AGREEMENT FOR SITE DEVELOPMENT

AND

FAÇADE IMPROVEMENT AND PROPERTY & BUSINESS INVESTMENT IMPROVEMENT PROGRAM LOANS

(THE PHARMACY PROJECT)

between

FORT LAUDERDALE

COMMUNITY REDEVELOPMENT AGENCY

and

FPA II, LLC,

a Florida limited liability company

Dated as of ______________, 2017

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AGREEMENT FOR SITE DEVELOPMENT
AND
COMMERCIAL FAÇADE AND PROPERTY & BUSINESS IMPROVEMENT PROGRAM LOANS
(THE PHARMACY PROJECT)

This AGREEMENT FOR SITE DEVELOPMENT AND COMMERCIAL FAÇADE AND PROPERTY& BUSINESS PROGRAM LOANS (the "Agreement") is made as of this ____ day of ______________, 2017, by and between the FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic of the State of Florida created pursuant to Part III, Chapter 163, Florida Statutes (the "Agency"), FPA II, LLC, a Florida limited liability company ("Developer").

W I T N E S S E T H:

WHEREAS, the Agency was created to eliminate "slum and blight" and to stimulate community redevelopment;

WHEREAS, the Northwest-Progresso-Flagler Heights Plan ("Redevelopment Plan") was adopted on November 7, 1995 and subsequently amended in 2001, 2002, 2013 and 2016 and provides for redevelopment of the Northwest-Progresso-Flagler Heights Area (the "Redevelopment Area");

WHEREAS, the Agency, pursuant to the Redevelopment Plan, has created certain business incentive programs to stimulate redevelopment within the Area including the Commercial Facade Improvement and Property & Business Improvement Programs (the "Programs");

WHEREAS, the Developer, pursuant to the terms of the Programs, has applied for funding to renovate a building of approximately 22,420 square feet square feet located at 900, 914, and 930 Sistrunk (NW 9th) Avenue, Fort Lauderdale, Florida which is within the Redevelopment Area;

WHEREAS, on May 9, 2017, the Agency's Northwest-Progresso-Flagler Heights Advisory Board (the "Advisory Board") approved the Developer's funding request for the Project;

WHEREAS, after review of the Developer's Proposal (as hereinafter defined), the Agency accepted Developer's Proposal as being in the public interest and in furtherance of the goals, objectives and provisions of the Redevelopment Plan and authorized negotiation of a development agreement between the Agency and Developer setting forth the terms and conditions for the funding and development of the Project;

WHEREAS, the Agency and Developer have entered into and concluded negotiations for said site development and façade improvement and property & business investment incentive program loan agreements, which negotiations have resulted in this Agreement;

WHEREAS, the members of Developer have approved this Agreement and have authorized and directed certain individuals to execute this Agreement on behalf of Developer.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

ARTICLE 1. DEFINITIONS

1.01 Definitions. The terms defined in this Article 1 shall have the following meanings in this Agreement, except as herein otherwise expressly provided:

"Act" means the Constitution of the State of Florida; Section 163.01, Florida Statutes, Part III, Chapter 163, Florida Statutes, et. seq.; and other applicable provisions of law, and ordinances and resolutions of Broward County, the City of Fort Lauderdale and the Agency pertaining to the redevelopment of the Redevelopment Area (as in after defined).

"Agency" means the Fort Lauderdale Community Redevelopment Agency, and any successors or assigns thereto, provided that such successors and assigns shall be limited to governmental entities.

"Agreement" means this Agreement for Site Development and Development Incentive Program Loan, including any Exhibits, and any amendments hereto or thereto.

"Arbitrable Event" shall mean a dispute or disagreement between the parties concerning the occurrence or nonoccurrence of any event or whether a set of facts meets criteria set forth in this Agreement, which such dispute or disagreement shall be resolvable by resort to arbitration under Article 16 hereof.

"Authorized Representative" means the Executive Director or his designee, as to the Agency and Eyal Peretz or his designee, as to the Developer, and person or persons designated and appointed from time to time as such by the Agency, or the Developer pursuant to Section 2.04.

"Building Code" means the code which governs building and construction standards, review of plans for construction, issuance of building permits, inspections for compliance with construction standards, issuance of Certificate of Occupancy, issuance of Certificate of Completion and other matters pertaining to construction of structures in the City.

"Building Permit" means, for each part of the Project to be constructed on the Project Site, any building permit issued by the appropriate department, office or official of the City (or other governmental authority having jurisdiction over the Project Site) charged with reviewing the plans, specifications, drawings, details and other construction documents for compliance with

the Building Code and other similar codes applicable to that part of the Project being constructed thereon, and having the authority to issue building permits for construction of buildings, structures or other improvements in accordance with construction documents therefor reviewed and approved by such department, office or official.

"Certificate of Completion" means a certificate of completion or temporary certificate of completion issued by the City or other appropriate governmental authority for the commercial components of the Project.

"City" means the City of Fort Lauderdale, Florida, a Florida Municipal Corporation, and any successors or assigns thereto.

"City Codes" or "Codes" means the ordinances and codes of the City that regulate the development and construction of projects and buildings, including the Building Code and zoning regulations.

"City Commission" means the elected governing body of the City, by whatever name known or however constituted from time to time.

"Closing Date" means the date, subsequent to the issuance of a Certificate of Completion for the Project, on which the Commercial Facade Improvement Loan and Property and Improvement Loan are closed.

"Commencement Date" means the date on which the Developer commences construction of the Project, as further defined in Section 7.02(a).

"Commercial Façade Improvement Loan" means the funds provided by the Agency pursuant to this Agreement and the Loan Documents to reimburse the Developer for eligible costs associated with exterior improvements to the Project Site, including hard and soft construction costs not to exceed Three Hundred Seventy Three Thousand Dollars ($375,000).

"Completion Date" means the date on which a Certificate of Completion is issued for the commercial components of the Project which date shall be no later than 365 days after the Commencement Date, subject to Unavoidable Delays and extensions by the Executive Director.

"Contractor" means one or more Persons constituting a general contractor or Major Subcontractor properly licensed by the State of Florida or other appropriate jurisdiction to the extent required by applicable law, authorized to perform construction contractor services in the State of Florida, registered with the City as required by applicable law, bonded and insured to the extent required by applicable law and this Agreement.

"Developer" means FAB II, LLC, a Florida limited liability company, and successors and/or assigns approved by the Agency in accordance with the provisions of Article 14 hereof.

"Effective Date" means the date on which the last of the party executes this Agreement.

“Executive Director” means the designate executive director of the Agency.

“Exhibits” means those agreements, diagrams, drawings, specifications, instruments, forms of instruments, and other documents attached hereto and designated as exhibits to, and incorporated in and made a part of, this Agreement.

“Final Site Plan” shall have the meaning set forth in Section 4.01.

“Hard Costs” means costs for work, labor and materials required to renovate pre-existing structures on the Project Site and construct and complete the Project.

“Loan Agreement” means an agreement in substantially the form of Exhibit “C” hereto between the Developer and the Agency containing the conditions and terms of the Commercial Façade Improvement Loan and the Property & Business Improvement Loan.

“Loan Documents” mean the Loan Agreement, Mortgage and Security Agreement, Note, the Regulatory Agreement, and such other documents contemplated by the Loan Agreement.

“Mortgage and Security Agreement” means a mortgage and security agreement in substantially the form of Exhibit “E” hereto encumbering the Project Site which upon recordation shall constitute a first lien on said Project Site together with the improvements located and constructed thereon.

“Major Subcontractor” means the Contractors for site development work (infrastructure), structural improvements, underground water and sewer utilities, mechanical, (HVAC), plumbing and electrical.

“Permits” means all zoning, variances, special exceptions, yard modifications, zoning approvals, development orders respecting land use and consents required to be granted, awarded, issued, or given by any governmental authority relative to the regulation of land use or zoning in order for construction of the Project, or any part thereof, to commence, and to be completed.

“Person” means any natural person, firm, partnership (general or limited), corporation, company, association, joint venture, joint stock association, estate, trust, business trust, cooperative, limited liability corporation, limited liability partnership, limited liability company or association, or body politic, including any heir, executor, administrator, trustee, receiver, successor or assignee, or other person acting in a similar representative capacity.

“Principals” means Eyal Peretz.

“Project” means the development and operation of Class A office building on the Project Site consisting of approximately 22,420 square feet and supportive permitted accessory uses subject to modifications set forth in the Concept and/or Final Site Plan. The Project shall also include any other development and use obligations of Developer under this Agreement relative

to the Project Site. The term shall also include the phrase "or portion thereof" as the context may require.

"Project Site" shall have the meaning set forth in Section 3.01.

"Promissory Note" means a promissory note in substantially the form of Exhibit "D" hereto payable to the order of the Agency in the principal amount of Seven Hundred Forty Eight Thousand Dollars ($748,500).

"Proposal" means the proposal for development of the Project Site presented by Developer to the Agency's Advisory Board on May 9, 2017.

"Property & Business Improvement Loan" means the funds provided by the Agency pursuant to this Agreement and Loan Documents to reimburse the Developer for eligible costs associated with substantial renovations including interior improvements, restoration, rehabilitation and permanently attached fixtures/systems and hard and soft construction costs not to exceed Three Hundred Seventy Three Thousand Five Hundred Dollars ($373,500) which will be secured by a first priority mortgage, security interest, pledge, lien or other encumbrances and includes all modifications, renewals, extensions and replacements thereof and future advances thereunder, subject to subordination as set forth in Section 6.04.

"Public Property" means those portions of the Project Site consisting of: (i) streets, alleys and other public ways and (ii) land, including plazas, on which Infrastructure Improvements will be constructed and dedicated to the public, if any.

"Redevelopment Area" shall have the meaning set forth in the second WHEREAS clause.

"Redevelopment Plan" shall have the meaning set forth in the second WHEREAS clause.

"Regulatory Agreement" means an agreement, in substantially the form of Exhibit "G" hereto, by the Developer to provide leasing discounts to businesses with addresses within the Redevelopment on their occupational licenses at Closing.

"Regular Scheduled Meeting" means a regularly scheduled meeting of the Agency that is presently scheduled for the third Tuesday of each month, at which a quorum is present.

"Satisfaction Date" means the earlier of (i) the date that that the Loan is completely forgiven pursuant to the terms of the Promissory Note or (ii) the date a satisfaction of the Mortgage and Security Agreement is recorded in the public records of Broward County, Florida.

"Soft Costs" means those costs associated with the development and construction of the Project which are not Hard Costs, including, without limitation, architectural and engineering fees, consultant fees, professional fees, real estate taxes, insurance and bonding costs, and

interest and financing fees; provided that "Soft Costs" shall not include developer fees, general overhead charges or other similar fees payable to Affiliates of the Developer.

"Sources and Uses of Funds Schedule" means the form attached to the Loan Agreement that memorializes the understanding of all parties as to the distribution of Loan funds.

"Termination Date" means the date on which any party terminates this Agreement as provided in Section 14.01.

"Unavoidable Delay" means any of the following events or conditions or any combination thereof: acts of God, acts of a public enemy, riot, insurrection, war, act of terrorism, pestilence, archaeological excavations required by law, unavailability of materials after timely ordering of same, epidemics, quarantine restrictions, freight embargoes, fire, lightning, hurricanes, earthquakes, tornadoes, floods, inclement weather (as indicated by the records of the local weather bureau for a ten (10) year period preceding the Effective Date), exercise of the power of condemnation as to a portion of the Project Site bearing a material relationship to the improvements to be constructed, strikes or labor disturbances, any of which shall be beyond the reasonable control of the party performing the obligation, adverse economic conditions , delays due to proceedings under Chapters 73 and 74, Florida Statutes, restoration in connection with any of the foregoing or any other cause beyond the reasonable control of the party performing the obligation in question, including, without limitation, such causes as may arise from the act of the other party to this Agreement, or acts of or failure to act by any governmental authority, which such event(s) or condition(s) or any combination(s) thereof substantially frustrate on a commercially reasonable basis the performance contemplated by this Agreement.

1.02 Use of Words and Phrases.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the singular shall include the plural as well as the singular number, and the word "person" shall include corporations and associations, including public bodies, as well as natural persons. "Herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinabove," "hereinafter" and other equivalent words refer to this Agreement and not solely to the particular portion thereof in which any such word is used.

ARTICLE 2. PURPOSE PROPOSAL; PROJECT DEVELOPMENT SCHEDULE.

2.01 Purpose of Agreement

(a) The purpose of this Agreement is to set forth the agreement between the Agency and Developer for the terms and conditions of the Loan and the development of the Project and to set forth mutual roles and responsibilities of each. It is also to further the implementation of the Redevelopment Plan by providing for the development and construction of the Project on the

Project Site in accordance with the Conceptual Site Plan and the Final Site Plan, as approved by the Agency.

(b) Developer agrees to develop the Project by using its commercially reasonable efforts to (i) obtain approvals from governmental authorities necessary for the development of the Project, and (iii) construct various improvements on the Project Site consistent with the terms of this Agreement.

2.02. Developer's Proposal.

(a) The Proposal is hereby found by the parties hereto: (i) to be consistent with and in furtherance of the objectives of the Redevelopment Plan, (ii) to conform to the provisions of the Act, (iii) to be in the best interests of the citizens and residents of the City, (iv) to further the purposes and objectives of the Agency, and (v) to further the public purpose of eradicating conditions of "slum and blight" in the Redevelopment Area.

(b) Based upon and as a result of the findings set forth in subsection (a) above, the Proposal, including such changes and revisions as are provided for by this Agreement, is hereby affirmed by the Developer and approved and accepted by the Agency.

(c) The parties hereto agree that the terms and conditions set forth in this Agreement do not, individually or collectively, constitute a substantial deviation from the Proposal.

2.03 Cooperation of the Parties.

The parties hereto recognize that the successful development of the Project and each component thereof is dependent upon continued cooperation of the parties hereto, and each agrees that it shall act in a reasonable manner hereunder. No cooperation or assistance by the Agency shall be construed or implied to constitute any action by the City or any board, commission or committee thereof acting in its governmental capacity.

2.04 Authorized Representative.

(a) The Agency has designated the Executive Director as it Authorized Representative to act on its behalf to the extent of the grant of authority to such representative. The Developer has designated Eyal Peretz as its Authorized Representative to act on its behalf. Written notice of the designation of such an Authorized Representative (and any subsequent change in the Authorized Representative) and the authority that may be exercised by such Authorized Representative, shall be given by the designating party to the other party in writing in accordance with the procedure set forth in Section 20.01 hereof.

(b) Except as otherwise expressly provided in this Agreement, whenever approval or action by the Developer or the Agency is required by this Agreement, such action or approval may, to the extent of authorization granted, be taken or given by the Authorized Representative thereof. Subject to any limitation of authority set forth in the written notice, a party to this

Agreement may rely upon the representation of the other party's Authorized Representative that such person has the requisite authority to give the approval or take the action being done by that Authorized Representative.

ARTICLE 3. PROJECT SITE.

3.01 Project Site

The Project Site is a parcel of together with all improvements thereon, located at 900, 914, and 930 Sistrunk (NW 9th) Avenue, Fort Lauderdale, Florida which property is more particularly described Exhibit "B".

ARTICLE 4. CONCEPTUAL AND FINAL SITE PLAN.

4.01 Conceptual Site Plan and Final Site Plan

Agency acknowledges that Developer has prepared and completed the Conceptual Site Plan that was submitted and approved by the Advisory Board. Developer shall prepare and submit to the Authorized Representative of the Agency a proposed final site plan for the Project, which shall be similar to the Conceptual Site Plan, but shall be set forth with greater detail as to elevations, building footprint, architectural features, landscaping, and parking for the entire Project (the "Proposed Final Site Plan"). The Conceptual Site Plan shall incorporate art sensitive to the historical and cultural elements of the local community into the architectural features/façade. Upon authorization and approval by the Authorized Representative of the Proposed Final Site Plan, the Proposed Final Site Plan shall be deemed the "Final Site Plan" and shall be attached hereto as Exhibit "A-1".

4.02 Preparation of Conceptual and Final Site Plan

Developer is responsible for and shall pay the cost of preparing, submitting and obtaining approval of any version of the Conceptual Site Plan and Final Site Plan and any revisions or modifications thereto.

4.03 Approval of Modifications or Revisions to Final Site Plan by Executive Director

(a) Proposed modification(s) of or revision(s) to the Final Site Plan may be approved by the Executive Director of the Agency without further review or approval of the Agency.

(b) Any denial by the Executive Director under this Section 4.03 may be appealed by Developer to the Agency.

ARTICLE 5. REGULATORY PROCESS

5.01 Not a Development Order or Permit

Agency and Developer agree that this Agreement is not intended to be and should not be construed or deemed to be a "development order" or "development permit" within the meaning of those terms in Section 163.3164, Florida Statutes.

ARTICLE 6. PROJECT FINANCING.

6.01 Commercial Facade Improvement Incentive Program Loan

The Agency agrees, and the Loan Documents shall provide, as follows:

The Agency agrees to lend to Developer up to Three Hundred Seventy Three Thousand Five Hundred Dollars ($373,500) (the "Commercial Façade Improvement Incentive Loan Amount") in accordance with the terms of this Agreement and the Loan Documents to reimburse the Developer for eligible costs as set forth in the Sources and Uses Fund Schedule associated with exterior improvements to the Project Site including hard and soft construction costs for the Project. The Commercial Façade Loan will be secured by a second priority mortgage, security interest, pledge, lien or other encumbrances and includes all modifications, renewals, extensions and replacements thereof and future advances thereunder, subject to subordination as set forth in Section 6.04.

a) The Commercial Façade Improvement Incentive Loan shall bear no interest and shall be forgivable five (5) years subsequent to the Closing (the "Loan Term"). Payment of the outstanding principal balance of the Commercial Façade Improvement Incentive Loan shall not be required except for an uncured event of default.

b) The Commercial Façade Improvement Incentive Loan shall be payable to the Developer upon the issuance of a Certificate of Completion of the Project as is more specifically set forth in the Loan Agreement and Section 6.03 of this Agreement.

6.02 Property & Business Improvement Incentive Program Loan

The Agency agrees, and the Loan Documents shall provide, as follows:

a) The Agency agrees to lend to Developer up to Three Hundred Seventy Five Thousand Five Hundred Dollars ($375,000) (the "Property & Business Improvement Incentive Loan Amount") in accordance with the terms of this Agreement and the Loan Documents to reimburse the Developer for eligible costs as set forth in the Sources and Uses Fund Schedule associated with substantial renovations to the Project Site including interior improvements, restoration, rehabilitation and permanently attached fixtures/systems and hard and soft

construction costs. The Property & Business Improvement Loan will be secured by a second priority mortgage, security interest, pledge, lien or other encumbrances and includes all modifications, renewals, extensions and replacements thereof and future advances thereunder, subject to subordination as set forth in Section 6.04.

b) The Property & Business Improvement Incentive Construction Loan shall bear no interest and shall be forgivable five (5) years subsequent to the Closing (the "Loan Term"). Payment of the outstanding principal balance of the Property & Business Improvement Incentive Loan shall not be required except for an uncured event of default.

c) The Property & Business Improvement Incentive Loan shall be payable to the Developer upon the issuance of a Certificate of Completion for the Project as is more specifically set forth in the Loan Agreement and Section 6.03 of this Agreement.

6.03 Disbursement of Loan Proceeds.

(a) Developer shall use its own funds, funds obtained from the Construction First Lien Financing and funds from other financing sources for the amount needed to design, develop, construct, own, sell, operate and maintain the Project as contemplated by this Agreement. Agency funds provided herein shall be disbursed to the Developer at Closing. Developer shall submit proper invoices for materials or services paid for by the Developer with supporting documentation in the form of cancelled checks paid by the Developer, (or other documentation showing proof of payment) an updated accounting of project costs and all other documentation required by the Agency, including but not limited to a mortgage title insurance binder and policy in the face amount of Seven Hundred Forty Eight Thousand Five Hundred Dollars ($748,500)insuring the Mortgage and Security Agreement as a valid second lien on the Premises subject only to exceptions as shall be approved in writing by the Agency issued by a title insurance company ("Title Company") satisfactory and approved by the Agency, including such reinsurance agreements, if any, as shall be approved by the Agency. All standard title exceptions for mechanic's liens, survey matters, and rights of parties in possession shall be eliminated from and not included in the mortgage title insurance policy.

6.04 Agreement to Subordinate Commercial Façade Improvement Incentive Loan and Property & Business Improvement Loan

(a) The Agency agrees to subordinate the Mortgage and Security Agreement securing the Commercial Façade Improvement Incentive Loan and Property & Business Improvement Loan to a permanent lender for First Lien Financing for no more than 50% loan to value of the Premises.

ARTICLE 7. CONSTRUCTION OF PROJECT

7.01 Conditions Precedent to Construction

Subject to the termination of this Agreement pursuant to Section 14.01, the obligation of the Developer to commence construction on the Commencement Date is subject to the fulfillment of the following conditions:

(a) Approval of the Final Site Plan by the City;

(b) Developer shall have closed on the Construction First Lien Financing; and

(c) The Building Permits for the commencement of construction and all other Permits necessary for construction to commence have been issued.

7.02 Construction of the Project

(a) The Developer shall construct improvements on the Project Site substantially in accordance with the Final Site Plan. Subject to Unavoidable Delay and extensions provided by the Executive Director, the Developer shall commence construction of the improvements no later than sixty (60) days after Final Site Plan Approval. For purposes of this Section 7.02, "commence construction" of the Project means commencement of meaningful physical development, including site work preparatory to vertical construction.

(b)(1) After the Commencement Date, Developer shall continue, pursue and prosecute the construction of the Project with due diligence to completion by the Completion Date and shall not at any time actually or effectively abandon (or it's Contractor actually or effectively abandon) the Project. For purposes of this Subsection (b), "abandon" means to cease any significant construction work for a period in excess of sixty (60) consecutive days, where such cessation is not attributable to Unavoidable Delay, and which cessation effectively thwarts or frustrates advances in the construction of the Project toward completion, including removing all or substantially all the construction work force from the Project Site.

(b)(2) All obligations of the Developer with respect to commencement, continuation and completion of construction of each part of the Project shall be subject to extensions from time to time for Unavoidable Delay and defaults by Contractors. Developer shall not be deemed to be in default of this Agreement to the extent construction of the Project, or any part thereof, is not commenced or completed in accordance with the terms of this Agreement by reason of Unavoidable Delay.

(c) Upon issuance of a Building Permit for construction of building, structures or other improvements and prior to the Commencement Date, Developer shall deliver to Agency an estimated construction chart showing proposed start and finish dates of the various major subdivisions of work. Developer shall provide updated construction charts to the Agency when proposed dates in the estimated construction charts have changed. The estimated construction charts are for informational purposes only.

7.03 Intentionally Deleted

7.04 Monitor Progress

During all periods of design and construction, the Agency shall have the authority (at no cost to the Developer) to monitor compliance by the Developer with the provisions of this Agreement and the Final Site Plan. Insofar as practicable, the Agency shall coordinate such monitoring activity with those undertaken by the Construction First Lien Lender so as to minimize duplicate activity. To that end, during the period of construction and with reasonable prior notice to the Developer, representatives of the Agency shall have the right of access to the Project Site and to every structure on the Project during normal construction hours. Agency monitoring of compliance shall not be in lieu of normal engineering or building inspections for any element or sub-element of the Infrastructure Improvements as required by other jurisdictional authorities. Said required inspections shall be coordinated with the Developer. Developer shall be given the opportunity to be present at any inspections.

7.05 Completion. Issuance of a Certificate of Completion with respect to any commercial space shall constitute a conclusive determination by the parties hereto of the satisfaction and termination of the obligations of the Developer to construct the Project.

7.06 Agency Not in Privity with Contractors. Except to the extent provide otherwise herein, the Agency shall not be deemed to be in privity of contract with any Contractor or provider of services with respect to the construction of any part of the Project.

ARTICLE 8. LEASING REQUIREMENTS

8.01 Leasing Discount Requirements. Developer agrees to provide a Thirty Percent (30%) leasing discounts ("Leasing Discount") in the building to businesses with addresses within the Redevelopment Area on their occupational licenses at Closing for a period of three (3) years from the Completion Date in accordance with the terms of the Regulatory Agreement.

8.02 Leasing Reports. Developer shall provide to Agency an annual written report ("Leasing Report") certifying compliance with the Leasing Discount Requirement at the time of initial lease commencement. The first Rental Report shall be submitted within 60 days of Stabilization and each subsequent annual Rental Report shall be submitted by October 31 for the preceding calendar year.

8.03 Default of Regulatory Agreement. Notwithstanding any other provision of this Agreement, any default of the Regulatory Agreement that occurs after the Satisfaction Date and is continuing after any applicable cure period, shall subject the Developer to a potential annual maximum penalty of Twenty Five Thousand Dollars ($25,000) as the Agency's sole and absolute remedy. The penalty shall be computed by multiplying the difference between market rate rents in the area of the Project and the Leasing Discount by the number of months the Developer failed to provide the Leasing Discount to a particular tenant The penalty for noncompliance shall be payable within sixty (60) days of written notice of noncompliance from the Agency.

8.04 No Subordination of Regulatory Agreement. Notwithstanding any other provision of this Agreement, Agency's right in or rights under the Regulatory Agreement, as the same may be modified, amended or renewed in accordance with the provisions of this Agreement, shall not be encumbered by or subordinated in any way to (a) any mortgage now or hereafter existing, (b) any other liens or encumbrances hereafter affecting, created or suffered by Developer on its interest, or (c) lease, sublease or any mortgages, liens or encumbrances now or hereafter placed on any interest of any tenants of subtenants. Developer shall in no event have any right or authority to create liens or encumbrances on or affecting any interest in or rights of Agency in the Regulatory Agreement.

8.05 Survival. The provisions of this Article 8 shall survive termination or expiration of this Agreement until the earlier of (i) the expiration of the life of the Agency or (ii) the expiration or termination of the Regulatory Agreement.

ARTICLE 9. INDEMNIFICATION

9.01 Indemnification.

(a) For consideration of $10.00 and other good and valuable consideration herein provided, the receipt of which is hereby acknowledged by Developer, Developer agrees to indemnify, defend and hold harmless, the Agency, its respective agents, officers, or employees from any and all liabilities, damages, penalties, judgments, claims, demands, costs, losses, expenses or reasonable attorneys' fees which may be imposed upon or assessed against Agency both at the trial level and through appellate proceedings, for personal injury, bodily injury, death or property damage arising out of, or by reason of any act or omission of Developer, its agents, employees or contractors arising out of, in connection with or by reason of, the performance of any and all of Developer's obligations covered by this Agreement, or which are alleged to have arisen out of, in connection with or by reason of, the performance of any and all of Developer's obligations covered by this Agreement. In the event any action or proceeding shall be brought against the Agency by reason of any such claim, Developer shall defend such claim at Developer's expense by counsel selected by Developer, which counsel shall be reasonably satisfactory to the Agency.

(b) Developer's indemnification under subsection (a) shall survive termination or expiration of this Agreement for the applicable statute of limitations period relating to the occurrences, act or omission at issue, but shall apply only to occurrences, acts, or omissions that arise on or before the earlier of the Termination Date or the Completion Date.

(c) Developer's indemnity hereunder is in addition to and not limited by any insurance policy and is not and shall not be interpreted as an insuring agreement between or among the parties to this Agreement, nor as a waiver of sovereign immunity for any party entitled to assert the defense of sovereign immunity.

9.02 Limitation of Indemnification.

Notwithstanding anything to the contrary contained herein, with respect to the indemnification by Developer as set forth in Section 10.01, the following shall apply:

(a) Developer shall not be responsible for damages that could have been, but were not, mitigated by the Agency;

(b) Developer shall not be responsible for that portion of any damages caused by the negligent or willful acts or omissions of the Agency;

(c) there shall be no obligation to indemnify hereunder in the event that the Agency (1) shall have effected a settlement of any claim without the prior written consent of Developer, or (2) shall not have subrogated Developer to the Agency's rights against any third party by an assignment to Developer of any cause or action against such third party.

(d) there shall be no obligation of indemnification on the part of Developer as to any contractual breaches by Developer under this Development Agreement.

ARTICLE 10. REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEVELOPER.

10.01 Representations and Warranties of Developer.

Developer represents and warrants to the Agency that each of the following statements is currently true and accurate and agrees the Agency may rely upon each of the following statements:

(a) Developer is a Florida limited liability company duly organized and validly existing under the laws of the State of Florida, has all requisite power and authority to carry on its business as now conducted, to own or hold its properties and to enter into and perform its obligations hereunder and under each document or instrument contemplated by this Agreement to which it is or will be a party, and has consented to service of process upon a designated agent for service of process in the State of Florida.

(b) This Agreement and, to the extent such documents presently exist in form acceptable to the Agency and Developer, each document contemplated or required by this Agreement to which Developer is or will be a party has been duly authorized by all necessary action on the part of, and has been or will be duly executed and delivered by Developer, and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof:

(1) requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted herein.

(2) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on Developer, or

(3) contravenes or results in any breach of, default under or, other than as contemplated by this Agreement, results in the creation of any lien or encumbrance upon any property of the Developer under any indenture, mortgage, deed of trust, bank loan or credit agreement, the Developer's Articles of Organization, or, any other agreement or instrument to which the Developer is a party or by which Developer may be bound.

(c) This Agreement and, to the extent such documents presently exist in form accepted by the Agency and Developer, each document contemplated or required by this Agreement to which Developer is or will be a party constitutes, or when entered into will constitute, a legal, valid and binding obligation of Developer enforceable against Developer in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(d) There are no pending or, to the knowledge of Developer, threatened actions or proceedings before any court or administrative agency against Developer, which question the validity of this Agreement or any document contemplated hereunder, or which are likely in any case, or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder or the financial condition of Developer.

(e) Developer has filed or caused to be filed all federal, state, local and foreign tax returns, if any, which were required to be filed by Developer prior to delinquency, and has paid, or caused to be paid, all taxes shown to be due and payable on such returns or on any assessments levied against the Developer.

(f) Developer agrees that as of the Closing Date and through the Completion Date, it shall use its commercially reasonable efforts to maintain the financial capacity necessary to carry out its obligations and responsibilities in connection with the development of the Project as contemplated in this Agreement.

(g) The principal place of business and principal executive offices of Developer are in the City of Ft. Lauderdale, Broward County, Florida.

(h) At the time of submitting its Proposal, Developer had, and will continue to have and at all times through the Completion Date, will maintain the experience, expertise, and knowledge to develop, cause the construction, and complete the Project and oversee and manage the design, planning, construction, completion, marketing and opening for business of the Project.

ARTICLE 11 . REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AGENCY.

11.01 Representations and Warranties. The Agency represents and warrants to the Developer that each of the following statements is currently true and accurate and agrees that the Developer may rely on each of the following statements:

(a) The Agency is a validly existing body corporate and politic of the State of Florida, is the duly created community redevelopment agency of the City under the Florida Community Redevelopment Act, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations hereunder and under each document or instrument contemplated by this Agreement to which it is or will be a party.

(b) This Agreement and, to the extent such documents presently exist in form acceptable to the Agency and the Developer, each document contemplated or required by this Agreement to which the Agency is or will be a party, have been duly authorized by all necessary action on the part of, and have been or will be duly executed and delivered by the Agency, and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof;

(1) requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted herein,

(2) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the Agency, or

(3) contravenes or results in any breach of, or default under or, other than as contemplated by this Agreement, results in the creation of any lien or encumbrance upon any property of the Agency under any indenture, mortgage, deed of trust, bank loan or credit agreement, applicable ordinances, resolutions or, on the date of this Agreement, any other agreement or instrument to which the Agency is a party, specifically including any covenants of any bonds, notes, or other forms of indebtedness of the Agency outstanding on the Effective Date.

(c) This Agreement and, to the extent such documents presently exist in form accepted by the Agency and the Developer, each document contemplated or required by this Agreement to which the Agency is or will be a party constitute, or when entered into will constitute, legal, valid and binding obligations of the Agency enforceable against the Agency in accordance with the terms thereof, except as such enforceability may be limited by public policy or applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(d) As of the Effective Date there are no pending or threatened actions or proceedings before any court or administrative agency against the Agency or against any officer of the Agency which question the validity of any document contemplated hereunder or which are likely in any individual case, or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder or the financial condition of the Agency.

(e) Agency agrees that as of the Effective Date, it has the financial capacity to carry out its obligations and responsibilities as contemplated in this Agreement.

11.02 Covenants. The Agency covenants with Developer that until the earlier of the Termination Date or the Completion Date, as the case may be:

(a) The Agency shall timely perform or cause to be performed all of the obligations contained herein which are the responsibility of the Agency to perform.

(b) During each year that this Agreement and the obligations of the Agency under this Agreement shall be in effect, the Agency shall cause to be executed and to continue to be in effect those instruments, documents, certificates, permits, licenses and approvals, and shall cause to occur those events contemplated by this Agreement that are applicable to and are the responsibility of the Agency.

(c) The Agency shall to the extent permitted by law assist and cooperate with the Developer to accomplish the development of the Project in accordance with this Agreement and the Final Site Plan, will carry out its duties and responsibilities contemplated by this Agreement, and will not violate any laws, ordinances, rules, regulations, orders, contracts, or agreements that are or will be applicable thereto, and, to the extent permitted by law, the Agency will not enact or adopt or urge or encourage the adoption of any ordinances, resolutions, rules, regulations or orders or approve or enter into any contracts or agreements, including issuing any bonds, notes, or other forms of indebtedness, that will result in any provision of this Agreement to be in violation thereof.

ARTICLE 12. RESTRICTIONS ON ASSIGNMENT AND TRANSFER.

12.01 Representations as to Development.

Developer represents and agrees that its undertaking pursuant to this Agreement, are, and will be used, for the purpose of development of the Project Site as set forth in the Agreement and not for speculation in land holding. Developer further recognizes the importance of the development of the Project Site to the general welfare of the community, and the substantial financial and other public commitments that have been made available by law and through the assistance of local government for the purpose of making such development possible. Developer further acknowledges that the qualifications and identity of Developer, the Principals and their respective business experience, reputation, financial capacity to carry out the obligation and responsibilities in connection with the Project and their respective development track record within the community is of particular concern to the community and the Agency because it is by such experience, financial capacity, qualifications, reputation, past performance and identity,

now in effect, that the Agency is entering into this Agreement with Developer for the benefit of the community and the Plan and, in so doing, is further willing to accept and rely on the obligations of Developer for the faithful performance of all undertakings and covenants described in this Agreement.

12.02 Restriction on Transfer of Interests Prior to the Satisfaction Date.

In reliance upon Section 13.01 above, Developer agrees that prior to the Satisfaction Date, without the prior approval of the Agency, which such approval shall be governed by the criteria set forth in Section 13.04(a) below,

(1) There shall be no sale or transfer of stock or memberships nor the entry of any voting trusts or shareholder or membership agreements or any other similar devices or arrangements within Developer which would result in the transfer of control of the Developer from the Principals to another Person; and

(2) There shall be no sale or transfer of stock or membership nor the entry of any voting trust or shareholder or membership agreements or any other similar devices or arrangements within any corporate member of the Developer which would result in the transfer of control of the Developer from the Principals to another Person.

However, a transfer of control resulting from the death or incapacity of a Principal shall not constitute an event of default under this Agreement.

12.03 Notification to Agency as to Ownership Changes.

In order to assist in the effectuation of the purposes of this Agreement, Developer agrees that during the period between the Effective Date and the Satisfaction Date that:

(a) Developer shall, at such time or times as the Agency may request, furnish Agency with a complete statement, under oath, setting forth all of the members of Developer, the proportion of the membership held, and in the event any other parties have a beneficial interest of 10% or more in any of the corporate members in Developer, their names and the extent of such interest, all as determined or indicated by the records of Developer and its corporate members; and

(b) Developer will promptly notify Agency of any material changes in the legal or beneficial ownership control over Developer.

12.04 Restrictions On Transfer, Assignment and Encumbrance of Project Site and Assignment of Agreement.

In light of Section 12.01 above, Developer represents and agrees for itself and its successors and assigns (except as so authorized by the provisions of this Agreement) that it will

not, prior to the Satisfaction Date, as to a proposed assignment or transfer of the Project Site, make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or master lease (which will not preclude Developer from selling or leasing individual units in the ordinary course of business without the approval of the Agency), or any trust or power, sale, transfer, or encumbrance other than First Lien Construction and Permanent Financing or other financing provided or approved by the Principals (hereinafter, collectively, known as "Transfer") in any other mode or form or with respect to this Agreement or the Project Site, without first obtaining the prior written approval of the Agency, which approval shall not be unreasonably withheld.

(a) The Agency shall be entitled to require, except as may otherwise be provided in this Agreement, as conditions to granting any such prior approval, that:

(1) Any proposed successor Developer or proposed successor Principals therein shall have the business experience and reputation, development track record and sufficient financial capacity to carry out the obligations under this Agreement, as determined, in the reasonable discretion of the Agency.

(2) Any proposed successor Developer, by instrument in writing satisfactory to the Agency, in its reasonable discretion, shall, for itself and its successors and assigns expressly assume all of the obligations of Developer under this Agreement and shall agree to abide by and be subject to all of the terms, conditions, obligations, reservations and restrictions ("terms and conditions") to which Developer is subject.

(3) There shall be submitted to the Agency for review all instruments and other legal documents reasonably necessary to assure compliance with Section 12.04(a)(1).

(4) The provisions of this Article respecting restrictions on Transfers shall not be construed in such a manner as to preclude transfer to the Construction First Lien Lender and its successors in interest. The term "successors in interest" is intended to include not only successors in interest to the Construction First Lien Lender, but also any transferee or assignee of the Construction First Lien Lender, including but not limited to purchasers at a foreclosure sale or acquisition by way of deed in lieu of foreclosure.

12.05 Survival. The provisions of this Article 12 shall survive termination or expiration of this Agreement until the Satisfaction Date.

ARTICLE 13. DEFAULT; TERMINATION.

13.01 Default by the Developer.

(a) On or after the Closing Date through and including the Satisfaction Date, there shall be an "event of default" by Developer under this Agreement upon the occurrence of any one or more of the following:

(1) Developer shall fail to perform or comply with any material provision of this Agreement applicable to it within the time prescribed therefor and such failure is likely to have a material adverse effect on the Developer; or

(2) Developer shall make a general assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts as they become due or shall file a petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation or shall file an answer admitting, or shall fail reasonably to contest, the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Developer of any material part of such entity's properties; or

(3) Within ninety (90) days after the commencement of any proceeding by or against Developer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed or otherwise terminated, or, if within ninety (90) days after the appointment without the consent or acquiescence of Developer of any trustee, receiver or liquidator of any of such entities or of any material part of any of such entity's properties, then such appointment shall not have been vacated; or

(4) Developer shall fail to comply with the material terms of the Regulatory Agreement.

(b)(1) If an event of default by Developer described in subsection (a) above shall occur, the Agency shall provide written notice thereof to Developer, and,

(i) if such event of default shall not be cured by Developer within ninety (90) days after receipt of the written notice from the Agency specifying in reasonable detail the event of default by Developer; or

(i) if such event of default is of such nature that it cannot be completely cured within such time period, then if Developer shall not have commenced to cure such default within such time period and shall not continue to diligently prosecute such cure to completion within such reasonable longer period of time as may be necessary, then the Agency, for events of default described in subsection (a) above, may, but subject to Sections 6.03 and 6.04 hereof, pursue any and all legal remedies (excluding therefrom the right to pursue consequential punitive and incidental damages and "loss of projected tax

revenue”), equitable remedies of specific performance, injunctive relief or rescission to which the Agency is entitled or require repayment of the unpaid principal balance of the Development Incentive Construction Loan.

(b)(2) In the event Developer commences to cure a default but finds that the default is of such a nature that it cannot be completely cured within time provided in subsection (b)(1) above and Developer intends to continue to diligently prosecute such cure to completion, then Developer shall be obligated to provide notice to Agency as to the time frame reasonably needed to cure such default, which such time frame shall be subject to the Agency’s approval in its commercially reasonable discretion. If Developer has failed to complete the cure by the end of the time frame designated as the reasonable additional time needed to cure, the Agency shall be permitted to pursue any and all legal or equitable remedies to which it is entitled, as limited by subsection (b)(1) above.

(c) In addition to any other rights of termination provided elsewhere in this Agreement, this Agreement may be terminated by the Agency or Developer after the occurrence of any of the following events or conditions:

(1) The entire Project Site is taken by the exercise of the power of eminent domain by a governmental authority (other than the City or the Agency) or a Person entitled to exercise such power or benefiting therefrom, or such part of the Project Site is taken by the power of eminent domain so as to render the Project Site unusable for its intended uses or economically unviable as contemplated by this Agreement, it being the intent of the parties that in the event a dispute arises as to whether a “taking” renders the Project unusable for its intended uses or economically unviable as contemplated by this Agreement, that such dispute shall be an Arbitrable Event;

(2) The appropriate governmental authority (including the City in exercise of its governmental and regulatory authority and responsibility), upon petition by Developer, denies or fails to:

(i) issue Building Permits where the application meets all requirements of the Codes and the terms of this Agreement,

(ii) approve a rezoning of the Project Site to a zoning classification consistent with this Agreement and the Conceptual Site Plan (if applicable), or

(iii) approve any other land use approval necessary to commence construction of the Project on the Project Site where the application meets all requirements of the law, and Developer has proceeded diligently, expeditiously and in good faith to obtain such approval, permits or other necessary actions including exhaustion of all administrative remedies applicable thereto through the second level of certiorari review.

(d) In the event of a termination pursuant to this Subsection 13.01(c) above, neither Developer nor the Agency shall be obligated or liable one to the other in any way, financially or

otherwise for any claim or matter arising from or as a result of this Agreement or any actions taken by Developer and the Agency, or any of them, hereunder or contemplated hereby, and each party shall be responsible for its own costs.

13.02 Agreement Termination.

(a) In the event of a termination of this Agreement pursuant to the terms of Section 14.01(c) above for any reason prior to the Completion Date, this Agreement shall no longer be of any force and effect except for those provisions hereof which expressly survive termination, the rights, duties and obligations of the parties hereto shall have been terminated and released (subject to those surviving provisions hereof) and, if the termination is prior to the Closing Date, then the Project Site shall no longer be subject to any restrictions, limitations or encumbrances imposed by this Agreement. However, if the termination is after the Closing Date and the termination is as to anything less than the entire Project Site, then such termination shall only be effective as to the remaining portion of the Project Site. Nothing in this Section shall prohibit Developer from completing any Building on which City has issued Building Permits and Developer commenced construction pursuant thereto.

ARTICLE 14. INTENTIONALLY OMITTED.

ARTICLE 15. ARBITRATION.

15.01 Mediation Prior to Arbitration. If a dispute arises out of or relates to this contract, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure.

15.02 Agreement to Arbitrate. Any disagreement or dispute between the parties which has been specifically delineated in this Agreement as arbitrable may be arbitrated in the manner set forth in Article 16, provided no judicial or administrative action or proceeding is pending with regard to the same matter. Arbitration is limited to those disagreements or disputes which have specifically been delineated as an Arbitrable Event herein or which the parties mutually agree to be an Arbitrable Event. All parties hereby agree such arbitration, once commenced, shall be the exclusive procedure for resolving such disagreement or dispute and agree to be bound by the result of any such arbitration proceeding unless all parties mutually agree to terminate such proceedings prior to decision. If any arbitration proceeding under this Article adversely affects the performance of any party hereunder, then any time periods provided herein for such performance by that party shall be tolled during the pendency of the arbitration proceeding affecting such performance.

15.03 Appointment of Arbitrators.

(a)(1) Unless accelerated arbitration as provided in Section 15.06 hereof is invoked, any party invoking arbitration herewith shall, within five (5) days after giving notice of impasse in

the dispute resolution process or upon following the expiration of the time period for such dispute resolution occurrence of the event permitting arbitration to be invoked, give written notice to that effect to the other parties, and shall in such notice appoint a disinterested person who is on the list of qualified arbitrators maintained by the American Arbitration Association or a disinterested person not on such list to whom an objection is not made by any other party hereto within five (5) days of receipt of the notice of such appointment as the arbitrator or, if more than one (1) arbitrator is to be appointed, as one of the arbitrators.

(a)(2) Within ten (10) days after receipt of the notice described in Section 15.02(a)(1), the other parties shall by written notice to the original party acknowledge that arbitration has been invoked as permitted by this Agreement, and shall either accept and approve the appointment of such individual set forth in the original notice as a sole arbitrator or shall appoint one (1) disinterested person per party of recognized competence in such field as an arbitrator.

(b)(1) If two (2) arbitrators are appointed pursuant to Subsection (a) above, the arbitrators thus appointed shall appoint a third disinterested person who is on the list of qualified arbitrators maintained by the American Arbitration Association, and such three (3) arbitrators shall as promptly as possible determine such matter.

(b)(2) If the second arbitrator shall not have been appointed as provided in Subsection (a), the first arbitrator shall, after ten (10) days' notice to the parties, proceed to determine such matters.

(b)(3) If the two (2) arbitrators appointed by the parties pursuant to Subsection (a) shall be unable to agree within fifteen (15) days after the appointment of the second arbitrator upon the appointment of the third arbitrator, they shall be given written notice of such failure to agree to the parties and, if the parties then fail to agree upon the selection of such third arbitrator within fifteen (15) days thereafter, then within ten (10) days thereafter each of the parties upon written notice to the other parties hereto may request the appointment of a third arbitrator by the office in or for the State of Florida (or if more than one office, the office located closest to the City) of the American Arbitration Association (or any successor organization thereto) or, in its absence, refusal, failure or inability to act, request such appointment of such arbitrator by the Circuit Court in and for Broward County, or as otherwise provided in Chapter 682, Florida Statutes, known and referred to as the Florida Arbitration Act, as amended.

15.04 General Procedures. In any arbitration proceeding under this Article, those parties appointing arbitrators shall each be fully entitled to present evidence and argument to the sole arbitrator or panel of arbitrators. The arbitrator or panel of arbitrators shall only interpret and apply the terms of this Agreement and may not change any such terms, or deprive any party to this Agreement of any right or remedy expressed or implied in this Agreement, or award any damages or other compensation to any party hereto. The arbitration proceedings shall follow the rules and procedures of the American Arbitration Association (or any successor organization thereto) unless specifically modified by this Agreement, or as then agreed to by the parties hereto.

15.05 Decision of Arbitrators.

(a) If any decision reached by arbitration as provided in this Article requires performance by Developer covenants and agrees to comply with any decision of the arbitrator(s) promptly after the date of receipt by Developer of such decision, and to continue such performance to completion with due diligence and in good faith.

(b) If any such decision requires performance by the Agency, the Agency covenants and agrees to comply promptly with any decision reached by arbitrator(s) promptly after the date of receipt by the Agency of such decision, and to continue such performance to completion with due diligence and in good faith.

(c) Nothing in this Article, nor in any arbitration decision rendered under this part, shall be construed to require any payment by one party to the other not otherwise specifically provided herein.

(d) No arbitration decision under this Article shall be deemed to be binding upon the City, unless the City becomes the assignee of the Agency.

15.06 Expense of Arbitration. The expenses of any arbitration proceeding pursuant to this Article shall be borne equally by the parties to such proceeding, provided, however, for the purpose of this Section 16.05 "expenses" shall include the fees and expenses of the arbitrators and the American Arbitration Association with respect to such proceedings, but shall not include attorneys' fees or expert witness fees, or any costs incurred by attorneys or expert witnesses, unless (and to the extent) agreed to by the parties to such proceeding, which in the absence of such Agreement shall be the responsibility of the party incurring such fees or costs.

15.07 Accelerated Arbitration.

(a)(1) If any of the parties to any arbitration proceeding under this Article determines the matter for arbitration should be decided on an expedited basis, then after an initial election to invoke arbitration pursuant to Section 15.02 hereof has been made, either party to such proceeding may invoke accelerated arbitration by giving notice thereof to the other parties no later than three (3) days after arbitration has been initially invoked and the other parties do not object within three (3) days thereafter.

(a)(2) Accelerated arbitration, for purposes of this Section 15.06, shall be accomplished by either party notifying the American Arbitration Association (or any successor organization thereto) that the parties have agreed to use a single arbitrator, qualified to decide the matter for arbitration, to be appointed by the American Arbitration Association (or any successor organization thereto) with the consent of the parties to such proceeding within three (3) days after receipt of the request and to decide such matter within five (5) days after such appointment.

(a)(3) If an arbitrator is not so appointed with consent of the parties to the proceeding within three (3) days after the notice referred to in Paragraph (2) is received by the American

Arbitration Association, the accelerated proceeding under this Section 16.06 shall terminate and the procedures otherwise set forth in this Article 16 shall apply, unless the parties mutually agree to an extension of such time period.

(b) Developer and the Agency hereby agree to use such accelerated procedure only when reasonably necessary, to not contest the appointment of the arbitrator or his or her decision except as may be permitted by law, and that all other provisions of this Article, except as are in conflict with this Section 15.06, remain in effect and applicable to an accelerated arbitration proceeding.

15.08 Applicable Law. To the extent not inconsistent with this Article, any arbitration proceeding under this Article shall be governed by the provisions of Chapter 682, Florida Statutes, as amended, known and referred to as the Florida Arbitration Code.

15.09 Arbitration Proceedings and Records. Any arbitration hearing under this Article shall be considered a meeting subject to Section 286.011, Florida Statutes, and shall be open to any member of the public. Unless otherwise rendered confidential pursuant to or by the operation of any applicable law or order (other than an order by a sole arbitrator or panel of arbitrators acting under this part), the record of such proceedings shall be a public record under Chapter 119, Florida Statutes.

ARTICLE 16. INTENTIONALLY OMITTED

ARTICLE 17. FIRE OR OTHER CASUALTY; CONDEMNATION.

17.01 Loss or Damage to Project. Subject to the terms of the Construction First Lien Financing Documents, Developer shall diligently commence and complete the reconstruction or repair of any loss or damage caused by fire or other casualty to each and every part of the Project in substantial conformance with the Final Site Plan for such reconstruction or repairs, provided the Project or portion thereof can be restored and be commercially feasible for its intended use as contemplated by this Agreement after the loss or damage; and, provided further, that nothing contained herein shall obligate Developer to restore any owner's or tenant's leasehold improvements.

17.02 Partial Condemnation of Project or Project Site; Application of Proceeds. Subject to the terms of the Construction First Lien Financing Documents, in the event that part, but not all, of the Project Site shall be taken by the exercise of the power of eminent domain at any time during the term set forth in Section 18.01 above, the compensation awarded to and received by Developer shall be applied first to the restoration of the Project or portion thereof, provided the Project or portion thereof can be restored and be commercially feasible for its intended use as contemplated by this Agreement after the taking, and, if not, can be retained by Developer.

ARTICLE 18. PROJECT INSURANCE PROCEEDS.

18.01 Project Insurance Proceeds.

(a) For the term beginning with the Closing Date until the Completion Date (the "Term") whenever the Project, or any part thereof, shall have been damaged or destroyed, Developer shall promptly make proof of loss and shall proceed promptly to collect, or cause to be collected, all valid claims that may have arisen against insurers or others based upon such damage or destruction.

(b) Subject to the terms of the Construction First Lien Financing Documents, Developer agrees that all proceeds of property or casualty insurance, for casualty suffered during the Term received by Developer as a result of such loss or damage shall be used for payment of the costs of the reconstruction or repair of the Project to the extent necessary to repair or reconstruct the Project.

18.02 Notice of Loss or Damage to Project. Developer shall promptly give the Agency written notice of any significant damage or destruction to the Project stating the date on which such damage or destruction occurred, the expectations of Developer as to the effect of such damage or destruction on the use of the Project, and the proposed schedule, if any, for repair, or reconstruction of the Project.

ARTICLE 19. MISCELLANEOUS.

19.01 Notices.

All notices under this Agreement to be given by one party to the other shall be in writing and the same shall only be deemed given if transmitted as follows:

(a) By facsimile, certified mail, return receipt requested, by courier or overnight service or personal hand-delivery to the following addresses:

DEVELOPER:	FPA II, LLC Attn: Eyal Peretz ________________________ Fort Lauderdale, FL 33301 e-mail:__________________ Fax: ____________________
WITH COPIES TO:	Hope Calhoun Dunay, Miskel & Backman, LLP 14 S.E. 4th Street, Ste 36 Boca Raton, FL 33432
AGENCY:	City of Fort Lauderdale Community Redevelopment Agency of the or successor Executive Director, 100 North Andrews Avenue

Fort Lauderdale, Florida 33301

WITH COPIES TO:

Lynn Solomon
City Attorney's Office
City of Fort Lauderdale
100 North Andrews Ave
Fort Lauderdale, FL 33301

J. Michael Haygood
J. Michael Haygood, P.A.
701 Northpoint Parkway, Ste 209
West Palm Beach, FL 33407

IN WITNESS WHEREOF, the parties hereto have set their hands effective as of the date set forth in the introductory paragraph.

AGENCY:

WITNESSES:

FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY, a body corporate and politic of the State of Florida created pursuant to Part III, Chapter 163

____

____
[Witness print or type name]

By: _____________________________
John P. "Jack" Seiler, Chairman

____

____
[Witness print or type name]

By: _____________________________
Lee R. Feldman, Executive Director

ATTEST:

____
Jeffrey A. Modarelli, CRA Secretary

APPROVED AS TO FORM:
Cynthia A. Everett, CRA General Counsel

____
Lynn Solomon, Assistant General Counsel

WITNESSES:	**FAB II, LLC** a Florida limited liability company
______________________________	______________________________
______________________________ [Witness print or type name]	Title: Manager Print Name: ________________________
______________________________	
______________________________ [Witness print or type name]	

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this ____ day of ____________________, 2017 by ____________________as Authorized Representative of FAB II, LLC on behalf of the company. He is personally known to me or has produced __________________________________ as identification.

(SEAL)

____
Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

____
Name of Notary Typed,
Printed or Stamped

My Commission Expires:

____
Commission Number