or insolvency proceeding or otherwise), the City shall give written notification thereof to each Lender, and the City shall, upon written request of the applicable Lender (with the City to follow the request of any Leasehold Mortgagee(s) prior to Mezzanine Financing Sources) to the City given within sixty (60) days following such termination, enter into a new lease of the Property with the Leasehold Mortgagee (or its nominee) or Developer (as owned or controlled by the Mezzanine Financing Source), as Developer, for the remainder of the term of this Agreement, on the same terms and conditions, and with the same priority over any encumbrances created at any time by the City, its successors and assigns, which Developer has or had by virtue of this Agreement. The City's obligation to enter into such new lease of the Property with Leasehold Mortgagee or Developer (as owned or controlled by the Mezzanine Financing Source) shall be conditioned upon, on the date the new lease is executed, (i) the City receiving payment of all Rent and Developer Contributions due hereunder through the date of such new lease, (ii) all other monetary defaults hereunder having been cured, (iii) all non-monetary defaults susceptible to cure having been cured (or Leasehold Mortgagee or Developer (as owned or controlled by the Mezzanine Financing Source), as applicable, as tenant, proceeding promptly with such cure and pursuing such cure to completion with reasonable diligence), and (iv) the City receiving all reasonable expenses, costs and fees, including attorneys' fees, incurred by the City in preparing for the termination of this Agreement and in acquiring possession of the Property, and in the preparation of such new lease. Such new lease shall have priority over encumbrances created by the City by virtue of the notice created by this Agreement to any transferee of the City or any person receiving an encumbrance from the City, which priority shall be self-operative and shall not require any future act by the City. Any new lease hereunder shall contain the same clauses subject to which the demise of the Property hereunder is made and shall be at the Rent and other payments for the Property due the City and upon all of the terms as are herein contained.

(b) Nothing herein contained shall be deemed to impose any obligation on the part of the City to deliver physical possession of the Property to the Leasehold Mortgagee (or its nominee) or Developer (as owned or controlled by the Mezzanine Financing Source) until the new lease has been executed by all pertinent parties. The City agrees, however, that the City will, at the request, cost and expense of the Leasehold Mortgagee, cooperate in the prosecution of judicial proceedings to evict the then defaulting Developer or any other occupants of the Property.

(c) If, upon the termination of this Agreement, Developer, but for such termination, would have been entitled to receive any credit or other amount pursuant to the provisions of this Agreement, then the City agrees that the same shall be paid to the tenant under a new lease, in the same manner and to the same extent as it would have been paid

or applied the same to or for the benefit of Developer as if this Agreement had not terminated; subject however to the City's right to offset any damages accrued as a result of said termination.

(d) Nothing contained in this Agreement shall require any Leasehold Mortgagee (or its nominee) or any Mezzanine Financing Source (or its nominee), as a condition to its exercise of its right to enter into a new lease, to cure any default of Developer not reasonably susceptible of being cured by such parties, in order to comply with the provisions of this Section 18.5.

(e) The provisions of this Section 18.5 shall survive any termination of this Agreement. Leasehold Mortgagees and Mezzanine Financing Sources shall be deemed to be third party beneficiaries of this Section.

Section 18.6. Termination of Leasehold Estate under this Agreement and New Sublease.

(a) If any Sublease shall terminate prior to the expiration of its term and this Agreement has also terminated and the City has received written notice of the termination of such Sublease, the City shall give written notification thereof to any Subleasehold Mortgagee and Mezzanine Financing Source that provided Mezzanine Financing to the Sublessee under such Sublease (even if such Subleasehold Mortgagee and/or Mezzanine Financing Source failed to timely exercise its cure rights for a default under such Sublease), and the City shall, upon written request of the applicable Lender (with the City to follow the request of the Subleasehold Mortgagee prior to such Mezzanine Financing Sources) to the City given within sixty (60) days following such termination, enter into a new lease or sublease of the subleased portion of the Property (herein, the "subleased premises") with such Subleasehold Mortgagee (or its nominee) or Sublessee (as owned or controlled by such Mezzanine Financing Source), as sublessee, for the remainder of the term of such Sublease, on the same terms and conditions as set forth in such Sublease (with appropriate modifications to reflect that the lease is a direct lease rather than a sublease, if applicable). The City's obligation to enter into such new lease or sublease of the subleased premises with Subleasehold Mortgagee or Sublessee (as owned or controlled by such Mezzanine Financing Source) shall be conditioned upon the new lessee/sublessee committing to cure all monetary defaults under the Sublease and all non-monetary defaults under the Sublease that are susceptible of cure within a reasonable period of time under the circumstances, and to reimburse the City's reasonable expenses in the preparation of such new lease or sublease. Any new lease or sublease(s) hereunder shall contain the same clauses subject to which the demise under the Sublease is made, and shall be at the rent and other payments for the subleased premises and upon the terms as are therein contained (except as otherwise expressly provided herein).

(b) Nothing herein contained shall be deemed to impose any obligation on the part of the City to deliver physical possession of the subleased premises to the Subleasehold Mortgagee (or its nominee) or Sublessee (as owned or controlled by the applicable Mezzanine Financing Source) until the new lease or sublease has been executed by all pertinent parties. The City agrees, however, that the City will, at the request, cost and

expense of the Subleasehold Mortgagee, cooperate in the prosecution of judicial proceedings to evict the then defaulting Sublessee or any other occupants of the subleased premises.

(c) Nothing contained herein shall require any Subleasehold Mortgagee (or its nominee) or any applicable Mezzanine Financing Source (or its nominee), as a condition to its exercise of its right to enter into a new lease or sublease, to cure any default of a Sublessee not reasonably susceptible of being cured by such parties, in order to comply with the provisions of this Section 18.6.

(d) The provisions of this Section 18.6 shall survive any termination of this Agreement and any applicable Sublease. Subleasehold Mortgagees and Mezzanine Financing Sources shall be deemed to be third party beneficiaries of this Section.

Section 18.7. Other Subleases and Space Leases. Upon the execution and delivery of a new lease or sublease pursuant to Section 18.5 and Section 18.6, all Subleases or Space Leases which theretofore may have been assigned to the City or have reverted to the City upon termination of this Agreement or Sublease or have been entered into by the City pursuant to such Sections, shall be assigned and transferred, without recourse against the City, by the City to the tenant or sublessees under any such new lease or sublease (as appropriate). Between the date of termination of this Agreement and the date of execution and delivery of the new lease or sublease, if any Lender shall have requested such new lease or sublease as provided for in Section 18.5 and Section 18.6, the City will not cancel or modify any Sublease or Space Lease (subleased or sub-subleased under this Agreement or a Sublease, as applicable) or accept any cancellation, termination or surrender thereof (unless such termination shall be effective as a matter of law on the termination of this Agreement) without the consent of Lender, except for default as permitted thereunder.

Section 18.8. No Subordination or Mortgaging of the City's Fee Title. There shall be no subordination of the City's Fee Estate to the lien of any Mortgage financing nor shall the City be required to join in such mortgage financing. No Mortgagee or other Lender may impose any lien upon the City's Fee Estate; it being acknowledged and agreed that the City retains the sole right to encumber such interest during the Lease Term.

Section 18.9. No Personal Liability. Notwithstanding anything to the contrary in this Agreement, no Lender or any Person acting for, on behalf of or at the direction of any Lender shall have any personal liability under this Agreement or any Sublease (or a new lease or sublease), even if such Person exercises any Lender's cure rights, except to the extent that such Person assumes in writing any of Developer's obligations under this Agreement or a new lease or any Sublessee's obligations under a Sublease or new lease or sublease.

Section 18.10. Priority of Multiple Security Interests. If more than one Lender of a particular type (Leasehold Mortgagees or Subleasehold Mortgagees, and as to Subleasehold Mortgagees, as to a particular encumbered Sublease) desires to exercise any mortgagee protection under this Agreement, then the party against whom such mortgagee protection is to be exercised shall be required to recognize either: (a) the Lender that desires to exercise such mortgagee protection and whose Mortgage is most senior (as against other Mortgages of like type); or (b)

such other Lender of a particular type (all Leasehold Mortgagees or all Subleasehold Mortgagees, as applicable), who all of the Lenders of such type have designated (in writing) to be the Lender to exercise such mortgagee protection. Priority of Mortgages shall be conclusively evidenced by (in order of precedence of application): (i) written agreement (or joint written instructions) by all Lenders of a particular type (Leasehold Mortgagees or Subleasehold Mortgagees, as applicable); or (ii) a report or certificate of a title insurance company licensed to do business in the State of Florida. The City shall not be obligated to determine the relative priorities of any Mortgages. For any mortgagee protection that by its nature or under this Agreement only one Leasehold Mortgagee or Subleasehold Mortgagee can exercise (such as the right to a new lease or sublease), pending the determination of priority, any time period that applies to Leasehold Mortgagees' or Subleasehold Mortgagees' (as applicable) exercise of such mortgagee protection shall be tolled. Notwithstanding the foregoing, unless expressly acknowledged and agreed by the Leasehold Mortgagee in a written agreement (or written instructions), all Leasehold Mortgages shall be prior and superior to all Subleasehold Mortgages and Leasehold Mortgagee's rights to exercise any mortgagee protection under this Agreement (including, without limitation, the rights under this Article 18) shall be prior and superior to the rights of any Subleasehold Mortgagees and Sublessees to exercise same. Finally, all rights and benefits afforded to a Mezzanine Financing Source under this Agreement shall also be afforded to any other Mezzanine Financing Sources who are not holding the first lien on the membership interests in Developer or a Sublessee, provided that all of the rights of such Mezzanine Financing Sources shall be subject to and subordinate to the holders of more senior Mezzanine Financing. Priority of Mezzanine Financing shall be conclusively evidenced by (in order of precedence of application): (x) written agreement (or joint written instructions) by all Mezzanine Financing Sources; or (y) an appropriate financing statement search under Article 9 of the Uniform Commercial Code (or any successor thereto) or other reasonable evidence of priority for such financing in the State of Florida. The City shall not be responsible for establishing the priority of the Mezzanine Financing.

Section 18.11. Further Assurances. Upon written request from Developer, any Sublessee, any Leasehold Mortgagee (prospective or current), any Subleasehold Mortgagee (prospective or current) or any Mezzanine Financing Source (prospective or current), the City shall promptly, under documentation reasonably satisfactory to the requesting party: (a) agree directly with the applicable Leasehold Mortgagee that such Leasehold Mortgagee may exercise against the City all Leasehold Mortgagee's rights in this Agreement; (b) agree directly with the applicable Subleasehold Mortgagee that such Subleasehold Mortgagee may exercise against the City all Subleasehold Mortgagee's rights in this Agreement and the applicable Sublease; (c) agree directly with the applicable Mezzanine Financing Source that such Mezzanine Financing Source may exercise against the City all Mezzanine Financing Source's rights in this Agreement and any applicable Sublease; and (d) amend this Agreement and/or provide other assurances as any current or prospective Lender reasonably requests, provided such amendment does not adversely affect the City, including reduction of any payment due the City or increase of any liability or obligation of the City.

Section 18.12. Third Party Beneficiary. All Lenders that have notified the City under Section 18.3 shall be deemed to be third party beneficiaries of this Article.

ARTICLE 19

Eminent Domain

Section 19.1. Definitions. For purposes of this Article, the following terms shall have the meanings attributed to them below:

(a) "Total Taking" shall mean the taking of the entire Property and all Improvements under the power of eminent domain either by judgment or by settlement in lieu of judgment, or the taking of so much of the Property and Improvements as to prevent the use of the Property by Developer in a reasonable manner for its intended purposes, as reasonably determined by Developer.

(b) "Partial Taking" shall mean either a temporary taking or the taking of only a portion of the Property and Improvements that does not constitute a Total Taking.

(c) "Taking" shall mean a Total Taking or Partial Taking, as applicable and the context dictates.

(d) "Date of Taking" shall mean the date upon which title to the Property and Improvements or a portion thereof passes to and vests in the condemnor or the effective date of any order for possession if issued prior to the date title vests in the condemnor.

(e) "Value of Fee Estate" shall mean the fair market value of the Fee Estate or applicable portion thereof, determined as if (i) the Property (excluding the Improvements) is encumbered by this Agreement for the then remaining Lease Term, but unencumbered by any lien representing a monetary obligation (e.g., a mortgage against the Fee Estate), and (ii) no Taking was pending, threatened or under consideration. The Value of Fee Estate shall include the fair market value of the City's reversionary interest in the Improvements would have had at the expiration of this Agreement (but for the Taking) and shall be determined immediately prior to the Date of Taking. Fair market value shall be the price that, considering all of the circumstances, would be arrived at by good faith, fair, arm's-length negotiations between an owner willing to sell and an independent third party buyer willing to buy the Fee Estate, both being knowledgeable and neither being under any pressure.

(f) "Value of Leasehold Estate" shall mean the fair market value of Developer's leasehold estate under this Agreement or applicable portion thereof, determined as if (i) the Property were unencumbered by any lien representing a monetary obligation (e.g., a Leasehold Mortgage), and (ii) no Taking was pending, threatened or under consideration, and shall be determined immediately prior to the Date of Taking. The Value of Leasehold Estate shall include, without limitation, the fair market value of the Improvements for the remaining Lease Term. Fair market value shall be the price that, considering all of the circumstances, would be arrived at by good faith, fair, arm's-length negotiations between an owner willing to sell and an independent third party buyer willing to buy the leasehold estate under this Lease (including the Improvements for the remainder of the Lease Term), both being knowledgeable and neither being under any pressure.

Section 19.2. Effect of Taking.

(a) The City and Developer shall each promptly notify the other if it becomes aware of a threatened or possible Taking (including any letter of interest or other communication from the condemning authority or its designee), or the commencement of any proceedings or negotiations which might result in a Taking. In addition, the City shall also include a notice to any Lender of any possible Taking. Each of the City and Developer, at its own expense, may appear in any such proceeding or action, to negotiate, prosecute and adjust any claim for any award or compensation on account of any Taking as it relates to their respective interest in the Property. Lenders shall also be entitled to participate in any proceedings in connection with a Taking.

(b) If a Total Taking occurs during the Lease Term, then the leasehold estate under this Agreement shall cease and terminate as of the Date of Taking. If this Agreement is so terminated, all Rent and any other financial obligation payable by Developer (including, without limitation, the Developer Contributions) to the City shall be paid by Developer up to the Date of Taking, and the Parties thereupon shall be released from all further liability under this Agreement, except with respect to any liability which shall have theretofore accrued.

(c) If a Partial Taking occurs during the Lease Term, this Agreement shall terminate as to the portion of the Property taken, but otherwise shall remain in full force and effect and Developer shall, after the settlement of any condemnation award, promptly restore and rebuild the Improvements to the nearest whole architectural structure consistent with the Improvements that existed prior to the condemnation (taking into consideration the nature and extent of the condemnation), with such alterations as Developer shall determine to make, or replace the Improvements (or portions thereof) with other Improvements as Developer shall determine to make, in the same manner as restoration of the Improvements following a Casualty under Section 16.1. If it is reasonably necessary in Developer's judgment to demolish the Improvements (or portions thereof) for the purpose of restoring, rebuilding or replacing same with other Improvements that Developer may determine to make, Developer shall have the right to raze the Improvements (or portions thereof) for such purpose. Following a Partial Taking, Rent, the Developer Contributions and any other monetary obligations of Developer to the City under this Agreement shall partially abate as of the Date of Taking proportionately in the same manner as partial abatements of such sums following a Casualty under Section 16.1.

(d) A Total Taking and a Partial Taking shall include a voluntary conveyance made with the consent of the Parties to any Governmental Authority or private entity or person empowered to condemn property in lieu of formal court proceedings.

Section 19.3 Allocation of Award. All compensation awarded for any taking (or the proceeds of private sale in lieu thereof) of the Property shall be allocated between the City and Developer as follows:

(a) Total Taking. In the event of a Total Taking, the condemnation award shall be divided so that (i) the City receives a portion of the award equal to the Value of Fee

Estate, subject to the rights of any mortgagee of the Fee Estate, (ii) Developer receives a portion of the award equal to the Value of Leasehold Estate (including without limitation the value of the Improvements) as of the Date of Taking, subject to the rights of any Lender, and (iii) the balance of the condemnation award, if any, shall be paid to Developer. If the proceeds from a Total Taking are not sufficient to pay the entire award due to the City and Developer under the preceding sentence, then the proceeds shall be paid on a *pari passu* and pro rata basis based on the ratio that the amount of the award due to each Party bears to the total award. In no event shall the City receive an award in excess of the Value of Fee Estate to which it is entitled to hereunder (and any such excess shall belong to Developer, subject to the rights of Lenders).

(b) Partial Taking. In the event of a Partial Taking, the condemnation award shall be divided so that (i) first, Developer receives an amount equal to the cost to restore the Property as provided in Section 19.2(c), subject to the rights of any Lender, and (ii) then, the condemnation award shall be divided and allocated between the Parties in accordance with Section 19.3(a) above, with the City entitled to an amount equal to the Value of Fee Estate subject to the Partial Taking, Developer entitled to an amount equal to the Value of Leasehold Estate subject to the Partial Taking, and Developer entitled to the balance of the condemnation award for the Partial Taking, if any.

(c) Temporary Taking. If the Partial Taking is a temporary taking, Developer shall be entitled to receive the entire amount of any condemnation award made for such Taking (whether paid by way of damages, rent or otherwise), subject to the rights of any Lender, unless the period of occupancy by the condemning authority extends beyond the termination of the Lease Term, in which case the award shall be apportioned between Developer and the City, in their respective capacities under this Agreement, as of the date of such termination.

(d) Expenses. All expenses, if any, including reasonable attorneys' fees, incurred by Developer, the City and Lenders in connection with a taking or conveyance in lieu thereof shall be paid prior to the division of any condemnation award between the Parties hereunder.

(e) Disputes. Any dispute as to the allocation of the condemnation award shall be resolved strictly in accordance with this Section through an apportionment hearing within the condemnation proceeding, failing which the Parties shall resolve the dispute in arbitration pursuant to Article 27.

Section 19.4 Condemnation of Fee Interest. Notwithstanding the City's right as a sovereign, the City hereby covenants and agrees with Developer that (i) the City will not agree to any Total Taking or Partial Taking by any party without the consent of Developer which may be withheld in Developer's sole discretion, (ii) the City will contest such Total Taking or Partial Taking, and (iii) the City will, as part of its defense against a Total Taking or Partial Taking, avail itself of the defense, if available, that one entity with condemnation powers cannot condemn the property of another entity with similar powers. If, notwithstanding the foregoing efforts by the City, the City is unable to prevent or preclude any Total Taking or Partial Taking, then the City will cooperate with Developer and in good faith and with reasonable diligence to minimize the

effect of the taking on Developer's ability to develop, construct, reconstruct, restore, repair or rebuild the Improvements or any Phase as contemplated in this Agreement.

ARTICLE 20

Default by Developer or City

Section 20.1. Events of Default of Developer. The following acts shall be considered events of default of Developer (herein deemed "Events of Default of Developer"):

(a) Developer fails to pay on time any Rent, Developer Contributions under Section 3.2(a) or (b), or other monies due and payable to the City under this Agreement when and as the same shall become due and payable, and such default shall continue for a period of thirty (30) days after written notice thereof from the City to Developer, with copies thereof to each Lender who shall have notified the City of its name, address and interest prior to such notice; or

(b) Developer fails to keep, observe and/or perform any of the other terms contained in this Agreement that are the responsibility of Developer, excepting the obligation to pay Rent or other monies due the City, and such default shall continue for a period of sixty (60) days after written notice thereof from the City to Developer setting forth with reasonable specificity the nature of the alleged breach, with copies thereof to each Lender who shall have notified the City of its name, address and interest prior to such notice; or in the case of such default or contingency which cannot with due diligence and in good faith be cured within sixty (60) days, Developer fails within said sixty (60) day period to proceed promptly and with due diligence and in good faith to pursue curing said default.

Section 20.2. Failure to Cure Default by Developer.

(a) If an Event of Default by Developer shall occur, the City, at any time after the periods set forth in Section 20.1(a) or (b) and provided Developer has failed to cure such Event of Default within such applicable period, shall give written notice to Developer and to any Lender who has notified the City in accordance with Section 18.3, specifying such Event(s) of Default by Developer and stating that this Agreement and the term hereby demised shall expire and terminate on the date specified in such notice, which shall be at least (i) sixty (60) days after the giving of such notice with respect to an Event of Default relating to any Phase where Commencement of Construction has not occurred, and (ii) twelve (12) months after the giving of such notice with respect to an Event of Default relating to any Phase where Commencement of Construction has occurred, during which time Developer and/or any Lender shall have the right to cure such default. Upon the date specified in such notice, if the Event of Default has not been cured, then, subject, however, to the provisions of Section 18.5, Section 18.6 and Section 20.3 herein, this Agreement and the Lease Term and all rights of Developer under this Agreement, shall expire and terminate; provided, however, that if the Event of Default is specific to a single or specific Phase or Phases of the Project, and the Event of Default has not been cured within the applicable notice and cure periods hereunder, this Agreement shall terminate as to the

affected Phase or Phases only, but not with respect to any other Phases or portion of the Property; it being agreed that this Agreement, and Developer's and the City's obligations hereunder, shall remain in full force and effect with respect to such other Phases or portions of the Property.

(b) If an Event of Default of Developer shall occur and the rights of Lenders shall not have been exercised as provided in this Agreement, then the City, at any time after the periods for exercise of rights as set forth under Section 20.1, 20.2 and 20.3 herein, shall have the following rights and remedies which are cumulative:

(i) to restrain, by injunction, the commission of or attempt or threatened commission of an Event of Default and to obtain a decree specifically compelling performance of any such term or provision of this Agreement; and

(ii) to sue Developer for all damages (as limited by Section 15.2 above), costs and expenses arising from Developer's failure to cure an Event of Default hereunder that is susceptible of cure and to recover all such damages, costs and expenses, excluding attorneys' fees and costs; and

(iii) to terminate any and all obligations that the City may have under this Agreement, in which event the City shall be released and relieved from any and all liability under this Agreement; provided, however, that (x) if the Event of Default is specific to a single or specific Phase or Phases of the Project, and the Event of Default has not been cured within the applicable notice and cure periods hereunder, the City's obligations under this Agreement shall terminate as to the affected Phase or Phases only, but not with respect to any other Phases or portion of the Property (it being agreed that this Agreement and the City's obligations hereunder shall remain in full force and effect with respect to such other Phases or portions of the Property), and (y) the remedy under this provision may be exercised only in conjunction with a termination or partial termination of this Agreement in accordance with this Section 20.2.

Section 20.3. Lender Right to Cure Developer Default. For so long as any Mortgage encumbers the Property, or, as applicable, a Mezzanine Financing Source holds an equity interest (directly or indirectly), or is secured by a pledge of ownership interests, in Developer or a Sublessee:

(a) Notwithstanding the time allowed for Developer to cure an Event of Default under Section 20.2(a), Lender shall have the right, but not the obligation, for an additional period of thirty (30) days following the expiration of the cure periods under Section 20.2(a), to cure any monetary or non-monetary Event of Default of Developer, but if such non-monetary Event of Default cannot be cured within such 30-day period, then Lender shall have up to ninety (90) days to cure, provided that it has commenced such cure within the initial thirty (30) day period and thereafter pursues such cure with reasonable diligence, subject to further extension of such cure periods as provided in clauses (b) and (c) below.

(b) Notwithstanding the provisions of this Agreement to the contrary, no Event of Default by Developer will be deemed to exist as to a Mortgagee (and the City shall not be permitted to terminate this Agreement due to an Event of Default of Developer) as long as such Mortgagee, in good faith, either promptly (i) commences to cure such Event of Default and prosecute the same to completion in accordance with Section 20.3(a) above, or (ii) if the nature of any non-monetary Event of Default is such that possession of or title to the Property is reasonably necessary to cure the Event of Default, or the Event of Default is of the type that cannot commercially reasonably be cured by Mortgagee (e.g., Developer bankruptcy), files a complaint for foreclosure and thereafter prosecutes the foreclosure action in good faith and with reasonable diligence, subject to any stays, moratoriums or injunctions applicable thereto, and as promptly as practicable after obtaining possession or title, as reasonably necessary, commences promptly to cure such Event of Default and prosecutes the same to completion in good faith and with reasonable diligence; provided, however, that during the period in which any foreclosure proceedings are pending, all of the other obligations of Developer under this Agreement, to the extent they are susceptible of being performed by Mortgagee (e.g., the payment of Rent), are being duly performed. Upon Mortgagee curing all Events of Default hereunder that are susceptible of cure, any Events of Default that cannot commercially reasonably be cured by Mortgagee shall be permanently waived, including, any interest, penalties and late fees or charges due to the City as a result of such Events of Default.

(c) Notwithstanding the provisions of this Agreement to the contrary, no Event of Default by Developer will be deemed to exist as to a secured Mezzanine Financing Source (and the City shall not be permitted to terminate this Agreement due to an Event of Default of Developer) as long as such Mezzanine Financing Source, in good faith, either promptly (i) commences to cure such Event of Default and prosecute the same to completion in accordance with Section 20.3(a) above, or (ii) if the nature of any non-monetary Event of Default is such that possession of or title to the ownership interests in Developer is reasonably necessary to cure the Event of Default or if the Event of Default is of the type that cannot commercially reasonably be cured by the Mezzanine Financing Source (e.g., Developer bankruptcy), takes all reasonable steps necessary to foreclose the pledge of such ownership interests and prosecutes such action in good faith and with reasonable diligence, subject to any stays, moratoriums or injunctions applicable thereto, and as promptly as practicable after obtaining such possession or title, as reasonably necessary, commences promptly to cure such Event of Default and prosecutes the same to completion in good faith and with reasonable diligence; provided, however, that during the period in which such action is being taken, all of the other obligations of Developer under this Agreement, to the extent they are susceptible of being performed by the Mezzanine Financing Source (e.g., the payment of Rent), are being duly performed. Upon the Mezzanine Financing Source curing all Events of Default hereunder that are susceptible of cure, any Events of Default that cannot commercially reasonably be cured by Mezzanine Financing Source shall be permanently waived, including, any interest, penalties and late fees or charges due to the City as a result of such Events of Default.

(d) Any penalties, interest and late payment fees or charges due to the City pursuant to this Agreement as a result of any Event of Default by Developer shall not commence to accrue and be due from any Mortgagee or Mezzanine Financing Source who

has commenced and is proceeding to cure any such Events of Defaults (other than any defaults not susceptible of being cured by Mortgagee or Mezzanine Financing Source, which shall be subject to the last sentence of clauses (b) or (c) above, as applicable) until the expiration of the applicable cure, grace or other periods provided to the Mortgagee or Mezzanine Financing Source to cure such Events of Defaults in this Article and Article 18.

Section 20.4. Surrender of Property. Upon any expiration or termination of the Lease Term in accordance with the terms and conditions of this Agreement, Developer and all Sublessees and Space Lessees shall quit and peacefully surrender the Property to the City, except as provided under any non-disturbance agreement provided by the City to any Sublessee or Space Lessees.

Section 20.5. Rights of the City After Termination. The City shall in no way be responsible or liable for any failure to relet the Property or any part thereof, or for any failure to collect any rent due for any such reletting, provided that the City acts reasonably and in good faith to mitigate its damages.

Section 20.6. No Waiver by the City. No failure by the City to insist upon the strict performance of any of the terms of this Agreement or to exercise any right or remedy consequent upon a breach thereof, and no acceptance by the City of full or partial Rent during the continuance of any such breach, shall constitute a waiver of any such breach or of any of the terms of this Agreement. None of the terms of this Agreement to be kept, observed or performed by Developer, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by the City. No waiver of any breach shall affect or alter this Agreement, but each of the terms of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. No waiver of any default of Developer hereunder shall be implied from any omission by the City to take any action on account of such default, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated. One or more waivers by the City shall not be construed as a waiver of a subsequent breach of the same covenant, term or conditions.

Section 20.7. Events of Default of City. The provisions of Section 20.8 shall apply if (a) the City fails to keep, observe and/or perform any of the duties or obligations imposed upon the City pursuant to the terms of this Agreement and such default shall continue for a period of thirty (30) days after written notice thereof from Developer to the City setting forth with reasonable specificity the nature of the alleged breach; or (b) in the case of any such default or contingency which cannot, with due diligence and in good faith, be cured within thirty (30) days, the City fails within said thirty (30) day period to proceed promptly after such notice and with due diligence and in good faith to cure said default or contingency (collectively, "Events of Default of City").

Section 20.8. Failure to Cure Default by City. If an Event of Default of City shall occur, Developer, at any time after the period set forth in Section 20.7 shall have the following rights and remedies which are cumulative:

- (a) If an Event of Default by City shall occur, Developer, at any time after the period set forth in Section 20.7 and provided City has failed to cure such Event of Default within such applicable cure period, shall give written notice to City specifying such Event(s) of Default by City and providing notice to City of Developer's intention to cure

such default for the account of the City by a date specified in such notice, which shall be at least thirty (30) days after the giving of such notice, as well as state the anticipated amount to cure. Upon the date specified in such notice, if the Event of Default of City has not been cured, then Developer shall have the right at any time thereafter (but in no event shall be obligated) to cure such default for the account of City, and City shall promptly reimburse Developer for any amount paid and any expense or contractual liability so incurred, plus an administrative fee of ten percent (10%) on such amount, within thirty (30) days after written demand. In the event City fails to timely reimburse Developer hereunder, Developer may offset any amounts rightfully due it against future Rent payments, Developer Contributions or other amounts due to the City under this Lease. In the event the City default is of the nature of an emergency, is a threat to any life or presents any safety issues or materially impairs Developer or any other Person from operating its business on or within the Property (or any portion thereof), Developer may immediately commence the cure referenced above upon written notice to City and City shall reimburse Developer for the expense incurred in connection therewith as provided above.

(b) In addition to any and all other remedies, in law or in equity, that Developer may have against the City, Developer shall be entitled to sue the City for all damages (as limited above), costs and expenses arising from the City's committing an Event of Default of City hereunder and to recover all such damages, costs and expenses, including reasonable attorneys' fees at both trial and appellate levels.

(c) Developer shall be entitled to exercise any and all equitable remedies against the City, including without limitation the right to restrain, by injunction, the commission of or attempt or threatened commission of an Event of Default of City and/or to obtain a decree specifically compelling performance of any such term or provision of this Agreement.

(d) To terminate any and all obligations that Developer may have under this Agreement with respect to the Project as a whole or any particular Phase(s), in which event Developer shall be released and relieved from any and all liability under this Agreement as a whole or with respect to such particular Phase(s) and shall surrender possession of the Property or applicable portion thereof to the City.

Section 20.9. No Waiver by Developer. Failure by Developer to insist upon the strict performance of any of the terms of this Agreement or to exercise any right or remedy upon a breach thereof, shall not constitute a waiver of any such breach or of any of the terms of this Agreement. None of the terms of this Agreement to be kept, observed or performed by the City, and no breach thereof, shall be waived, altered or modified except by written instrument executed by Developer. No waiver of any default of the City hereunder shall be implied from any omission by Developer to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated. One or more waivers by Developer shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

ARTICLE 21

City Transfers and Fee Mortgages

Section 21.1. City's Right to Convey. Except for transfers of the Fee Estate pursuant to Section 21.4, City may transfer the Fee Estate in whole but not in part from time to time, but only to a Person that is not and cannot elect to be immune from civil process and then only if such transfer does not otherwise violate this Agreement. Any transfer of the Fee Estate made by City shall be subject to the rights of Developer pursuant to the provisions of Section 21.4 and subject to Developer's Option thereunder. If any transaction violates this Section 21.1, then: (a) it shall be null, void, and of no force or effect; and (b) notwithstanding the foregoing, Developer shall be entitled to equitable relief to cancel and rescind it (without waiving any other rights or remedies, including an award of actual provable direct damages, capped at the amount received by the transferor for the transfer). City shall promptly notify Developer of any transfer hereunder. Developer shall have no liability for any transfer and other taxes payable on account of any transfer by City, except as otherwise provided in Section 21.4.

Section 21.2. Release of City. Upon any transfer of the entire Fee Estate in compliance with this Agreement, the grantor shall be automatically freed and relieved from all liability for performance of any covenants or obligations to be performed by the City after the transfer other than liability previously accrued, provided that such transferee assumes the City's future obligations under this Agreement. This Agreement shall bind the City only while the City owns the Fee Estate, except as to any liabilities and obligations accrued before the date of transfer of the Fee Estate or arising from a violation of this Section 21.2.

Section 21.3. Development Rights. The City shall not transfer any development rights pertaining to the Development Site or related Property to any other party or property, other than to Developer as contemplated by this Agreement. Any transfer or attempted transfer of such development rights without Developer's prior written consent (which Developer may grant or withhold in its sole and absolute discretion) shall be void *ab initio*.

Section 21.4. Purchase Option. The City hereby grants to Developer a continuing option to purchase portions of the City's Fee Estate (herein, the "Option Property"), from time to time and at any time during the Lease Term, on the terms and conditions hereinafter set forth (the "Option"). Developer may exercise the Option from time to time (and on one or more occasions) with respect to the Option Property by delivering to the City, during the Lease Term, a written notice of exercise (the "Option Notice"). The Option Notice shall describe the Option Property, which shall consist of the footprint of the Improvements constructed or to be constructed on the Option Property, together with areas immediately adjacent thereto, but not to exceed 115% of the square foot area of the footprint of the Improvements in the aggregate. The Option may not be exercised by Developer at any time that an Event of Default of Developer exists. Unless otherwise agreed to in writing by the City and Developer, the closing (the "Option Closing") of the purchase and sale of each Option Property shall be consummated on or before ninety (90) days from the date the City receives the Option Notice for such Option Property, at the office of Developer's closing agent in Miami-Dade County, Florida, or by escrow closing where the parties need not be present. Neither the exercise of the Option nor the Option Closing shall require the approval of the City Council. During the period between the Option Notice and the Option Closing, Developer shall pay to the City all Rents

and other charges as described in this Lease. The following provisions shall govern the Option Closing for each Option Property:

(a) At the Option Closing, the City shall deliver, or cause to be delivered, to Developer the following duly executed documents with respect to the Option Property, in form reasonably acceptable to counsel for Developer:

(i) A special warranty deed, in recordable form, for the Option Property (including the Improvements located thereon, if any), subject only to those matters that encumber title as of the Effective Date and any other matters entered into by Developer or the City contemplated by or permitted under this Lease;

(ii) A general assignment of any entitlements, development rights and other intangible property associated with the Option Property;

(iii) A title affidavit covering mechanic's lien, parties in possession, gap and other customary title matters;

(iv) A FIRPTA affidavit;

(v) A release of the Option Property from the lien and effect of this Lease in recordable form;

(vi) The Master Covenants and any other easement, covenant, condition, restriction or other instrument as Developer may reasonably request for the development, construction, operation, maintenance, repair, replacement, use and enjoyment of the Option Property and any Improvements located or to be located thereon, which instruments shall be countersigned by Developer where appropriate;

(vii) A closing statement; and

(viii) Such other instruments and documents as may be reasonably requested by Developer or by the title company providing title insurance to Developer in order to consummate the subject transaction.

(b) The purchase price (the "Option Price") for the Option Property shall be an amount equal to ninety percent (90%) of the "fair market value" of the Option Property determined in accordance with this provision. At any time following the Effective Date, Developer may obtain two appraisals of the fair market value of the City's Fee Estate from two real estate appraisers selected by Developer who are licensed in the State of Florida as a real estate appraiser and have a "MAI" designation (or the then-equivalent) by the American Institute of Real Estate Appraisers (or any comparable successor certifying organization if such institute is not then in existence), having no fewer than ten (10) years' experience appraising commercial real estate in the South Florida area. The two appraisers shall submit his or her determination of the fair market value of the City's Fee Estate, and the fair market value of the City's Fee Estate shall be deemed to be the arithmetic mean of the two determinations of fair market value by the appraisers. The "fair market value" of the Option Property, for purposes of determining the Option Price, shall be an amount equal

to (i) the fair market value of the City's Fee Estate determined under the immediately preceding sentence, *multiplied by* (ii) a fraction, the numerator of which is the square foot area of the land comprising the Option Property, and the denominator of which is the square foot area of the Development Site. Developer shall pay to the City the Option Price for each Option Property at each Option Closing.

(c) There shall be no prorations and adjustments at the Option Closing. Developer will be responsible for any documentary stamp taxes and surtaxes on the special warranty deed conveying the Option Property and any recording costs associated with recording any of the instruments required under clause (a) above. Developer shall provide the legal description for the Option Property prior to the Option Closing for the deed and other closing documents. Each party shall be responsible for its respective legal fees in connection with the Option and Option Closing.

(d) Developer may withdraw any Option Notice prior to the applicable Option Closing, whereupon this Lease shall continue in full force and effect with respect to the Option Property as though the Option Notice were never provided. Developer's failure to close the purchase of the Option Property upon exercise of an Option shall not constitute a breach or a default by Developer under this Lease and this Lease shall continue unaffected thereby. Developer shall have no right to exercise the Option after the expiration of the Lease Term.

(e) The Option and the terms and provisions of this Section 21.4 are intended to be and shall constitute covenants running with the land with respect to the Property and shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. The Option shall be specifically enforceable by Developer and its successors and assigns. Developer may assign the Option at any time (i) prior to the Option Notice as part of and in connection with an assignment of this Lease, or (ii) subsequent to delivery of the Option Notice, at the Option Closing, to an Affiliate of Developer with respect to the Option Property that is the subject of the Option Notice. Developer shall give the City prompt written notice of any such assignment.

Section 21.5. Fee Mortgages. This Agreement, including all amendments, renewals and extensions thereto or thereof, the leasehold estate hereunder and all Mortgages, including all amendments, renewals, and extensions thereto or thereof, shall be prior and superior to all mortgages that encumber the Fee Estate (including all extensions, renewals, replacements, modifications and consolidations thereof, and to all advances thereunder) and the rights of the holders of such mortgages. Developer shall not be obligated to provide any documentation to the holder of a mortgage against the Fee Estate which in any way prejudices Developer's rights under this Agreement in Developer's sole but commercially reasonable discretion. Any inconsistency between any mortgage that encumbers the Fee Estate and this Agreement shall be resolved in favor of this Agreement. All Mortgagees shall be deemed a third party beneficiary of this Section 21.5.

ARTICLE 22

Notices

Section 22.1. Addresses. All notices, demands or requests shall be in writing and shall be deemed to have been properly served or given, if addressed to the City and Developer as follows:

City: City of North Miami
776 N.E. 125th Street
North Miami, Florida 33161
Attn: City Manager
Email: rcameau@northmiamifl.gov

And: City of North Miami
776 N.E. 125th Street
North Miami, Florida 33161
Attn: City Attorney
Email: cityattorney@northmiamifl.gov

Developer: Redwood CP Dev, LLC
3921 Alton Road, Suite 439
Miami Beach, FL 33140
Attn: David Burstyn
Email: davidb@winstoncap.com
Attn: Brian Sidman
Email: brian@bashholdings.com
Attn: Anthony Seijas
Email: seijasa23@gmail.com

With a copy to: Redwood CP Dev, LLC
545 NW 26th Street, Suite 620
Miami, FL 33127
Attn: David Burstyn
Email: davidb@winstoncap.com
Attn: Brian Sidman
Email: brian@bashholdings.com
Attn: Anthony Seijas
Email: seijasa23@gmail.com

And to: Greenberg Traurig, P.A.
333 S.E. 2nd Avenue, Suite 4100
Miami, Florida 33131
Attn: Nancy B. Lash, Esq.
Email: lashn@gtlaw.com

or to such other address and to the attention of such other party as the City or Developer may, from time to time, designate by written notice given in accordance with this provision. The Leasehold Mortgagee, Sublessee, Subleasehold Mortgagee or Mezzanine Financing Source shall be deemed to have been properly served or given notice if such notice is in writing addressed to such party at the address furnished pursuant to the provisions of Section 17.5 and Section 18.3 above.

Section 22.2. Method of Transmitting Notice. All such notices, demands or requests (a "Notice") shall be deemed to be "in writing" if sent by: (a) United States registered or certified mail, return receipt requested, (b) hand delivery, (c) nationally recognized overnight courier, or (d) electronic transmission, provided that such notice is also sent by one of the other means of delivery herein. All postage or other charges incurred for transmitting of Notices shall be paid by the party sending same. Such Notices shall be deemed served or given on (i) the date received, (ii) the date delivery of such Notice was refused or unclaimed, or (iii) the date noted on the return receipt or delivery receipt as the date delivery thereof was determined impossible to accomplish because of an unnoticed change of address. Any party giving a Notice may request the recipient to acknowledge receipt of such Notice and the recipient shall promptly comply with any such request (but failure to do so shall not limit the effectiveness of any Notice). Any attorney may give any Notice on behalf of its client.

ARTICLE 23

Quiet Enjoyment

Developer, upon paying all Rent as provided for and performing in accordance with the terms, agreements, and provisions of this Agreement, shall peaceably and quietly have, hold and enjoy the Property during the term of this Agreement without interruption, disturbance, hindrance or molestation by the City or by anyone claiming by, through or under the City.

ARTICLE 24

Certificates by City and Developer

Section 24.1. Developer Estoppel Certificates. Developer agrees at any time and from time to time, upon not less than twenty (20) days' prior written notice by the City, to execute, acknowledge and deliver to the City a statement in writing (modified as necessary to make the statement accurate): (a) setting forth the rents, payments and other monies then payable under this Agreement, if then known; (b) certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications, that this Agreement is in full force and effect as modified and stating the modification), and if this Agreement is not in full force and effect the certificate shall so state the reasons why; (c) certifying that this Agreement as modified represents the entire agreement between the parties as to this leasing or, if it does not, the certificate shall so state why; (d) stating the dates to which the rents, payments and other monies have been paid; (e) stating the dates on which the Lease Term commenced and when this Agreement is scheduled to terminate; and (f) stating (to the best of Developer's knowledge) whether or not the City is in default in keeping, observing or performing any of the terms of this Agreement; and, if in default, specifying each such default (limited to those defaults of which Developer has knowledge). It is intended that any such statement delivered pursuant to this Section 24.1 may be relied upon by the

City or any prospective assignee, transferee or purchaser of the fee, but reliance on such certificate shall not extend to any default of the City as to which Developer shall have no actual knowledge.

Section 24.2. City Estoppel Certificates. The City agrees at any time and from time to time, upon not less than twenty (20) days' prior written notice by Developer or by a Leasehold Mortgagee, Sublessee, Subleasehold Mortgagee or Mezzanine Financing Source to furnish a statement in writing, in substantially the form attached hereto as Schedule 24.2 (with such modifications and additional certifications as may be reasonably required by a Lender): (a) setting forth the rents, payments and other monies then payable under this Agreement, if then known; (b) certifying that this Agreement is unmodified and in full force and effect (or if there shall have been modifications that this Agreement is in full force and effect as modified and stating the modifications); and if this Agreement is not in full force and effect the certificate shall so state the reasons why; (c) certifying that this Agreement as modified represents the entire agreement between the parties as to this leasing or, if it does not, the certificate shall so state why; (d) stating the dates to which rents, payments and other monies have been paid; (e) stating the dates on which the Lease Term commenced and when this Agreement is scheduled to terminate; and (f) stating whether or not (to the best of the City's knowledge) Developer is in default in keeping, observing and performing any of the terms of this Agreement, and, if Developer shall be in default, specifying each such default of which the City may have knowledge. It is intended that any such statement delivered pursuant to this Section 24.2 may be relied upon by any prospective assignee, transferee or purchaser of Developer's interest in this Agreement, any prospective Sublessee or any Leasehold Mortgagee, Subleasehold Mortgagee, Mezzanine Financing Source or any assignee thereof, but reliance on such certificate may not extend to any default of Developer as to which the City shall have had no actual knowledge.

ARTICLE 25

Construction of Terms and Miscellaneous

Section 25.1. Severability. If any provisions of this Agreement or the application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue valid and be enforced to the fullest extent permitted by law.

Section 25.2. Captions. The Article headings and captions of this Agreement and the Table of Contents preceding this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement nor in any way affect this Agreement. All references to Sections and Articles mean the Sections and Articles in this Agreement unless another agreement is expressly referenced.

Section 25.3. Relationship of Parties. This Agreement does not create the relationship of principal and agent or of mortgagee and mortgagor or of partnership or of joint venture or of any association between the City and Developer, it being agreed that this Agreement creates (a) a contract between the Parties governing their respective rights and obligations during the Pre-Commencement Period, and (b) a lease between the Parties (with the City, as landlord and Developer, as tenant) with respect to the Development Site or applicable Phase automatically

effective as of the Commencement Date through the end of the Lease Term, as provided in Section 1.5(i).

Section 25.4. Recording. Simultaneously upon the execution of this Agreement, the parties shall promptly execute, acknowledge, and deliver duplicate originals of a Memorandum of Agreement and Lease in the form attached hereto as Schedule 25.4 and thereafter promptly submit same for recording to give record notice of the existence of this Agreement and all or certain terms set forth herein. If the parties amend this Agreement, then the parties shall simultaneously execute, acknowledge, deliver duplicate originals of an amendment to such Memorandum of Agreement and Lease as appropriate and submit same for recording.

Section 25.5. Construction. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the party or parties may require. The parties hereby acknowledge and agree that each was properly represented by counsel and this Agreement was negotiated and drafted at arms' length so that the judicial rule of construction to the effect that a legal document shall be construed against the drafters shall be inapplicable to this Agreement which has been drafted by counsel for both the City and Developer.

Section 25.6. Consents. Whenever in this Agreement the consent or approval of the City or Developer is required, such consent or approval shall be made by the City Manager or City's Designated Representative (on behalf of the City) and any duly authorized officer or representative of Developer (on behalf of Developer) and:

- (a) shall not be unreasonably or arbitrarily withheld, conditioned, or delayed unless specifically provided to the contrary, and shall not require a fee from the party requesting same;
- (b) shall not be effective unless it is in writing; and
- (c) shall apply only to the specific act or transaction so approved or consented to and shall not relieve Developer or the City, as applicable, of the obligation of obtaining the other's prior written consent or approval to any future similar act or transaction.

Section 25.7. Entire Agreement. This Agreement contains the entire agreement between the parties hereto and shall not be modified or amended in any manner except by an instrument in writing executed by the parties hereto, provided that amendments extending the time for performance of any obligation of Developer by no more than twelve (12) months, and any extensions of the Review Period by no more than six (6) months in the aggregate, may be executed or granted by the City Manager or the City's Designated Representative on behalf of the City.

Section 25.8. Further Assurances. Each party shall execute and deliver such further documents, and perform such further acts, as may be reasonably necessary to achieve the parties' intent in entering into this Agreement.

Section 25.9. Successors and Assigns. The terms herein contained shall bind and inure to the benefit of the City, its successors and assigns, and Developer, its successors and assigns (including Leasehold Mortgagees, Sublessees, and Space Lessees as appropriate and applicable), except as may be otherwise provided herein.

Section 25.10. Holidays. It is hereby agreed and declared that whenever the day on which a payment due under the terms of this Agreement, or the last day on which a response is due to a Notice, or the last day of the period for performance or a cure period, falls on a day which is a legal holiday in Miami-Dade County, Florida, or on a Saturday or Sunday, such due date, date for performance or cure period expiration date shall be postponed to the next following business day. Any mention in this Agreement of a period of days for performance shall mean calendar days.

Section 25.11. Schedules/Exhibits. Each Rider, Schedule and Exhibit referred to in this Agreement has been initialed by the parties and forms an essential part of this Agreement. The Riders, Schedules and Exhibits, even if not physically attached, shall be treated as if they were part of this Agreement.

Section 25.12. Brokers. The City and Developer hereby represent and agree that no real estate broker or other person is entitled to claim a commission as a result of the execution and delivery of this Agreement.

Section 25.13. Performance under Protest. If a dispute arises about performance of any obligation under this Agreement, the party against which such obligation is asserted shall have the right to perform it under protest, which shall not be regarded as voluntary performance. A party that has performed under protest may institute appropriate proceedings to recover any amount paid or the reasonable cost of otherwise complying with any such obligation, with interest at the Default Rate.

Section 25.14. Unavoidable Delay. Each party's obligation to perform or observe any nonmonetary obligation under this Agreement shall be suspended during such time as such performance or observance is prevented or delayed by Unavoidable Delay.

Section 25.15. Time of the Essence. Subject to any extensions expressly provided in this Agreement and Unavoidable Delay, time is of the essence as to the performance of the provisions of this Agreement by the City and Developer.

Section 25.16. Radon. In accordance with Florida law, the following disclosure is hereby made: RADON GAS: Radon gas is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risk to persons who are exposed over time. Levels of radon that exceed Federal and State Guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

Section 25.17. Governing Law. This Agreement, its interpretation and performance, the relationship between the parties, and any disputes arising from or relating to any of the foregoing, shall be governed, construed, interpreted, and regulated under the laws of the State of Florida, without regard to principles of conflict of laws.

Section 25.18. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same agreement.

Section 25.19. Attorneys' Fees. In the event of any litigation or dispute between the parties, or claim made by either party against the other, arising from this Agreement or the relationship of the parties hereunder, or to enforce or interpret this Agreement or seek declaratory or injunctive relief in connection with this Agreement, or to exercise any right or remedy under or arising from this Agreement, or to regain or attempt to regain possession of the Property or terminate this Agreement, the prevailing party shall be entitled to reimbursement of its legal costs, including, without limitation, reasonable attorneys' fees, court costs, and expenses, at trial, at all appeal levels, at all administrative proceedings or hearings, with interest at the Default Rate, and all other reasonable costs and expenses incurred in enforcing this Agreement or curing the other party's default.

Section 25.20. Waiver of Jury Trial. The Parties hereby knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in respect of any action, proceeding or counterclaim based on this Agreement, or arising out of, under or in connection with this Agreement or any amendment or modification of this Agreement, or any other agreement executed by and between the parties in connection with this Agreement, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any Party hereto. This waiver of jury trial provision is a material inducement for the City and Developer entering into this Agreement.

Section 25.21. Venue. The City and Developer each hereby irrevocably and unconditionally submits to the jurisdiction of the state and federal courts in Miami-Dade County, Florida, for any and all claims or disputes arising out of, to enforce, construe, or otherwise relating to this Agreement, and any appellate court from any such courts, in any suit, action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment thereon, and each hereby irrevocably and unconditionally agrees that all claims in respect of any such suit, action or proceeding shall be heard and determined in such courts. The City and Developer each agrees that a final judgment (after exhaustion of appeals or expiration of the time to appeal) in any such suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Laws and Ordinances. The City and Developer each hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any such court.

Section 25.22. Provisions not Merged With Deed. None of the provisions of this Agreement, nor the separate estates of Developer and the City, are intended to or shall, in any event, be merged, including by reason of any transfer, whether by operation or law or otherwise, (i) transferring Developer's leasehold estate in the Property or its interest in the Project or any part thereof from Developer to the City, or (ii) transferring title to the Property or any part thereof from the City to Developer, and any such transfer shall not be deemed to affect or impair the provisions and covenants of this Agreement. No such merger of estates shall occur unless and until all parties having any interest in this Agreement, the leasehold estate created hereby, or the Project (or portion thereof), including all applicable Leasehold Mortgagees, shall join in the execution of a written instrument effecting such merger.

Section 25.23. Documents Incorporated and Order of Precedence. The City and Developer acknowledge that the City issued the RFP and that Developer submitted a response to the RFP. If there is a conflict between or among the provisions of this Agreement, the response to the RFP, and the RFP, the order of precedence is as follows: (i) the terms of this Agreement; (ii) the response to the RFP, and (iii) the RFP.

Section 25.24. Public Disclosures. Throughout the term of this Agreement, all documents, records and materials of any nature that are submitted to the City relating to construction, sale, lease, operation or any other activity occurring on the Property shall be public records and shall be provided as required by Chapter 119, Florida Statutes, and pursuant to the City's Citizens' Bill of Rights. Developer shall be entitled to assert any lawful exemption or defense to disclosure.

ARTICLE 26

Representations and Warranties

Section 26.1. The City's Representations and Warranties. The City hereby represents and warrants to Developer that:

(a) It has full power and authority to enter into this Agreement and perform in accordance with its terms and provisions and that the parties signing this Agreement on behalf of the City have the authority to bind the City and to enter into this transaction and the City has taken all requisite action and steps to legally authorize it to execute, deliver and perform pursuant to this Agreement.

(b) The City is the fee simple owner of the Property, owns all declarant rights, and on the Commencement Date the City will deliver the leasehold hereunder and exclusive possession of the Development Site or any Phase (as applicable) to Developer free and clear of any and all tenancies and occupancies of every nature whatsoever, whether by the City or otherwise, and also free and clear of any violations by the City of Laws and Ordinances, except as may be agreed by Developer in writing, and subject only to the rights reserved herein to the City.

Section 26.2. Developer's Representations and Warranties. Developer hereby represents and warrants to the City that it has full power and authority to enter into this Agreement and perform in accordance with its terms and provisions and that the parties signing this Agreement on behalf of Developer have the authority to bind Developer and to enter into this transaction and Developer has taken all requisite action and steps to legally authorize it to execute, deliver and perform pursuant to this Agreement.

ARTICLE 27

Dispute Resolution

Section 27.1. Mediation. All disputes arising out of or relating to this Agreement, shall be subject to non-binding mediation as a condition precedent to the institution of arbitration or any

other legal or equitable proceedings by either Party. The Parties shall endeavor to resolve their claims by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the rules of the American Arbitration Association, but not under the auspices or administration of the American Arbitration Association in arbitration. The Parties mutually shall agree to the selection of a mediator and share equally in the costs of mediation, with each Party solely responsible for the costs of their legal fees. If the Parties fail to resolve the dispute through mediation, then either Party may proceed under the remainder of this Article.

Section 27.2. Arbitration. Any dispute between the City and Developer relating to whether a condition or event constitutes an Unavoidable Delay or which otherwise is expressly stated to be resolved in arbitration pursuant to the terms of this Agreement (if any), shall be referred to and exclusively and finally settled by binding arbitration, conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association (or similar successor rules thereto), and shall not be subject to judicial review. The place of arbitration shall be Miami, Florida. In the event that any party calls for a determination in arbitration pursuant to the terms of this Agreement, the Parties shall have a period of ten (10) days from the date of such request to mutually agree on one arbitrator who, at a minimum, must be an attorney with at least fifteen (15) years of recent professional experience practicing real estate construction law (with significant experience in development projects and related litigation) in Miami-Dade County, Florida. If the parties fail to agree, each Party shall have an additional ten (10) days to select an individual meeting the same minimum qualifications set forth above, and the two (2) arbitrators selected shall select a third arbitrator to be the arbitrator for the dispute in question, failing which the arbitrator shall be an individual meeting the same minimum qualifications set forth above designated by the American Arbitration Association in Miami-Dade County, Florida. If any party fails to make its respective selection of an arbitrator within the additional 10-day period provided for above, then the remaining party's selection shall be the arbitrator. The arbitrator shall decide the issues submitted to him/her in accordance with (a) the language, commercial purpose and restrictions contained in this Agreement (including exhibits hereto, if any) and (b) what is just and equitable under the circumstances, provided that all substantive issues shall be determined under the laws of the State of Florida. With respect to any arbitration proceeding hereunder, the following provisions shall apply: (i) the parties shall cooperate with one another in the production and discovery of requested documents, and in the submission and presentation of arguments to the arbitrator at the earliest practicable date; (ii) the arbitrator conducting any arbitration shall be bound by the provisions of this Agreement and shall not have the power to add to, subtract from or otherwise modify such provisions; and (iii) each party shall be responsible for its own costs and expenses incurred in the arbitration, including attorneys' fees, but the costs of the presiding arbitrator and the arbitration itself shall be shared equally by the Parties. Arbitration of any dispute hereunder shall be conducted on an expedited basis under the "Expedited Procedures" of the Commercial Arbitration Rules to the fullest extent possible.

Section 27.3. Other Disputes. Except to the extent this Agreement expressly provides that certain matters are to be addressed by non-binding mediation or resolved in arbitration, and except as the Parties may otherwise mutually agree, disputes between the Parties under this Agreement shall be resolved by litigation.

ARTICLE 28

Community Benefits

Section 28.1. Community Benefits Plan. The purposes and uses of the Project described and depicted in the proposed Master Plan and the proposed Developer Contributions (including the Park Improvements) contemplated by this Agreement illustrate the unique and diverse benefits Developer intends to provide to the neighborhoods surrounding the Project and the City of North Miami community at large. Developer agrees to use reasonable and good faith efforts to fulfill the community benefits set forth in this Agreement and further outlined in the community benefits plan attached hereto as Exhibit E (as same may be amended and/or supplemented from time to time, the "Community Benefits Plan") pursuant thereto and this Article 28.

Section 28.2. Reporting. From the Commencement Date through the Completion of Construction of the Project, Developer shall use commercially reasonable efforts to provide the City with annual reporting of the progress made to achieve the goals described in the Community Benefits Plan. If, for any reason, Developer experiences persistent and significant difficulty in fulfilling the community benefits outlined in the Community Benefits Plan, Developer's report shall provide in reasonable detail the nature of the difficulties and, thereafter, the Parties shall meet to address the obstacles encountered and use good faith efforts to resolve same and/or make appropriate adjustments to the Community Benefits Plan.

Section 28.3. Costs of Plan. Developer shall be responsible to pay the reasonable costs of implementation of the programs and obligations included in the Community Benefits Plan, including the local preference initiatives described herein and therein, except as otherwise provided therein.

Section 28.4. Enforcement. The Parties acknowledge and agree that the Community Benefits Plan and terms thereof are aspirational goals that are dependent on factors, including those outside the reasonable control of Developer. Accordingly, the City's sole remedies for breach of this Article 28 shall be limited to specific performance to the extent performance is achievable in light of existing circumstances (including available skilled labor), and Developer waives all defenses in a specific performance action by the City, except defense of performance (or inability to perform for reasons outside the reasonable control of Developer) or of Unavoidable Delay, in any action for specific performance brought by the City to enforce its rights under this Article 28.

[The remainder of this page is intentionally left blank.]

SCHEDULE 7

Insurance Requirements

Commercial General Liability with limits for bodily injury and property damage liability of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, naming the City of North Miami as additional insured.

The named insured shall provide the City of North Miami with written notice of cancellation or material change from the insurer in accordance with policy provisions as soon as practicable.

The insurance policy shall be issued by companies authorized to do business in the State of Florida rated no less than "A-" as to management, and no less than "Class V" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company.

REDWOOD CP DEV, LLC, a Florida
limited liability company

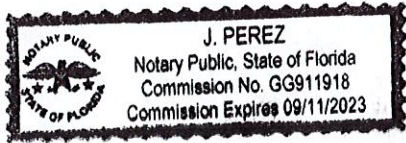
By: **Winston Holdings SB, LLC**, its
Manager

By: _____
Name: David Burstyn
Title: Manager

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 22 day of June
2023, by means of physical presence or online notarization by David Burstyn, as
Authorized Rep. of REDWOOD CP DEV, LLC, a Florida limited liability company, on
behalf of said entity. He is personally known to me or presented FL DL. B623-161
76-0480 as identification.

Notary Stamp/Seal:




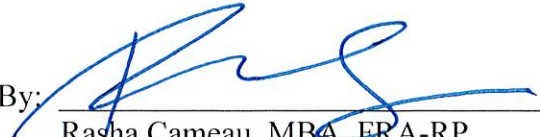
Notary Signature: _____
Notary Print: Jose Perez
Notary Public, State of FL
Commission No.: GG911918
My Commission Expires: 9/11/2023


IN WITNESS WHEREOF, the City has caused this Agreement to be executed in its name by the City Mayor, as authorized by the City Council, and Developer has caused this Agreement to be executed by its duly authorized representative, all as of the day and year first above written.

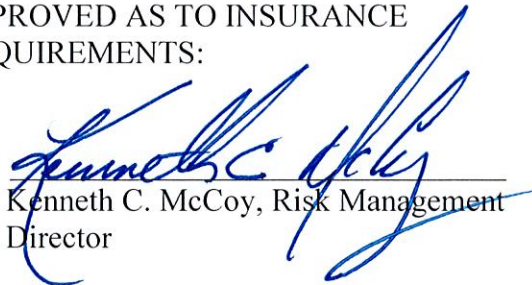
CITY OF NORTH MIAMI, a municipal corporation of the State of Florida

ATTEST:

By: 
Vanessa Joseph, Esq., City Clerk

By: 
Rasha Cameau, MBA, FRA-RP
City Manager


Approved as to form and legal sufficiency
Jeff P. H. Cazeau, Esq., City Attorney

APPROVED AS TO INSURANCE REQUIREMENTS:
By: 
Kenneth C. McCoy, Risk Management Director

[Signatures Continue on Following Page]

Exhibit "A"¹

Description of Overall Land



¹ For legal description, see folio numbers (x) 06-2123-000-0050 and (y) 06-2123-000-0180 on the Miami-Dade County Property Appraiser's website.

RESOLUTION NO. 2023-R-87

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT AND LEASE, IN SUBSTANTIALLY THE ATTACHED FORM, BETWEEN THE CITY OF NORTH MIAMI, AS LANDLORD AND REDWOOD CP DEV, LLC, AS TENANT, FOR THE VACANT AND UNDEVELOPED PORTION OF THE CITY OWNED PROPERTY LOCATED AT 1525 N.W. 135 STREET, SPECIFICALLY IDENTIFIED WITH FOLIO NUMBER 06-2123-000-0050, ALONG WITH ASSOCIATED AIR RIGHTS, FOR A TERM OF NINETY-NINE (99) YEARS; PROVIDING FOR AN EFFECTIVE DATE AND ALL OTHER PURPOSES.

WHEREAS, on August 31, 2022, the City of North Miami (“City”) issued *Request for Proposals (RFP) No. 70-21-22 - Improvements to Claude Pepper Park, Renovations to Joe Celestin Center and Development of Adjacent Vacant Site* soliciting proposals from qualified developers who would be willing and able to make significant improvements to the City’s Claude Pepper Park and Joe Celestin Center (“JCC”) in return for the opportunity to develop a vacant site located next to JCC; and

WHEREAS, on October 11, 2022, the Mayor and City Council adopted Resolution No. 2022-R-173, which authorized the waiver of the evaluation and selection procedures contained under Section 7-138 of the City’s Code of Ordinances and approved the City Council’s authority to make the final evaluation and selection of the proposals submitted in response to *RFP No. 70-21-22*; and

WHEREAS, on November 18, 2023, the Mayor and City Council selected the proposal submitted by Redwood CP Dev, LLC (“Redwood”) as the proposal deemed to be the most advantageous and in the best interests of the City in response to RFP No. 70-21-22; and

WHEREAS, the proposed agreement and lease submitted by Redwood provides for the long-term lease of the vacant and undeveloped portion of the city-owned parcel located at 1525 N.W. 135 Street and identified with folio number 06-2123-000-0050, along with associated air rights over the leased portion of the property, to Redwood for a term of ninety-nine (99) years with an option to renew for another ninety-nine (99) years, said ground lease agreement is attached as Exhibit “A”; and

WHEREAS, in accordance with the terms of the agreement and lease, Redwood will pay One Hundred Thousand Dollars (\$100,000) per year in rent starting on the 11th year of the lease terms; and

WHEREAS, Redwood will provide community benefits including the establishment of a nonprofit foundation benefitting the youth of the City and provide fifty thousand dollars (\$50,000.00) annually to the foundation for a period of ten (10) years and will donate a total of One Million and No/100 Dollars (\$1,000,000.00) to be paid in equal installments during the construction phase of the Project, to be earmarked by the City for programs that directly benefit the residents of the City (such as utilities, food pantry, etc.); and


WHEREAS, the Mayor and City Council believe that it is in the best interest of the City and its residents to enter into a lease agreement for this purpose.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. Authorization of City Manager and City Attorney. The Mayor and City Council of the City of North Miami, Florida, hereby authorize the City Manager and City Attorney to execute an Agreement and Lease substantially, in the form attached as Exhibit "A", between the City of North Miami, as landlord and Redwood CP Dev, LLC, as a tenant, for the vacant and undeveloped portion of the city-owned parcel located at 1525 N.W. 135 Street and identified with folio number 06-2123-000-0050, along with associated air rights over the leased portion of the property, for a term of ninety-nine (99) years.

Section 2. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a 5 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, this 23rd day of May, 2023.


ALIX DESULME, Ed.D.
MAYOR

ATTEST :



VANESSA JOSEPH, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Charles

Seconded by: Estimé-Irvin

Vote:

Mayor Alix Desulme, Ed.D.	<u> X </u>	(Yes)	<u> </u>	(No)
Vice-Mayor Mary Estimé-Irvin	<u> X </u>	(Yes)	<u> </u>	(No)
Councilman Scott Galvin	<u> X </u>	(Yes)	<u> </u>	(No)
Councilwoman Kassandra Timothe, MPA	<u> X </u>	(Yes)	<u> </u>	(No)
Councilman Pierre Frantz Charles	<u> X </u>	(Yes)	<u> </u>	(No)



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company
REDWOOD CP DEV, LLC

Filing Information

Document Number	L22000156282
FEI/EIN Number	NONE
Date Filed	04/13/2022
Effective Date	08/13/2021
State	FL
Status	ACTIVE
Last Event	CONVERSION
Event Date Filed	04/13/2022
Event Effective Date	NONE

Principal Address

2121 NW 2ND AVE #205
MIAMI, FL 33127

Mailing Address

3921 ALTON ROAD SUITE 239
MIAMI BEACH, FL 33140

Registered Agent Name & Address

CALDERA LAW, PLLC
7293 NW 2ND AVE
MIAMI, FL 33150

Authorized Person(s) Detail

Name & Address

Title MGR

REDWOOD NATIONAL PROPERTIES LLC
3921 ALTON ROAD, SUITE 439
MIAMI BEACH, FL 33140

Title MGR

WINSTON HOLDINGS SB, LLC
19996 NE 36TH PLACE
AVENTURA, FL 33180

Title MGR

SEIJAS, ANTHONY
7740 SW 104 STREET, #201
PINECREST, FL 33156

Madame
Manager, 6/20/23

Please see attached
Sunbiz backups.

Spoke to the
City Attorney
and he approved us
updating the signature
line.

Let me know if
you have any questions

Zain Remy (ZR)



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company
WINSTON HOLDINGS SB, LLC

Filing Information

Document Number L20000182621
FEI/EIN Number 05-2715698
Date Filed 06/29/2020
Effective Date 06/23/2020
State FL
Status ACTIVE
Last Event REINSTATEMENT
Event Date Filed 11/29/2021

Principal Address

18215 BISCAYNE BLVD
2118
AVENTURA, FL 33160

Changed: 04/10/2023

Mailing Address

19971 NE 39th PL
Aventura, FL 33180

Changed: 04/10/2023

Registered Agent Name & Address

BURSTYN, DAVID
19971 NE 39th PL
Aventura, FL 33180

Name Changed: 11/29/2021

Address Changed: 04/10/2023

Authorized Person(s) Detail

Name & Address

Title MGR

BURSTYN, DAVID
19971 NE 39th PL
Aventura, FL 33180

Annual Reports

Report Year	Filed Date
2021	11/29/2021