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DOCUMENT ROUTING FORM

NAME OF DOCUMENT:

**Ninth Amendment to Land Disposition and Management Agreement (Development Agreement)**

Approved Comm. Mtg. on: 4/21/15 CAM #: 15-0495 ITEM #: CR-7

Routing Origin:  CAO Also attached:  copy of CAM  Original Document

1) **City Attorney's Office:** Approved as to Form / # Three Originals Delivered to City Manager on April 14, 2015.

Robert B. Dunckel 

CIP FUNDED  YES  NO  
Capital Investment / Community Improvement Projects

**Capital Investment / Community Improvement Projects** defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, real.

2) **City Manager:** Please sign as indicated and forward Three originals to Mayor.

3) **Mayor:** Please sign as indicated and forward Three originals to Clerk for attestation and City seal.

INSTRUCTIONS TO CLERK'S OFFICE

4) **City Clerk:** Please return original documents to Laura Comer, CAO.

Original Route form to Laura Comer, CAO, Extension 5036

**NINTH AMENDMENT  
TO  
LAND DISPOSITION, DEVELOPMENT AND MANAGEMENT AGREEMENT  
(DEVELOPMENT AGREEMENT)**

THIS NINTH AMENDMENT to the Development Agreement ("Ninth Amendment") is entered into this 21<sup>st</sup> day of April, 2015 by and between:

**CITY OF FORT LAUDERDALE**, a Florida municipal corporation whose Post Office address is P.O. Drawer 14250, Fort Lauderdale, Florida 33302-4250 ("City")

and

**MILTON JONES DEVELOPMENT CORPORATION**, a Florida corporation, 9 NW 4th Avenue, Suite A, Dania Beach, FL 33004 ("Developer/Assignor")

and

**VILLAGE OF THE ARTS, LTD.**, a Florida limited partnership, whose address is 9 N.W. 4<sup>th</sup> Avenue, Suite A, Dania Beach, FL 33004 ("Developer/Assignee")

and

**MILTON L. JONES, JR.** and **BARBARA H. JONES**, ("Principals"), whose address is 9 N.W. 4<sup>th</sup> Avenue, Suite A, Dania Beach, FL 33004

**RECITALS**

A. All defined terms herein shall have the same meaning as in the Land Disposition, Development and Management Agreement dated February 5, 2008 ("Development Agreement"), unless otherwise defined herein.

B. On February 5, 2008, City and Developer/Assignor entered into a Development Agreement for the conveyance, development and management of Property described therein.

C. On June 1, 2010, City and Developer/Assignor, entered into a First Amendment to the Development Agreement, which, among other matters permitted the Property to be developed in two Phases, Phase I Project and Phase II Project.

D. Phase II Project under the First Amendment was to be developed as a Mixed Use Development on Parcel No. 2, consisting of a five (5) story structure with ground floor retail uses of no less than 7,500 square feet, pool and pool deck area, health club, club room, administrative offices, 103 residential units and a five level parking garage with 232 parking spaces (of which 14 spaces shall be on street parking on N. W. 5<sup>th</sup> Court), including 7 handicap parking spaces.

E. On December 21, 2010, City and Developer/Assignor entered into a Second Amendment to the Development Agreement, which, among other matters amended the Project Development Schedule.

F. On March 1, 2011, City and Developer/Assignor entered into a Third Amendment to the Development Agreement, which, among other matters amended the Project Development Schedule and amended the definition of "Permitted Delay."

G. On June 7, 2011, pursuant to Article 19 of the Development Agreement, Developer/Assignor secured from the City approval of an Assignment of Rights and Assumption of Obligations under Development Agreement and Consent for Phase I Project to MJDC AOA, LLC, a Florida limited liability company.

H. On June 7, 2011, pursuant to Article 19 of the Development Agreement, Developer/Assignor and Developer/Assignee entered into an Assignment of Rights and Assumption of Obligations under Development Agreement and Consent for Phase II Project with the joinder and consent of Principals and the conditional consent of the City ("Original Assignment and Assumption"), which Original Assignment and Assumption was amended and restated by City, Developer/Assignor, Developer/Assignee and Principals in that certain First Amended and Restated Assignment of Rights and Assumption of Obligations under Development Agreement and Conditional Consent dated February 7, 2012 for Phase II Project ("First Amended and Restated Assignment and Assumption"), which First Amended and Restated Assignment and Assumption was amended and restated by City, Developer/Assignor, Developer/Assignee and Principals in that certain Second Amended and Restated Assignment of Rights and Assumption of Obligations under Development Agreement and Conditional Consent dated July 2, 2013 for Phase II Project ("Second Amended and Restated Assignment and Assumption"), which Second Amended and Restated Assignment and Assumption was amended and restated by City, Developer/Assignor, Developer/Assignee and Principals in that certain Third Amended and Restated Assignment of Rights and Assumption of Obligations under Development Agreement and Conditional Consent dated October 15, 2013 for Phase II Project ("Third Amended and Restated Assignment and Assumption"), which Third Amended and Restated Assignment and Assumption was amended and restated by City, Developer/Assignor, Developer/Assignee and Principals in that certain Fourth Amended and Restated Assignment of Rights and Assumption of Obligations under Development Agreement and Conditional Consent dated April 21, 2015.

I. On July 6, 2011, City, Developer/Assignor and MJDC AOA, LLC, a Florida limited liability company entered into a Fourth Amendment to the Development Agreement ("Original Fourth Amendment"), which, among other matters amended certain definitions and the Permitted Uses which Original Fourth Amendment was amended and restated on February 7, 2012 by City, Developer/Assignor, MJDC AOA, LLC, a Florida limited liability company and Developer/Assignee in that certain First Amended and Restated Fourth Amendment to the Development Agreement.

J. On October 25, 2011, pursuant to the terms of the Development Agreement, City conveyed Phase I Project by Quit Claim Deed to MJDC AOA, LLC, a Florida limited liability company, subject to a Declaration of Restrictive Covenants.

K. On February 7, 2012, City, Developer/Assignor, Developer/Assignee and Principals entered into a Fifth Amendment to the Development Agreement ("Original Fifth

Amendment”) which amended Section 20.02 entitled “Specific Remedies” which Original Fifth Amendment was amended and restated on October 15, 2013 by City, Developer/Assignor, Developer/Assignee and Principals by that certain First Amended and Restated Fifth Amendment to Development Agreement.

L. On June 19, 2012, City and MJDC AOA, LLC, a Florida limited liability company entered into a Sixth Amendment to the Development Agreement, which, among other matters amended defined terms with respect to “Project, Phase I or Phase I Project.”

M. On July 2, 2013, City, Developer/Assignor, Developer/Assignee and Principals entered into a Seventh Amendment to the Development Agreement (“Original Seventh Amendment”) for the purpose of amending the Project Development Schedule which Original Seventh Amendment was amended and restated on October 15, 2013 by City, Developer/Assignor, Developer/Assignee and Principals by that certain First Amended and Restated Seventh Amendment to Development Agreement.

N. On October 15, 2013, City, Developer/Assignor, Developer/Assignee and Principals entered into a Eighth Amendment to the Development Agreement (“Eighth Amendment”) for the purpose of amending the definition of “Mixed Use Development.”

O. With respect to development of Phase II of the Project, Developer/Assignee is in the process of applying for certain tax credit financing and is in need of amending (i) the definition of “Mixed Use Development”, and (ii) the Project Development Schedule to be consistent with the development time lines under the tax credit financing programs.

P. City staff has reviewed the proposed amendment to the Project Development Schedule and recommends approval thereof and authorization for execution of this Ninth Amendment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable considerations, the receipt and sufficiency of which is hereby stipulated, the parties agree as follows:

1. **The foregoing recitals are true and correct.**
2. **The Development Agreement, Section 1.02, entitled “Definitions” is hereby amended to read as follows:**

**1.02 Definitions.** The terms defined in this Article I shall have the following meanings in the Development Agreement, unless the context of or use indicates another or different meaning:

. . .

*Mixed Use Development* means a development that includes a mixture of residential dwelling units and commercial/retail sales, service or office uses. The Mixed Use Development may consist of both commercial and retail sales, service or office uses and residential uses located in one building or in separate buildings on the same development parcel. In the event of a conflict between the terms hereof and terms set forth in the ULDR for a Mixed Use Development, then the terms set forth in the ULDR shall prevail and supercede over any conflicting

terms set forth above. Mixed Use Development shall be in the Phase II of the Project on Parcel No. 2, consisting of, a seven (7) story structure with ground floor retail uses of no less than 7,500 square feet, pool and pool deck area, health club, club room, administrative offices, 104 residential units and a five level parking garage with 232 parking spaces (of which 14 spaces shall be on-street parking on N. W. 5<sup>th</sup> Court), including 7 handicap parking spaces.

3. The Development Agreement, Exhibit "G" entitled Project Development Schedule is hereby amended to read as set forth in the attached Exhibit "G" to this Ninth Amendment. In the event and to the extent that there is any conflict between the dates upon which certain events described in the Project Development Schedule should occur and dates upon which certain events described in the text of the Development Agreement should occur, then the dates upon which certain events described in the Project Development Schedule should occur shall supersede and prevail over any such conflicting dates upon which certain events described in the text of the Development Agreement should occur including, but not limited to, such dates that are condition precedent to Closing on Parcel No. 2 in Section 6.02 of the Development Agreement.

4. In the event Developer/Assignee fails to secure tax credit financing through the Florida Housing Finance Corporation by September 1, 2016, then through this Ninth Amendment, the parties agree that from that date forward City will have the authority to terminate the Development Agreement upon ninety (90) days advance written notice to Developer/Assignor, provided that Developer/Assignor or Developer/Assignee has not secured a Firm Financing Commitment for Phase II Project prior to the delivery of such notice. Upon delivery of such notice, this Development Agreement shall be terminated, become null and void and of no further force and effect at the end of the ninety (90) day period.

5. **Conflict.** In the event and to the extent that there is any conflict between the terms and conditions of the Development Agreement, as previously amended and the terms and conditions of the Ninth Amendment, then the terms and conditions of this Ninth Amendment shall supersede and prevail over any such conflicting terms in the underlying Development Agreement, as previously amended.

6. **Ratify and Confirm.** In all other respects, the parties ratify and confirm this Development Agreement, as amended.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

WITNESSES:

Jeanette A. Johnson  
Jeanette A. Johnson  
[Witness print or type name]

Miranda Johnson

CITY OF FORT LAUDERDALE

John P. "Jack" Seiler  
John P. "Jack" Seiler, Mayor

Lee R. Feldman  
Lee R. Feldman, City Manager

MIRANDA SLOTT

[Witness print or type name]

(CORPORATE SEAL)

ATTEST:

Jonda K. Joseph  
Jonda Joseph, City Clerk

APPROVED AS TO FORM:

Robert B. Dunckel  
Robert B. Dunckel,  
Assistant City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of April, 2015, by JOHN P. "JACK" SEILER, Mayor of the City of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)

Jeanette A. Johnson  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

Jeanette A. Johnson  
Name of Notary Typed, Printed or Stamped

My Commission Expires: 1/31/19

Commission Number FF 166303

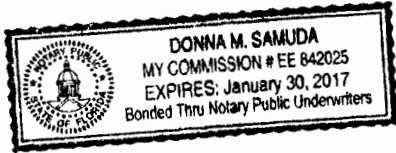


STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of April, 2015, by LEE R. FELDMAN, City Manager of the City of Fort

Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)



*Donna M. Samuda*

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

*DONNA M. SAMUDA*

Name of Notary Typed, Printed or Stamped

My Commission Expires *January 30, 2017*

*EE 842025*

Commission Number

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Developer/Assignor:

MILTON JONES DEVELOPMENT CORPORATION, a Florida corporation

By:

Milton L. Jones, Jr.  
Milton L. Jones, Jr., President

WITNESSES:

Sabine Harrigan  
SABINE HARRIGAN  
[Witness type or print name]

Branda Dumas  
BRANDA DUMAS  
[Witness type or print name]

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 23 day of April, 2015, by Milton L. Jones, Jr., President of MILTON JONES DEVELOPMENT CORPORATION, a Florida corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.

Witness my hand and official seal in the County and State last aforesaid this 23 day of April, 2015.

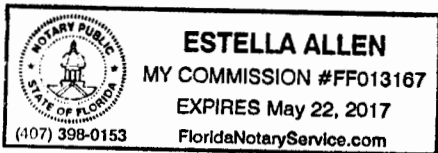
(SEAL)

Estella Allen  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

ESTELLA ALLEN  
Name of Notary Typed, Printed or Stamped

My Commission Expires: May 23, 2017

FF013167  
Commission Number





**Developer/Assignee:**

**VILLAGE OF THE ARTS, LTD.**, a Florida limited partnership

By: MJDC VOA, Inc., a Florida corporation, as General Partner of Village Of The Arts, Ltd.

By: Milton L. Jones, Jr.  
Milton L. Jones, Jr., President

**WITNESSES:**

Sabine Harrigan  
Sabine Harrigan  
[Witness type or print name]

Minda Jones  
Minda Jones  
[Witness type or print name]

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 23 day of April, 2015, by Milton L. Jones, Jr., President of MJDC VOA, Inc., a Florida corporation, General Partner of VILLAGE OF THE ARTS, LTD., a Florida limited partnership. He is personally known to me or has produced \_\_\_\_\_ as identification.

Witness my hand and official seal in the County and State last aforesaid this 23 day of April, 2015.

(SEAL)

Estella Allen  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)

ESTELLA ALLEN  
Name of Notary Typed, Printed or Stamped

My Commission Expires: May 22, 2017  
FF013167  
Commission Number



**JOINDER AND CONSENT  
OF  
PRINCIPALS**

BY EXECUTION HEREOF, the undersigned Principals do hereby evidence their Joinder and Consent to the execution of this Agreement as amended by the Ninth Amendment and agree to the limitations on Principals as set forth in Article 19, Restrictions on Assignment and Transfer and Article 21, Restrictions on Use; Declaration of Restrictive Covenants.

IN WITNESS OF THE FOREGOING, the Principals have set their hands and seals the day and year first written above.

WITNESSES:

Sabine Harrigan  
SABINE HARRIGAN  
[Witness type or print name]

Milton L. Jones Jr.  
MILTON L. JONES, JR.

Quinn Jones  
Quinn Jones  
[Witness type or print name]

Barbara H. Jones  
BARBARA H. JONES

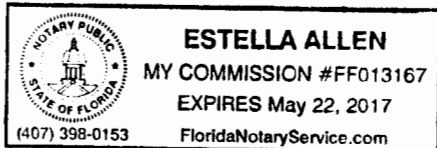
STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 23 day of April, 2015, by MILTON L. JONES, JR. and BARBARA H. JONES. They are personally known to me or have produced \_\_\_\_\_ as identification.

Witness my hand and official seal in the County and State last aforesaid this 23 day of April, 2015.

(SEAL)

Estella Allen  
Notary Public, State of Florida  
(Signature of Notary taking Acknowledgment)



ESTELLA ALLEN  
Name of Notary Typed, Printed or Stamped

My Commission Expires May 22, 2017  
FF013167  
Commission Number