



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
CRA BOARD MEETING

#23-0958

TO: CRA Chairman & Board of Commissioners
Fort Lauderdale Community Redevelopment Agency

FROM: Greg Chavarria, CRA Executive Director 
Greg Chavarria (Nov 7, 2023 06:20 EST)

DATE: November 7, 2023

TITLE: **REVISED CRA R-2** - Resolution Approving an \$8,000,000 Development Incentive Program Forgivable Loan and a \$2,000,000 Development Incentive Program Zero Interest Loan to Sunshine Shipyard, LLC for the Arcadian Project located at 640 NW 7th Avenue, Authorizing a Lease of Commercial Space in the Project to the Fort Lauderdale Community Redevelopment Agency, Authorizing the Executive Director to Execute Any and All Related Instruments, and Delegating Authority to the Executive Director to Take Certain Actions - (**Commission Districts 2 and 3**)

Recommendation

Staff recommends the Community Redevelopment Agency (CRA) Board of Commissioners approve a Resolution for an \$8,000,000 Development Incentive Program forgivable loan and a \$2,000,000 Development Incentive Program zero interest loan to Sunshine Shipyard, LLC for the Arcadian Project at 640 NW 7th Avenue, authorize a lease of commercial space in the project to the Fort Lauderdale Community Redevelopment Agency, authorize the Executive Director to execute any and all related instruments, and delegate authority to the Executive Director to take certain actions.

Background

The Northwest-Progresso-Flagler Heights Community Redevelopment Agency (NPF CRA) has received a CRA funding application from Sunshine Shipyard, LLC (Developer) for a \$10,000,000 Development Incentive Program Loan for the "Arcadian", a new mixed use development project to be located at 640 NW 7th Avenue. A location map is attached as Exhibit 1, the Developer's CRA Funding Application is attached as Exhibit 2, and the Broward County Property Appraiser information is attached as Exhibit 3.

The project will be constructed on the city block bordered by Sistrunk Boulevard to the south, NW 7th Street to the north, Avenue of the Arts (NW 7th Avenue) to the west, and NW 6th Avenue to the east. It includes an area of 3.47 acres of land assembled by the Developer between June 6, 2018 and April 10, 2019 at a cost of approximately \$9.8 million. The property was previously occupied by industrial and light industrial uses including the Sunshine Auto Salvage Yard which occupied the majority of the site. At the request of the Developer, on September 1, 2020, those portions of the site zoned for

Industrial use were rezoned by the City Commission to NWRAC MUe (Northwest Regional Activity Center Mixed Use East) and on July 5, 2022, the City Commission approved the site plan for the project with an affordable housing height bonus and an affordable Housing Development Agreement on August 16, 2022. The site has been cleared of all prior structures and the Final Development Review Committee (DRC) Certificate of Compliance is attached as Exhibit 4.

The approved project consists of an 8-story, mixed-use, mixed-income, multi-family development containing 480 residential rental units which includes 8 live/work units with 15,235 square feet of ground floor commercial space consisting of 7,735 square feet of retail and 7,500 square feet of restaurant use, and 606 parking spaces with structured parking. The residential unit mix consists of 90 - approximately 482 square foot studio units, 292 - approximately 653-899 square foot one bedroom/one bath units, and 98 - approximately 923-1,062 square foot two bedroom/two bath units. Of the 480 residential units, 10% (48 units) will be permanent affordable units rented to residents with incomes less or equal to 100% of the Broward County median family income (MFI) adjusted for household size, as determined by HUD on an annual basis, with rent and utility costs not to exceed 30% of the gross annual household income. The residential units set aside as affordable units in perpetuity will include 10 studio units renting for approximately \$1,680/month, 28 one bedroom-one bath units renting for approximately \$1,856/month, and 10 two bedroom-two bath units renting for approximately \$2,089/month. The affordable units will be scattered between all eight floors and appearances, finishes, and materials will not vary between affordable units and other units. A copy of the Affordable Housing Agreement with the City of Fort Lauderdale is attached as Exhibit 5, including requirements for annual reporting, restrictive covenants and marketing plan to promote the rental of affordable units. The remainder of the residential units in the development will be rented at market rate. The average monthly rent for the market rate units will be approximately \$2,016 for a studio apartment, \$2,160 for a one bedroom-one bath apartment, and \$2,592 for a two bedroom-two bath apartment.

Residential unit amenities and features for all apartments will include Energy Star stainless steel appliances including range, refrigerator, washer/dryer, and microwave, majestic bathroom mirrors, upscale obsidian floor tile, stone composition countertops, and all units will have balconies. The very attractive design includes two mixed-use buildings with a central atrium and two swimming pools. There will be secure access to the parking garage for 606 cars, 24/7 recorded security camera monitoring, bicycle racks, two jumbo screens, one in each courtyard, each with its own swimming pool in addition to a kid's playground and pet park. Other features include a fitness center, club rooms, kid's room, business center, mail/package room, lounge area and pedestrian paseo that provides a 30 foot wide central passage from east to west at midblock with access to building services and features. The paseo creates a unique public space and access to ground floor residential amenities at the base of the parking garage such as the lobby and gym that face the paseo.

First floor retail is located primarily along Sistrunk Boulevard and the Avenue of the Arts. Three corners of the site will provide plazas that allow for ample pedestrian circulation

and outdoor dining opportunities. In addition to affordable housing, as a community benefit, 2,500 square feet of commercial space in the project will be reserved for the CRA (or Invest Fort Lauderdale, its Economic Development Corporation (EDC)) at \$12 per square foot NNN (with standard CPI annual escalations) for a period of 15 years. This will be a great opportunity for the CRA or its EDC to attract and target small businesses to the area offering an affordable rent.

Proposed building materials consist of limestone, steel mesh, aluminum, stucco, glass and decorated perforated canvas for the garage. The building provides a 15-foot-high ground floor, stone finish walls, and decorative aluminum trellises for shading along Sistrunk Boulevard and Avenue of the Arts. Floors two through five are framed providing articulation to the facades. The parking garage is enhanced with artwork and balconies are contained throughout the building, providing depth, articulation and unit activation along the four facades. Shade trees along with the trellises shade pedestrian space and the sidewalks along all facades. The project's key sustainability features include over 75% green roof area, heat mitigation through choice of material, and electric vehicle charging stations. The project is committed to become National Green Building Standard (NGBS) Gold Certified by Home Innovation Research Labs, providing the highest performance levels in energy efficiency, water efficiency, resource efficiency, lot development, operation, maintenance and air quality. Plans for the Project are attached as Exhibit 6.

The Developer, Sunshine Shipyard LLC, is an affiliated company of Fuse Group Investment Companies, led by founder and CEO Eyal Peretz. Fuse Group has been investing in the CRA and specifically the Sistrunk area for the last six years, with a mission of making the Sistrunk District a vibrant epicenter which is full of life and occupied by businesses, retail, lifestyle and entertainment to serve and empower the community, proving infrastructure and transforming the visual experience of the area. Fuse Group (Fuse 9, LLC) has partnered with Boca Paila, LLC on this project. Boca Paila is led by Mauricio Girault, founder and CEO of Grupo Krea, a leading developer of affordable and workforce housing. Mr. Girault has built large-scale integrated communities amounting to over 14,000 residential units in eleven large scale projects and is known for innovation in construction using the latest cost and time efficient technologies. Grupo Krea has partnered with South Pointe Construction as a general Contractor to undertake the construction of the Arcadian using the aluminum form construction method. South Pointe Construction has a proven track record spanning over three decades in the construction and development industry of South Florida, including over \$1 billion of construction volume, including single family, multi-family, office, medical, restaurant and special purpose structures. A few sample projects include Sapphire Condominium in Fort Lauderdale, The Estates of Acqualina in Sunny Isles, The Ritz Carlton Residences in Sunny Isles, and Millicento Condominium on Brickell in Miami. Other members of the Arcadian project team include Behar Font & Partners (Architect), Witkin Hults + Partners (Landscape Architect), Flynn Engineering Services, PA. (Land Planner and Civil Engineering), and Holland & Knight, LLP (Land Use Attorney).

The total estimated project Development Budget is \$153,384,269 including:

Land	\$25,000,000
Design & Engineering	\$1,998,990
Permits & Licenses	\$4,505,979
Other Soft Costs	\$7,336,639
Hard Costs	\$103,168,054
Financial Costs	\$11,374,707

CRA funding for the project represents 6.5% of the total Development Budget. Developer equity (\$44,904,269) represents 29.3% of the budget, with lender financing of \$98,500,000 (64.2%). A comparison of other CRA funded Development Incentive Program projects is provided below.

Project	Estimated Capital Investment (ECI)	CRA Award	CRA Award Percentage of ECI
Food and Friends	\$1.3 Million	\$1.1 Million	84%
Dales Wheels and Tires	\$0.97 Million	\$.7 Million	74%
Hoover Awning	\$1.5 Million	\$1.1 Million	73%
YMCA	\$15 million	\$10 Million	67%
Victory Complex	\$4 Million	\$2.4 Million	60%
Aldridge and Larimore	\$18.57 Million	\$8.0 Million	43%
Jack and Jill School	\$7.1 Million	\$2.5 Million	35%
Wright Dynasty	\$12.8 Million	\$3.5 Million	27%
Thrive Development	\$15.4 Million	\$3.5 Million	26%
Sistrunk Market	\$5.9 Million	\$1.4 Million	23%
Sistrunk Townhomes	\$6.9 Million	\$1.5 Million	22%
Six 13 Apartments	\$33.5 Million	\$7.0 Million	21%
Comfort Suites	\$17.4 Million	\$3.0 Million	17%
Triangle Services	\$7.8 Million	\$1.5 Million	19%
The Adderley	\$103.7 Million	\$12.0 Million	12%

The \$10,000,000 Development Incentive Program (DIP) Loan for the Arcadian Project will consist of an \$8,000,000 DIP forgivable loan, forgiven ~~once~~ 5 years after the entire project receives a Certificate of Occupancy (CO), and a \$2,000,000 DIP loan at 0% interest, repaid by the Developer at \$200,000 per year for 10 years following CO. CRA funding will be secured by a mortgage on the property subordinate to the first mortgage construction and permanent financing. CRA funding will be applied to project construction cost.

As an additional community benefit of the project, the DIP loan payments will be assigned to Invest Fort Lauderdale for reinvestment back into the CRA area. Community benefits from the project also include approximately 1,670 jobs, including 68 permanent jobs for retail employees, 1,460 direct and indirect jobs from construction activity, and 142 jobs from resident spending, and an estimated \$154 million in economic activity from

construction, retail and resident spending. In addition, the project is estimated to generate up to \$31 million in real estate taxes over the next 15 years.

A series of factors make CRA funding critical to the project, including an increase in construction cost (up 40% over the past 36 months), insurance premiums (a 33% increase over the last year), and increase in interest rates (significantly impacting the cost of development) since the project was initially planned. In this volatile and changing development market, without CRA funding, acceptable investment measures of risk cannot be met when analyzing the projected return on investment to the cost of the project.

In order to be able to fund this project, the CRA, at the request of Fuse Group (Exhibit 7), will take the \$4 million approved under the DIP Program by the CRA Board on December 7, 2021 for the proposed 909 Sistrunk Project awarded to 909 NW 6 St LLC (A Fuse Group subsidiary) and reallocate these funds to the Arcadian Project.

These are not CRA tax increment funds (TIF), but rather are funds that are part of the \$22.5 million Truist Bank Loan the CRA took out in 2021 to help jump start larger development projects before the NPF CRA is scheduled to sunset in November 2025. Fuse Group has proposed changes to the 909 Sistrunk Project that will delay the start of construction. To accommodate the changes, funding for the 909 Sistrunk Project will now be recommended from CRA TIF FY 2024-2025 tax increment revenues. An Amended Letter of Intent with 909 NW 6 Street LLC and changes in CRA source of funds for the 909 Sistrunk Project will be presented to the CRA Board for their consideration at their meeting of November 21, 2023.

An additional \$3 million will be allocated to the Arcadian Project in CRA TIF FY 2023-2024 funding, with the last \$3 million installment to the Arcadian Project of CRA funding allocated in TIF FY 2024-2025. The Arcadian Project will be developed in two phases. With CRA funding approval, Phase 1 of this shovel ready project will commence immediately with completion and stabilization at the end of 2025. Phase 2 will commence in April 2025 with completion and stabilization in 2027.

At their meeting of September 12, 2023, the NPF CRA Advisory Board unanimously recommended that that the CRA Board:

- 1) Approve a \$10,000,000 Development Incentive Program loan to Sunshine Shipyard, LLC for the Arcadian Project, consisting of a \$8,000,000 forgivable loan and a \$2,000,000 zero interest loan repaid over 10 years with CRA loan payments assigned to Invest Fort Lauderdale, the CRA's economic development corporation, and
- 2) Approve changes to the 909 Sistrunk Project with 909 NW 6 St LLC, including scope, schedule, and source of CRA funds.

A copy of the minutes of the September 12, 2023 NPF CRA Advisory Board is attached as Exhibit 8. The Development Incentive Program Letter of Intent with Sunshine Shipyard LLC for the Arcadian Project and Resolution is attached as Exhibits 9 and 10.

Consistency with NPF CRA Community Redevelopment Plan

The NPF CRA Community Redevelopment Plan promotes programs and projects that will have a positive impact on neighborhood residents and low and moderate income households within the NPF CRA. The Redevelopment Program will assist in providing incentives as inducements to stimulate development to upgrade and replace incompatible land uses and blighting conditions affecting the area, and the Redevelopment Plan will help preserve and expand the supply of affordable housing and provide improvements to enhance the overall environment, improve the quality of life and attract sound business and commercial development that provide employment and job opportunities.

A major component of the redevelopment strategy for the NPF CRA is the revitalization of the residential neighborhoods. The Redevelopment Program seeks to preserve and expand affordable housing in the entire redevelopment area. Per the CRA plan, the CRA will establish incentive programs to address redevelopment obstacles. The CRA Program identifies strategic objectives, goals and measurements that include targeting and attracting businesses, retail uses and industries to establish a presence in the redevelopment area. In addition, it calls for investing in development projects that create job opportunities, promote public private partnerships and investment in the redevelopment area. In addition, per the Future Land Use Plan and CRA Plan, redevelopment and housing opportunities for low, very low, and moderate-income households within the Northwest RAC should be encouraged.

Resource Impact

There will be a fiscal impact to the CRA in the amount of \$10,000,000. Funds for this transaction will be spread over two years; \$7,000,000 in Fiscal Year 2024 and \$3,000,000 in Fiscal Year 2025.

Future expenditures are contingent upon approval and appropriation of the annual budget.

Funds available as of October 1, 2023					
ACCOUNT NUMBER	COST CENTER NAME (Program)	CHARACTER /ACCOUNT NAME	AMENDED BUDGET (Character)	AVAILABLE BALANCE (Character)	AMOUNT
20-119-1532-552-40-4203- CRA092113	NPF CRA Business Incentives - Debt	Other Operating Expense/Redevelopment Projects	\$20,000,000	\$17,550,000	\$4,000,000
20-119-1531-552-40-4203- CRA092404	Development Incentive Improvement Program FY24	Other Operating Expense/Redevelopment Projects	\$15,150,540	\$15,150,540	\$3,000,000
TOTAL AMOUNT ►					\$7,000,000

Strategic Connections

This item is a *FY2024 Commission Priority*, advancing the Economic Development & Housing Accessibility initiatives.

This item supports the *Press Play Fort Lauderdale 2024 Strategic Plan*, specifically advancing:

- The Business Development Focus Area
- Goal 5: Build an attractive global and local economic community marketplace
- Objective: Nurture and support existing local businesses

- The Neighborhood Enhancement Focus Area
- Goal 4: Build a thriving and inclusive community of neighborhoods
- Objective: Ensure a range of affordable housing options

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Community*

This item supports the *Advance Fort Lauderdale 2040 Comprehensive Plan*, specifically advancing:

- The Business Development Focus Area
- The Economic Development Element
- Goal 2: Enhance the economic competitiveness of Fort Lauderdale through policies and encourage retention and recruitment of businesses and industry which provide living wage employment and increased training and competitiveness in the local workforce.

- The Neighborhood Enhancement Focus Area
- The Future Land Use Element
- Goal 2: Sustainable Development: The City shall encourage sustainable, smart growth which designates areas for future growth, promotes connectivity, social equity, preservation of neighborhood character and compatibility of uses.
- The Housing Element
- Goal 1: The Comprehensive Plan shall support the provision of adequate sites for future housing, including affordable workforce housing, housing for low-income, very low-income, and moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities.
- Goal 2: Be a community of beautiful and healthy neighborhoods.

Attachments

Exhibit 1 - Location Map – The Arcadian

Exhibit 2 - Developer's CRA Funding Application for the Arcadian

Exhibit 3 - Broward County Property Appraiser Information

Exhibit 4 - Final Development Review Committee (DRC) Certificate of Compliance

Exhibit 5 - Affordable Housing Agreement for the Arcadian

Exhibit 6 - Arcadian Project Plans

Exhibit 7 - Letter from Fuse Group

Exhibit 8 - September 12, 2023 CRA Advisory Board Draft Minutes Recommending
Funding for the Arcadian Project and Changes to the 909 Sistrunk Project

Exhibit 9 - Development Incentive Program Letter of Intent – The Arcadian Project

Exhibit 10 - Resolution

Prepared by: Bob Wojcik, AICP, CRA Housing and Economic Development Manager
Clarence Woods, CRA Manager

CRA Executive Director: Greg Chavarria

- R-2** [23-0958](#) Resolution Approving an \$8,000,000 Development Incentive Program Forgivable Loan and a \$2,000,000 Development Incentive Program Zero Interest Loan to Sunshine Shipyard, LLC for the Arcadian Project located at 640 NW 7th Avenue, Authorizing a Lease of Commercial Space in the Project to the Fort Lauderdale Community Redevelopment Agency, Authorizing the Executive Director to Execute Any and All Related Instruments, and Delegating Authority to the Executive Director to Take Certain Actions - (Commission Districts 2 and 3)

ADOPTED AS AMENDED

Yea: 5 - Commissioner Sturman, Commissioner Herbst, Commissioner Glassman, Vice Chair Beasley-Pittman and Chair Trantalis

ADJOURNMENT

RESOLUTION NO. 23-13 (CRA)

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY APPROVING A FORGIVABLE LOAN OF EIGHT MILLION DOLLARS (\$8,000,000) AND A NON-FORGIVABLE LOAN OF TWO MILLION DOLLARS (\$2,000,000) TO SUNSHINE SHIPYARD, LLC FOR THE ARCADIAN PROJECT UNDER THE DEVELOPMENT INCENTIVE PROGRAM; AUTHORIZING A LEASE OF COMMERCIAL SPACE OF REAL PROPERTY LOCATED AT 640 NW 7TH AVENUE TO THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY; AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE ANY AND ALL RELATED INSTRUMENTS; DELEGATING AUTHORITY TO THE EXECUTIVE DIRECTOR TO TAKE CERTAIN ACTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Fort Lauderdale Community Redevelopment Agency ("CRA"), an agency authorized under Chapter 163, Part III of the Florida Statutes, was created to eliminate "slum and blight" and to stimulate community redevelopment; and

WHEREAS, the City Commission adopted Resolution No. 95-86 on June 2, 1995, finding the existence of slum and blight conditions in that area of the City of Fort Lauderdale, Florida (the "City") known as the Northwest-Progresso-Flagler Heights Community Redevelopment Area, as more particularly described in that resolution, (herein referred to as the "Redevelopment Area"); and

WHEREAS, by adoption of Resolution No. 95-170, the redevelopment plan for the Redevelopment Area was approved by the City Commission on November 7, 1995, and was amended in 2001 by Resolution No. 01-86, in 2002 by Resolution No. 02-183, in 2013 by Resolution No. 13-137, in 2016 by Resolution No. 16-52 and in 2018 by Resolution No. 18-226 and as subsequently amended (the "Redevelopment Plan"); and

WHEREAS, the CRA Development Incentive Program (DIP) is intended to support projects with an investment of \$5,000,000 or more; and

WHEREAS, Sunshine Shipyard, LLC, a foreign limited liability company ("Sunshine"), has applied for funding in the amount of \$10,000,000 for a mixed-use, mixed income development project located at 640 NW 7th Avenue with a total development cost of approximately \$153,384,269 (the "Project"); and

WHEREAS, the CRA Advisory Board for the Redevelopment Area approved funding for this Project on September 2, 2023; and

WHEREAS, staff finds that the physical improvements comply with the Redevelopment Plan and will improve the Redevelopment Area; and

WHEREAS, the Board of Commissioners of the CRA finds that development of the Project will enhance the physical appearance of the Redevelopment Area, create new businesses, affordable housing retail spaces, as well as facilitate a responsive and proactive business climate, all in accordance with and in furtherance of the Redevelopment Plan, as authorized by and in accordance with the Act; and

WHEREAS, the CRA Board finds that Sunshine has demonstrated that it has the financial capacity, legal ability, development experience and qualifications to develop this Project.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY:

SECTION 1. That the Recitals set forth above are true and correct and incorporated herein by this reference.

SECTION 2. That the Fort Lauderdale Community Redevelopment Agency hereby approves a forgivable loan under the CRA's Development Incentive Program (DIP) in the amount of Eight Million and No/100 Dollars (\$8,000,000) and a non-forgivable loan in the amount of Two Million and No/100 Dollars (\$2,000,000) (collectively the "DIP Loans"), payable in equal installments of \$200,000 per year over a ten (10) year term following issuance of the Certificate of Occupancy, subject to the terms and conditions set forth in the Letter of Intent to Sunshine Shipyard, LLC.

SECTION 3. That the Board of Commissioners of the Fort Lauderdale Community Redevelopment Agency hereby approves a lease of commercial space not to exceed two thousand five hundred (2,500) square feet within the Project for a term of fifteen (15) years at the rate of \$12.00 per square feet plus its proportionate share of operating cost, taxes and insurance associated with the property to support and sustain small business development. This governing body delegates authority to the Executive Director to assign the commercial lease space to Invest Fort Lauderdale, Inc.

SECTION 4. That the governing body of the Fort Lauderdale Community Redevelopment Agency hereby authorizes execution of the Letter of Intent, in substantially the form attached to Commission Agenda Memorandum No. 23-0958, and any and all other documents or instruments, without further action or approval of this body. Except for the authority to increase the amount of the DIP loans, the Executive Director or his designee is delegated authority to negotiate additional terms and conditions, modify the terms, take further actions, and make such further determinations he deems advisable in furtherance of the goals and objectives of the Redevelopment Plan and to execute all instruments and documents necessary or incidental to consummation of the DIP Loans and lease of commercial space within the Project, including without limitation, execution of a Commercial Lease, Development Agreement, Satisfaction of Mortgage, Subordination Agreement or Estoppel Certificates.

SECTION 5. That the office of the General Counsel shall review and approve as to form all documents prior to their execution by the Executive Director.

SECTION 6. That this Resolution shall be in full force and effect upon final passage.

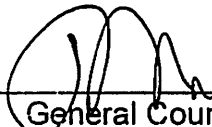
ADOPTED this 7th day of November, 2023.


Chair
DEAN J. TRANTALIS

ATTEST:


CRA Secretary
DAVID R. SOLOMAN

APPROVED AS TO FORM
AND CORRECTNESS:


General Counsel
THOMAS J. ANSBRO

Dean J. Trantalis Yea

John C. Herbst Yea

Steven Glassman Yea

Pamela Beasley-Pittman Yea

Warren Sturman Yea

CONSTRUCTION LOAN AGREEMENT
BY AND BETWEEN
FORT LAUDERDALE COMMUNITY REDEVELOPEMNT AGENCY
AND
SUNSHINE SHIPYARD LLC

THIS CONSTRUCTION LOAN AGREEMENT (the "Agreement" or "Loan Agreement"), is entered into this ____ day of _____, 2024 by and between SUNSHINE SHIPYARD LLC, a Delaware limited liability company, whose mailing address is (herein referred to as "Borrower") 900 NW 6th Street, Suite 201, Fort Lauderdale, Florida 33311 and Fort Lauderdale Community Redevelopment Agency, a body politic and corporate created pursuant to Part III, Chapter 163, Florida Statutes, whose mailing address is 914 Sistrunk Blvd, Suite 200, Fort Lauderdale, FL 33311 (herein referred to as "Lender").

RECITALS:

A. Borrower and Lender have entered into that Development Agreement dated _____, 2024 (the "Development Agreement"). Borrower has negotiated with Lender for two (2) loans (collectively referred to as the "Loan") one in the principal amount of Eight Million and No/100 Dollars (\$8,000,000) and one in the principal amount of Two Million and No/100 Dollars (\$2,000,000) to be used by Borrower for the purpose of financing Hard Costs (as defined in the Development Agreement) of the parking garage in Phase I of the Project (as defined in the Development Agreement) pursuant to that Construction Contract by and between South Pointe Construction & Development Co., a Florida company, Finrock Construction LLC (collectively the "Contractor") and Borrower and in accordance with the Plans and Specifications as hereafter defined. (All of the foregoing construction is referred to as "Construction of the Improvements" on the Developer Parcels, more fully described in **EXHIBIT "A"** attached hereto (the "Real Property" or "Property"). Unless defined herein, capitalized terms herein shall have the meaning ascribed in the Development Agreement.

B. The Loan and Loan Documents (defined below) are intended to be inferior and subordinate to that certain loan for construction financing provided by Centennial Bank, an Arkansas Banking Corporation, ("Construction Lender") to Borrower for the development of the Real Property and construction of the Project. The Lender's agreement to subordinate is not an agreement to waive any requirements under this Agreement. Any conflicts under this Agreement shall be resolved in favor of the Construction Lender to the extent it does not impair the Lender's lien or impair or jeopardize completion of the Project.

C. Borrower and Lender wish to enter into this Agreement in order to set forth (among other things) the terms and conditions of said Loan.

D. Both parties acknowledge that Lender shall make advances only for Hard

Costs associated with construction of the parking garage.

NOW, THEREFORE, in consideration of the Loan and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the other terms and conditions set forth hereafter, Borrower and Lender agree as follows:

ARTICLE I

LOAN DOCUMENTS

Borrower has executed and delivered, or caused to be executed and delivered, to Lender the following documents (hereinafter collectively and together with this Agreement referred to as "Loan Documents"), concurrently herewith:

A. NOTE: A promissory note of even date herewith executed by Borrower and payable to the order of Lender in the principal amount of Eight Million and No/100 Dollars (\$8,000,000) (referred to herein as the "Forgivable Note"). A promissory note of even date herewith executed by Borrower and payable to the order of Lender in the principal amount of Two Million and No/100 Dollars (\$2,000,000) (referred to herein as the "Non-Forgivable Note"). All monies due and payable Lender pursuant to the Forgivable Note and the Non-Forgivable Note and all Loan Documents including, but not limited to, the entire principal amount and any interest due under either Note, are collectively referred to herein as the "Indebtedness".

B. MORTGAGE AND SECURITY AGREEMENT: A Second Mortgage and Security Agreements (collectively referred to as the "Mortgage") encumbering (among other things) the Real Property described and set forth in **EXHIBIT "A"** attached hereto and made a part hereof which upon recordation shall constitute a second lien on said Real Property, together with the improvements located and constructed thereon and/or to be constructed thereon (herein referred to as the "Improvements"), together with all appurtenant fixtures (herein referred to as "Fixtures") and other personal property (including but not limited to any equipment and furniture and Fixtures) located or to be located thereon (herein referred to as "Personal Property") as security for the Indebtedness. (The Real Property, the Improvements, the Fixtures and Personal Property shall be collectively referred to as the "Property"). The lien of the Mortgage shall be in a second position behind the mortgage provided as collateral for Construction Lender.

C. UCC-1 FINANCING STATEMENTS: UCC-1 Financing Statements (state and local) covering all Personal Property, Fixtures, and equipment placed or to be placed on or under said Property, and such other documents as will ensure Lender a second position perfected interest in and to said Personal Property, Fixtures, and equipment, including all licenses, permits, plans and specifications relating to the Property.

D. COLLATERAL ASSIGNMENT OF LEASES AND RENTS: A general collateral assignment of all leases, income, rents and profits, and rents and profits from or concerning the Property, whether now or in the future ("Leases") The collateral assignment

shall be in a second position behind Construction Lender.

E. MORTGAGEE TITLE INSURANCE BINDER AND POLICY: A mortgagee title insurance binder and policy in the face amount of Ten Million and NO/100 Dollars (\$10,000,000), insuring the Mortgage as a valid second lien on the Property described in **EXHIBIT "A"** subject only to exceptions as shall be approved in writing by Lender issued by a title insurance company ("Title Company") satisfactory to Lender, and containing such endorsements, and in a form satisfactory to and approved by Lender, including such reinsurance agreements, if any, as shall be approved by Lender. 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 mortgagee title insurance policy and Florida Form 9 Endorsement shall be attached.

F. SURVEY: A survey, certified to Lender and the title insurance company, satisfactory to Lender, of all properties covered by the Mortgage showing public access and all improvements and no encroachments or easements on the Real Property lines. The survey shall be updated from time to time as required by Lender. The Survey shall also certify to Lender whether the Property is or is not located within an area identified pursuant to the Flood Disaster Act of 1973 as having flood hazards. The survey shall further show all easements on the Property as reflected in the title policy.

G. COLLATERAL ASSIGNMENT OF CONTRACT RIGHTS: A collateral assignment by the Borrower in favor of the Lender of all contract rights (this will include, but not be limited to, any construction contracts, architectural contracts, and/or engineering contracts) of the Borrower in and to any contracts or documents affecting the Property with respect to the contemplated construction of the Improvements. The collateral assignment of contract rights shall be in a second position behind s Construction Lender.

H. ENVIRONMENTAL INDEMNIFICATION AGREEMENT: An agreement by the Borrower in favor of Lender whereby Borrower warrants and indemnifies Lender against any liability relative to hazardous pollutants or toxic materials and agree to certain other terms and conditions concerning such substances.

I. AGREEMENT TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT OF 1990 AND FLORIDA AMERICANS WITH DISABILITIES ACCESSIBILITY IMPLEMENTATION ACT: An Agreement by the Borrower in favor of Lender whereby Borrower agrees to comply with the Americans With Disabilities Act of 1990, Florida Americans With Disabilities Accessibility Implementation Act, and any acts recognized under the laws of the State of Florida providing benefits to Americans with Disabilities, and to indemnify Lender from any such claims.

J. COLLATERAL ASSIGNMENT OF AGREEMENTS AFFECTING REAL ESTATE: A collateral assignment by Borrower to Lender of all contract rights arising under all contracts, licenses, permits and any agreements affecting the Property. (All of same and all contracts referred under Paragraph G above are collectively referred to as

"Contracts"). The collateral assignment of agreements affecting real estate shall be in a second position behind Construction Lender.

K. NOTICE OF COMMENCEMENT listing the Lender as an additional party to receive notice to owner.

L. DECLARATION OF RESTRICTIVE COVENANTS: That certain Declaration of Developer Restrictive Covenants pertaining to Borrower of even date herewith.

M. AFFIDAVITS OF BORROWER: Affidavits of Ownership as to the Property and, with the exception of the first lien and encumbrance of Construction Lender, as to the absence of any liens and encumbrances on the Property or relating to Borrower; certificates delivered to Lender from Borrower regarding organizational documents of Borrower.

O. OTHER DOCUMENTS: Such other documents, affidavits and certificates requested by Lender and/or referenced herein and/or executed in conjunction with the Loan, including but not limited to the following:

O.1 That certain Development Agreement Arcadian dated _____, 2024; and

P. CONSTRUCTION LENDER: Satisfaction of all terms and conditions of the Construction Lender, including without limitation, execution of all documents required by the Construction Lender.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF BORROWER

Borrower hereby represents and warrants to Lender as follows:

A. VALIDITY OF LOAN DOCUMENTS: That the Loan Documents are in all respects legal, valid, and binding according to their terms and grant to Lender a direct, valid, and enforceable second lien interest in the Property now and hereafter.

B. ENTITY EXISTENCE OF BORROWER; COMPLIANCE WITH LAW: That, to the extent Borrower is not a natural person, Borrower is duly organized, and validly existing and in good standing under the laws of the jurisdiction where Borrower was formed and where the Property is located. That Borrower has the legal power to own its properties (including the Property) and to carry on its business as now being conducted, and Borrower is in compliance with all other requirements of law applicable to it and to its business.

C. PRIORITY OF LIEN ON PERSONAL PROPERTY AND FIXTURES: That no bill of sale, security agreement, financing statement, or other title retention agreement (except those executed in favor of Lender and Construction Lender) has been or will be

executed with respect to any Personal Property and Fixtures and equipment used, in conjunction with the operation, or maintenance of the Improvements, now or hereafter located on the Real Property except for the lien of the Construction Lender who is Centennial Bank.

D. CONFLICTING TRANSACTIONS OF BORROWER: That the consummation of the transactions hereby contemplated and the performance of the obligations of Borrower under and by virtue of the Loan Documents will not result in any breach of, or constitute a default or Event of Default under, any mortgage, deed, deed of trust, lease, bank loan or credit agreement, corporate charter or by-laws or other instrument to which Borrower is a party or by which it may be bound or affected.

F. PENDING LITIGATION: That there are no actions, suits, or proceedings pending, or to the knowledge of Borrower threatened against or affecting it or the Property, or involving the validity or enforceability of any of the Loan Documents or the priority of the lien thereof, at law or in equity, or before or by any governmental authority; and to the Borrower's knowledge, it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority.

G. VIOLATIONS OF GOVERNMENTAL LAW, ORDINANCES OR REGULATIONS: That Borrower has no knowledge of any violations or notices of violations of any federal or state law or municipal ordinance or order or requirement of the county or city in which the Property is located or any municipal department or other governmental authority having jurisdiction affecting the Property, which violations in any way relate to or affect the Property.

H. COMPLIANCE WITH ZONING ORDINANCES AND SIMILAR LAWS: That the Plans and Specifications and construction of the Improvements pursuant thereto and the use of the Property contemplated hereby complies and will comply with all governmental laws and regulations, and requirements, standards, and regulations of appropriate supervising boards of fire underwriters and similar agencies.

I. AVAILABILITY OF UTILITIES: That all utility services necessary for the construction of the Improvements and for the operation thereof for their intended purpose are available on or at the boundaries of the Real Property, including water supply, drainage facilities, storm and sanitary sewer facilities, electric and telephone facilities.

J. CONDITION OF PROPERTY: That the Property is not now damaged or injured as a result of any fire, explosion, accident, flood, or other casualty.

K. LEASES: That there are presently no leases which touch and affect the Property.

L. NON-COMMENCEMENT OF CONSTRUCTION: That Borrower has not caused or permitted any labor to be furnished in connection with construction of the

Improvements or caused or permitted any materials to be delivered to the Property that has not been paid for in full; and that no contractor nor any supplier or subcontractor shall be permitted to deliver any materials to the Property or excavate for footings, or otherwise perform any work on the Property until the Mortgage shall be recorded. No payments have been made prior to the execution of this Agreement which may result in any contractor or lienor having a claim against the Borrower or the Property which may have priority over the interest of Lender as secured by the Mortgage.

M. SOURCES AND USES: That the Sources and Uses of Funds Schedule (herein the "Sources and Uses of Funds Schedule") and construction contract by and between Borrower and Contractor attached hereto as **EXHIBIT "B"** states the understanding of all parties as to the distribution of Loan funds and that Borrower will document in a form satisfactory to Lender all funds shown in the "Borrower Equity" column. If necessary, Lender, Borrower and Construction Lender will enter into a Funding Agreement that governs the disbursement of the various funding streams.

N. EQUITY FUNDS: That Borrower shall pay and deliver to Lender satisfactory evidence of payment of that portion of the total project costs ("total project costs") shown on the Sources and Uses of Funds Schedule as "Borrower Equity" and shall deliver to Lender such other and detailed information concerning the components of the total project cost as may be required by Lender. Borrower must have a minimum cash equity of no less than the total amount of equity required by the Construction Lender to be contributed by Borrower, which amounts must be expended and exhausted as permitted by the Construction Lender prior to any disbursements by Lender hereunder. Any portion of the total project costs allocated to Borrower Equity and not paid shall, be funded by Borrower as required by the Construction Lender prior to any funding under this Agreement (the "Equity Funds"). In the event the total project costs increase, Borrower Equity will increase accordingly. Lender may at any time and from time to time require Borrower to deposit additional Equity Funds with the Construction Lender or other acceptable third party whenever it shall reasonably appear to Lender that the remaining proceeds of the Loan to be disbursed and remaining Equity Funds will be insufficient to pay the remaining portion of the construction costs and other costs not already paid and to otherwise complete Construction of the Improvements in accordance with the Plans and Specifications, and Borrower hereby covenants and agrees to make such a deposit immediately upon Lender's request. The judgment and determination of Lender as to said insufficiency shall be final. If Lender does not require a deposit of Equity Funds, Borrower shall pay and deliver to Lender satisfactory evidence of the payment of any portion of the construction costs in excess of the amount of the Loan which remains to be disbursed, together with lien waivers satisfactory to Lender. There shall be at all times, undisbursed funds under the Loan or the Construction Lender loan sufficient to complete Construction of the Improvements as determined by Lender, otherwise Lender has the option to require expenditures of such additionally required funds by Borrower or deposit of such funds by Borrower with Construction Lender prior to any subsequent disbursement by Lender.

O. ACCESS: That the rights of way for all roads necessary for the full utilization

of the Improvements for their intended purposes have either been acquired by the appropriate governmental authority or have been dedicated to public use and accepted by such governmental authority, and all such roads shall have been completed, or all necessary steps shall have been taken by the Borrower and such governmental authority to assure the complete construction and installation thereof prior to the date upon which access to the Property via such roads will be necessary. All curb cuts and traffic signals shown on the plans and specifications are existing or have been fully approved by all necessary governmental authorities.

P. ENVIRONMENTAL:

1. Borrower is the fee simple title holder of the Real Property.
2. Borrower has undertaken such inquiry into the previous ownership and uses of the Property as is consistent with good commercial practice in an effort to minimize liability with respect to "Hazardous Substances", which terms shall include: any hazardous or toxic substances, materials or wastes, including, but not limited to solid, semi-solid, liquid or gaseous substances which are toxic, ignitable, corrosive, carcinogenic or otherwise dangerous to human, plant or animal health or well-being and those substances, materials, and wastes listed in the United States Department of Transportation Table (49 CFR 972.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto or such substances, materials and wastes which are or become regulated under any applicable local, state or federal law including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251, et seq. (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903), (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. (42 U.S.C. Section 9601), (vii) defined as "hazardous waste" as defined in Chapter 403 (Part IV) of the Florida Statutes.
3. To the best of the Borrower's knowledge and belief, the Property is presently free from contamination by or the presence of Hazardous Substances, and the Property and activities conducted thereon do not pose any significant hazard to human health or the environment or violate any applicable federal, state or local laws, ordinances, rules, regulations or requirements pertaining to Hazardous Substances including, but not limited to, any of the above referenced Laws, Statutes, Codes and/or Regulations.
4. To the best of the Borrower's knowledge and belief, the Property and any improvements now or hereafter located thereon have not in the past been used, are not presently being used, and will not be used for such time as the Loan is owed to Lender for the generation, release, treatment, discharge, emission, handling, storage, transportation, or disposal of Hazardous Substances.

Q. INTENTIONALLY OMITTED.

R.RECITALS: That the Recitals are true and correct and are incorporated herein by reference verbatim.

ARTICLE III COVENANTS OF BORROWER

Borrower hereby covenants and agrees with Lender as follows:

A. OTHER LOANS: To procure no subordinate financing in connection with the purchase and/or operation of the Property (now or hereafter) or construction of the Improvements nor to procure a loan or loans from other sources other than Lender and the Construction Lender for any Construction of the Improvements or any work contemplated by this Loan Agreement, unless approved by Lender in writing.

B. CONSTRUCTION CONTRACT: (i) To permit no default under the terms of the Construction Contract with Contractor ("Construction Contract") or any contract relating to Construction of the Improvements, (ii) to not waive any of the obligations of the Contractor or any subcontractor thereunder, (iii) to do no act which would relieve the Contractor or a subcontractor from its obligations to construct the Improvements according to the Plans and Specifications, and (iv) to make no amendments, other than change orders as may be permitted hereunder, to the Construction Contract or a contract without the written consent of Lender, which consent will not be unreasonably withheld. Lender shall provide written consent or its objection as required hereunder within ten (10) days after all requested documents and supporting information as been provided to Lender. Failure to respond shall not be deemed consent.

C. INSURANCE: Notwithstanding the insurance requirements set forth below, the insurance requirements set forth in the Development Agreement, in particular the requirements described in Article 9, shall control and Borrower shall comply with said provision. In the event of a conflict with this section and Article 9, Article 9 shall control. To obtain and maintain such insurance or evidence of insurance as Lender may reasonably require, including but not limited to the following:

1. Hazard Insurance. With respect to any buildings and Improvements now or hereafter constructed on the Real Property, "all risk" coverage insurance, and such other hazard insurance as Lender may require with standard non-contributing mortgagee clauses and standard subrogation clauses, such insurance to be in such amounts and form and by such companies as shall be approved and required by Lender, such insurance to be obtained immediately upon completion of construction of the Improvements and before issuance of the Certificate of Occupancy and before any portion of the Property is occupied by Borrower or any tenant of Borrower, with such insurance to be kept in full force and effect at all times thereafter until the payment in full of the Loan evidenced by the Note.

This policy must be paid one year in advance.

2. **Comprehensive General Liability and Statutory Workers' Comprehensive Insurance.** A certificate from an insurance company indicating that Borrower and Contractor are covered to the satisfaction of Lender by comprehensive general liability insurance coverage and statutory workers' compensation coverage, in such amounts and form and by such companies as shall be approved by Lender. This policy must be paid one year in advance.

3. **Flood Insurance.** Flood insurance issued by an acceptable company in the amount of the loan or the maximum coverage available or appropriate evidence that such insurance is not necessary. This policy must be paid one year in advance.

4. **Builders Risk Insurance.** Builder's risk insurance in amounts sufficient to satisfy full replacement costs of the construction of the Improvements and any other work contemplated hereunder, or in such other amounts, and by such companies as shall be approved by Lender. The policy must be paid for one year in advance.

As to all of the insurance obtained, the copies of such policies (together with appropriate endorsements thereto), evidence of payment of premiums thereon, shall be promptly delivered to Lender and further shall name Lender as a second position mortgagee on the loss payee clause as an additional insured. The policies shall include an agreement by the insurer to provide Lender thirty (30) days prior written notice of any intention to cancel or amend.

D. COLLECTION OF INSURANCE PROCEEDS: Subject to the requirements of Borrower's Construction Lender, to cooperate with Lender in obtaining for Lender the benefits of any insurance or other proceeds lawfully or equitably payable to them in connection with the transactions contemplated hereby and the collection of any indebtedness or obligation of Borrower to Lender incurred hereunder (including the payment by Borrower of the expense of an independent appraisal on behalf of Lender in case of a fire or other casualty affecting the Property).

E. APPLICATION OF PROCEEDS: Subject to the requirements of Construction Lender, to deliver any insurance proceeds received by Borrower promptly to Lender.

F. EXPENSES: To pay, upon demand by Lender all costs of closing the Loan contemplated hereunder and all expenses of Lender with respect thereto, directly or indirectly, including but not limited to, fees of Lender's Inspector (if any), attorneys' fees, including attorneys' fees, paralegal fees and other fees and costs incurred by Lender subsequent to closing of the Loan in connection with the disbursement, administration, collection, restructure, amendment, whether prior to or after commencement of litigation, mediation, arbitration, trial, retrial, appeal, bankruptcy or any other proceedings, advances, recording expenses, surveys, title insurance premiums, intangible taxes, documentary

stamps, surtax and other revenue fees, escrow fees, recording costs, architect or engineer's costs and inspection fees, expenses of foreclosure (including reasonable attorneys' fees) and similar items, and to allow all closing papers, Loan Documents and other legal matters to be subject to the approval of Lender's attorneys.

G. COMMENCEMENT AND COMPLETION OF CONSTRUCTION: To commence Construction of the Improvements on the date which is sixty (60) days following the date hereof for horizontal site development (i.e. demolition, grading, and site preparation work) and one hundred eighty (180) days following the date hereof, for vertical construction, for purposes hereof, shall mean the pouring of foundations and to diligently pursue said construction to completion; and supply such sums of money and perform such duties as may be necessary to complete the construction of said Improvements pursuant to the Plans and Specifications and in full compliance with all terms and conditions of the Loan Documents, all of which shall be accomplished no later than twenty four (24) months after such commencement which is estimated to occur on or before June 2026, and without liens, claims, or assessments (actual or contingent) asserted against the Property for any material, labor, or other items furnished in connection therewith and all in full compliance with the Florida Construction Lien Law, Chapter 713, Florida Statutes, and the laws of Florida, including but not limited to any and all laws regarding the enforcement of liens, and further in compliance with all construction, use, building, zoning, and other similar requirements of any pertinent governmental authority and all other restrictions, if any, affecting the Property. Borrower will provide to Lender upon request, evidence of satisfactory compliance with all such requirements.

H. RIGHT OF LENDER TO INSPECT PROPERTY: To permit Lender and its representatives and agents to enter upon the Property and to inspect the Property at all reasonable times.

I. CORRECTION OF DEFECTS: To promptly correct any structural defect in the Improvements. The advance of any Loan proceeds shall not constitute a waiver of Lender's right to require compliance with this covenant.

J. SIGN REGARDING CONSTRUCTION FINANCING: To promptly erect and maintain on a site suitable to Lender on the Property a sign furnished by Lender indicating that construction financing is being provided by Lender, all to the reasonable satisfaction of Lender and to prevent the destruction or removal of said sign.

K. BOOKS AND RECORDS: To keep and maintain proper and accurate books, records and accounts reflecting all items of income and expense of Borrower in connection with the Property and, upon the request of Lender, to make such books, records, and accounts immediately available to Lender for inspection or independent audit.

L. NOTIFICATION OF CLAIMS BY SUBCONTRACTORS AND MATERIALMEN: To advise Lender immediately, (no later than five (5) business days after notice whether written or oral) and in writing, if Borrower receives any Notice to Owner

or Claim of Lien, written or oral, from any laborer, subcontractor, or materialmen in connection with any labor or materials furnished in Construction of the Improvements or any labor or materials furnished on the Property.

M. APPROVAL AND LIMITATION ON CHANGES: To obtain Lender's approval of the proposed Plans and Specifications for construction of the Improvements in accordance with the terms and conditions of the Development Agreement.

N. PRESERVATION OF SECURITY: To sign and deliver to Lender such documents, instruments, assignments, and other writings, and to do such other acts necessary or desirable, to preserve and protect the collateral at any time securing or intended to secure the Forgivable Note and the Non-Forgivable Note, as Lender may require.

O. FUTURE ASSURANCES: To do and execute all and such further lawful and reasonable acts, conveyances, and assurances in the law for the better and more effective carrying out of the intents and purposes of this Agreement as Lender shall require from time to time.

P. NOTICE OF COMMENCEMENT: To not commence any such construction and make no payments to any contractors, materialmen, laborers prior to recordation of the Notice of Commencement. The Notice of Commencement must be recorded after the Lender's Mortgage and posted on the Property and shall include the Lender as a party to receive Notice to Owner.

Q. BUILDING PERMITS: To furnish to Lender copies of all building permits.

R. CONSTRUCTION SCHEDULE: To furnish to Lender a construction progress schedule estimating each draw of construction funds, subject to Lender's approval. Upon Lender's request Borrower shall provide Lender with copies of any draw requests and supporting documentation submitted to the Construction Lender.

S. CONSTRUCTION BUDGET: If not already furnished, to furnish to Lender prior to Lender approving commencement of construction or funding, a cost breakdown and construction budget ("Construction Budget") which must be agreed to by the Contractor and acceptable to Lender and Lender's Inspector.

T. CERTIFICATE OF OCCUPANCY: To furnish to Lender when available a certificate of occupancy or any other necessary certificate required by any governmental agency.

U. USE OF PROCEEDS: To use the proceeds of the Loan only for the payment of Hard Costs directly associated with Construction of the parking garage within Phase I of the Project and not divert such funds for any other purpose. The proceeds of the Loan shall not be used to construct improvements within a public right of way. If the proceeds of the

Loan are used to construct improvements within a public right of way, public easement or other public property, the Borrower shall be required to comply with Florida Statutes, Section 255.20 (2022) and the City of Fort Lauderdale procurement code.

V. ORGANIZATIONAL DOCUMENTS: To the extent Borrower is not a natural person, to furnish to Lender a Certificate of Good Standing of Borrower certified by the Secretary of State of the state of formation of Borrower. Borrower shall also furnish to Lender such organizational documents requested by Lender and any amendments thereto of Borrower, accompanied by a certificate from the appropriate officer of Borrower that the company is active and that organizational documents have not been amended, annulled, rescinded or revoked since the date of the Certificate of the Secretary of State and a copy of the Resolution of Borrower, and such other authorizing documents authorizing execution, delivery and performance of the Loan Documents and the borrowings contemplated hereunder on behalf of Borrower, and specifying the officer or officers of Borrower who are authorized to execute the Loan Documents accompanied by a certificate from an appropriate officer of Borrower that the resolutions are true and complete, were duly adopted at a duly called meeting at which a quorum was present and acting throughout, or were duly adopted by a written action, and have not been amended, annulled, rescinded or revoked in any respect and remain in full force and effect on the date of the certificate. (All documents delivered above shall further be deemed "Loan Documents").

The organizational documents of the Borrower will not, throughout the term of the Loan, be in any way or manner, changed, modified, or altered, without the prior written consent of Lender which shall not be unreasonable withheld or delayed.

For purposes hereof, "organizational documents" shall mean such documents in existence which are necessary to create the Borrower or setting forth the rules governing the operation of Borrower, such as a partnership agreement in the case of a partnership, articles of incorporation and by-laws with respect to a corporation and articles of organizations and operating agreement with respect to a limited liability company.

ARTICLE IV

METHOD AND CONDITIONS OF DISBURSEMENT OF LOAN PROCEEDS

A. PROCEDURE FOR DISBURSEMENT:

Upon the execution of this Agreement and the Other Loan Documents, closing on the construction loan with the Construction Lender, and compliance with the terms and conditions in the Development Agreement, this Agreement and the Other Loan Documents, Lender agrees to make disbursements against Hard Costs related to the parking garage arising from the Construction Contract with Contractor and Schedule of Values, copies of which are attached hereto as Exhibit "B" for the benefit of Borrower against the Forgivable Note and the Non-Forgivable Note up to the full principal amount thereof and in accordance with and subject to the following procedure, covenants, and terms:

1. **Certificate For Payment.** At such time as Borrower shall desire to obtain, subject to the other requirements hereof, a disbursement of any portion of the Loan proceeds, Borrower shall complete, execute, and deliver to Lender a request for an advance on a standard AIA document such as G702 and G703, signed by the Contractor with notary acknowledgement and certified by the architect of record with full cost breakdown. Other appropriate AIA documents that is reflective of industry standards may be substituted at the election of the Lender.

2. **Evidence Of Progress Of Construction.** The above said Certificate for Payment shall, upon the request of Lender be accompanied by evidence in form and content satisfactory to Lender, including, but not limited to, certificates and affidavits of Borrower, Contractor, Architect or such other persons as Lender may require, showing that:

(i) The percentage of completion and value of that portion of the Improvements (parking garage) completed at that time;

(ii) All outstanding claims for labor, materials and fixtures for which prior requests for advance have been funded by Lender have been paid, and releases of liens have been obtained for same.

(iii) Borrower has complied with all of Borrower's obligations, as of the date thereof, under the Loan Documents;

(iv) All construction of the Improvements and any other work contemplated hereunder prior to the date of the request for an advance has been done in accordance with the Plans and Specifications;

(v) Any surety bonds required by Lender are in full force and effect;

(vi) All funds previously disbursed by Lender have been applied in accordance with the Construction Budget and/or Schedule of Values;

(vii) Copies of all bills or statements for indirect expenses for which the advance is requested are attached to said Certificate of Payment; and

(viii) Except as may be otherwise provided, all change orders shall have been approved in writing by Lender.

Where the draw request relates to items other than payments for work performed or materials furnished under the Construction Contract or construction contracts, there shall be included a statement of the purposes for which the advance is desired and invoices for the same, as Lender shall reasonably require and approve. In no event shall Lender be required to make disbursements based on the value of materials stored off-site or stored on-site.

3. **Lender's Inspector's Review.** Lender's Inspector will review the proposed Plans and Specifications, budget and cost analysis, and monitoring of job progress. The appointment of Lender's Inspector shall not be deemed to place any duty or responsibility upon Lender to inspect the Improvements or any obligations of liability upon Lender regarding the quality of construction or the absence therefrom of defects. Lender's obligation to make any disbursement(s) shall be conditioned on the review and approval of Lender's Inspector of all draw requests.

4. **Continuation of Title Insurance Coverage.** The above said Certificate for Payment shall be accompanied by a satisfactory endorsement to the previously delivered mortgagee title insurance policy which endorsement shall (i) indicate that since the effective date of said policy (or the effective date of the last such endorsement, if any) there has been no change in the status of title to the Property as set out in said policy and (ii) have the effect of increasing the coverage of the policy by an amount equal to the advance then being made unless said policy expressly provides automatically and without condition for such increase in coverage upon each such disbursement.

5. **Releases.** Partial Releases and/or waivers of Lien have been received for all disbursements previously made.

6. **Other Conditions.** All other conditions of this Agreement have been met, including without limitation, the post-closing conditions reflected in Exhibit "C" attached hereto.

7. **Conditions Precedent To Each Disbursement to be satisfied.** At no time and in no event shall Lender be obligated to disburse funds:

(i) Until Lender receives evidence that the Mortgage was recorded prior to recordation of the Notice of Commencement and that no claims of lien were recorded against the Property prior to such recordation of said Mortgage, together with an effective title commitment issued by a licensed title insurance company or law firm insuring that said mortgage is a valid second lien upon the aforesaid Property and marked up title commitment in favor of Lender and approved by Lender's counsel at closing;

(ii) Until material invoices and contracts shall have been confirmed by Borrower to the satisfaction of Lender and until and unless such labor and materials have been delivered to and used upon or incorporated in such Improvements in a manner satisfactory to Lender and in compliance with said Plans and Specifications;

(iii) Until Borrower has produced to the Lender, upon demand, supporting materials indicating percentage of completion related to Construction of the Improvements;

(iv) If Borrower or Contractor fails to comply with any requirement or notice of violation of law issued by or filed in any department or bureau or any governmental agency having jurisdiction;

(v) If Borrower or Contractor interfere with or prevent Lender's entry and access to said Property for inspections;

(vi) If, any Event of Default as delineated in **Article V** hereof has occurred and shall have not been cured within any applicable grace or cure period; or

(vii) If Lender, based upon the advice of Lender's Inspector, reasonably believes that Construction of the Improvements cannot be completed within the time required by this Agreement; or

(viii) If, in the sole reasonable opinion of Lender, the then estimated remaining cost of construction in accordance with the Plans and Specifications exceed the Sources and Uses of Funds Schedule, and Borrower has failed to make arrangements satisfactory to Lender, in Lender's sole discretion, for the payment of such additional costs; or

(ix) If the Property shall have been damaged by fire or other casualty and Lender shall not have received insurance proceeds sufficient in the sole judgment of Lender to effect the restoration of the Improvements in accordance with Plans and Specifications (and Borrower has failed to make arrangements satisfactory to Lender for the payment of such insurance insufficiency) and to permit the completion of the Improvements on or before the completion date set out in **Paragraph G of Article III** hereof; except, however, that Lender may continue to fund draws sufficient to make required interest payments so long as all other conditions of the draw are met; or

(x) If any title update reveals any liens of record, which are not being contested by Borrower and for which Borrower has otherwise failed to transfer such lien to a bond or other security as provided in Chapter 713, Fla. Stats.

(xi) such amount is in excess of that amount determined by Lender's Inspector to be such amount which equals the value of the construction completed less the amounts previously disbursed.

8. Post Completion Conditions.

(i) Within ten (10) days after completion of the Improvements, in addition to satisfying all of the conditions and supplying all of the documents required under this Agreement, Borrower shall supply Lender with the following documents in form and substance reasonably acceptable to Lender:

1) Certificates from Borrower's architect or contractor, certifying that the Improvements described in the Plans and Specifications approved by the City of Fort

Lauderdale (including any off-site improvements) have been completed in accordance with, and as completed comply with, the Plans and Specifications and all laws and governmental requirements; and Lender shall have received two (2) sets of detailed "as built" Plans approved in writing by Borrower, Borrower's architect, and each contractor;

2) Final affidavits (in a form approved by Lender) from architect, or general contractor and each contractor certifying that each of them and their subcontractors, laborers, and materialmen has been paid in full for all labor and materials for construction of the improvements; and final lien releases or waivers (in a form approved by Lender) by architect, engineer, general contractor, and all subcontractors, materialmen, and other parties who have supplied labor, materials, or services for the construction of the improvements, or who otherwise might be entitled to claim a contractual, statutory or constitutional lien against the Real Property;

3) Evidence reasonably satisfactory to Lender that all laws and governmental requirements have been satisfied, including receipt by Lender of all necessary governmental licenses, certificates and permits (including certificates of occupancy) with respect to the completion, use, occupancy and operation of the Improvements, together with evidence satisfactory to Lender that all such licenses, certificates, and permits are in full force and effect and have not been revoked, canceled or modified.

9. **Notice, Frequency, Retainage, and Place of Disbursements.** At the option of Lender (i) the above said draw request shall be submitted to Lender at least fifteen (15) business days prior to the date of the requested advance, (ii) disbursements shall be made no more frequently than once per month at the office of the Lender or wire transfer. Lender shall be entitled to withhold ten percent (10%) of each draw request until the parking garage is fifty percent (50%) complete. Thereafter, no retainage shall be withheld from a draw request.

10. **Advances Do Not Constitute a Waiver.** No advance of loan proceeds hereunder shall constitute a waiver of any of the conditions of Lender's obligation to make further advances, nor in the event Borrower is unable to satisfy any such condition, shall any such waiver have the effect of precluding Lender from thereafter declaring such inability to be an Event of Default under **Article V** hereof.

11. **Warranties and Representations True.** The warranties, representations, and covenants of Borrower in the Loan Documents shall be true and correct on and as of the date of each advance with the same effect as if made on such date and no event of the default under the Development Agreement, this Agreement or the Loan Documents has occurred as of the date of the advance.

B. MISCELLANEOUS TERMS REGARDING DISBURSEMENT:

1. **Certificate Re: Application of Proceeds and Remaining Costs.** Bills or statements for all expenses for which a disbursement is requested shall, at the

option of Lender, be presented to Lender along with a certification from the Borrower, the Architect/Engineer, the Contractor, and Lender's Inspector that all labor and material for which funds are requested have gone into the construction of the Improvements according to the Plans and Specifications, and that the balance of the Loan proceeds will cover the estimated remaining costs of construction of the Improvements.

2. **Payment of Construction Costs.** Lender shall be under no duty or obligation to anyone to ascertain whether Borrower has used or will use the proceeds of the Loan for the payment of bills incurred by Borrower in connection with the construction of the Improvements. Payment of all bills for labor and materials in connection with the construction of the Improvements shall be the responsibility of Borrower, and Lender's sole obligation shall be to advance the proceeds of the Loan subject to, and in accordance with, this Agreement and the Funding Agreement.

3. **Recommendation By Lender's Inspector.** At no time shall Lender be obligated to disburse funds in excess of that recommended by Lender's Inspector. Borrower shall have the right to receive a copy of the inspector's report, if any, and file an objection and/or response to the report. Lender shall take Borrower's response or objection into consideration when making a final determination.

4. **Lien Law.** Borrower shall in all respects comply with Chapter 713 Florida Statutes. Lender's obligations hereunder are conditioned upon receipt of evidence satisfactory to Lender confirming such compliance. Borrower shall promptly forward to Lender copies of any notice to and/or claims of liens received by Borrower. If a lien is filed against the Property, Lender may but shall not be obligated to disburse such funds from the Loan Proceeds to transfer the lien to such additional security, at Borrower's expense.

ARTICLE V

EVENTS OF DEFAULT

An event of default ("Event of Default") shall be deemed to have occurred hereunder, if:

A. After the cure period has expired, a default exists and is continuing under the Development Agreement.

B. **DEFAULT UNDER LOAN DOCUMENTS:** Any default or "Event of Default" under this Agreement occurs or under any of the Loan Documents or under the loan documents of the Construction Lender; or

C. **BREACH OF WARRANTY:** Any warranties, representations, terms, covenants and/or obligations made or agreed to be made in any of the Loan Documents (which include any other document executed in conjunction with the Loan) shall be breached by Borrower or shall prove to be false or misleading; or

D. FILING OF LIENS AGAINST THE PROPERTY: Any lien for labor, material, taxes, or otherwise shall be filed against the Property and not be removed or otherwise discharged or transferred to a bond within thirty (30) days thereafter; or

E. MATERIAL ADVERSE CHANGE: Borrower or Guarantor (as defined in the Construction Lender's loan documents) shall suffer any material adverse change in financial condition which, in the reasonable opinion of Lender, could impair the ability of the Borrower to perform all of its duties and obligations under the Loan Documents; or

F. LEVY UPON THE PROPERTY: A levy be made under any process on, or a receiver be appointed for the Property or Borrower; or

G. BANKRUPTCY OR INSOLVENCY OF BORROWER:

1. The filing by either Borrower or Guarantor of a voluntary petition in bankruptcy for adjudication as bankrupt or insolvent, or the filing by either Borrower or Guarantor of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or either Borrower or Guarantor seeking or consenting to or acquiescing in the appointment of any trustee, receiver or liquidator of either Borrower or Guarantor of all of the rents, revenues, issues, earnings, profits or income thereof, or the making of any general assignment for the benefit of creditors, or the admission in writing of its inability to pay its debts generally as they become due; or

2. The failure to timely answer or to discharge within ninety (90) days of filing a petition filed against Borrower or Guarantor seeking any reorganization, arrangement, composition, readjustment, liquidation or dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the appointment of any trustee, receiver or liquidator for Borrower, or of all or any substantial part of the Property or of any or all of the rents, revenues, issues, earnings, profits or income thereof without the consent or acquiescence of Borrower; or

H. ASSIGNMENT FOR THE BENEFIT OF CREDITORS: Borrower or Guarantor shall make a general assignment for the benefit of creditors; or

I. TRANSFER OF PROPERTY: Borrower, without the prior written consent of Lender voluntarily or by operation of law sell, transfer, or convey all or any part of its interest in the Property excepting only transfers due to involuntary condemnation which do not render the Property useless for its intended purpose hereunder. A transfer of any member interest of Borrower shall be deemed a transfer hereunder. Borrower shall be permitted to make transfers for estate planning purposes provided control of the Borrower and or the project does not change; or

J. LIEN AGAINST PROPERTY: Borrower grants any lien or encumbrance upon the Property; or

K. CHANGE IN OWNERSHIP OF BORROWER: Any change in the ownership, membership or control or any portion thereof of the Borrower without the Lender's prior written approval; or

L. FAILURE TO DISPROVE DEFAULT/CHANGE: Lender shall reasonably suspect the occurrence of one or more of the above said Events of Default and Borrower, upon request of the Lender, shall fail to provide evidence reasonably satisfactory to Lender that such Event or Event of Default has not in fact occurred; or Lender shall reasonably determine that a material adverse change has occurred in Borrower's or Guarantor's financial condition.

M. DEFAULT OR TERMINATION OF LEASE AND/OR CONTRACT: Borrower shall breach the terms of any Leases and/or Contracts which touch and affect the Property; including, but not limited to, the Construction Contract with Contractor.

N. DEFAULT OF ANY OTHER LOAN BETWEEN BORROWER AND LENDER AND/OR ANY DOCUMENTS EXECUTED IN CONJUNCTION WITH ANY OTHER LOAN: Borrower shall breach any terms of any other loan between Borrower and Lender and/or any loan documents relating to said Loan; or

O. DISSOLUTION, DEATH OR INCAPACITY OF BORROWER: In the event of the dissolution or death of Borrower, or the permanent incapacity or disability of Borrower or Guarantor.

P. GARNISHMENT: Service of writ of attachment, garnishment or other collection remedies against Borrower.

ARTICLE VI

REMEDIES OF LENDER

Upon the occurrence of any one or more of the Events of Default hereunder, Lender shall at its option be entitled, in addition to and not in lieu of the remedies provided for in the Note, Mortgage, and other Loan Documents to proceed to exercise any and/or all or some of the following remedies set forth herein at any time:

A. NOTICE TO BORROWER AND OPPORTUNITY TO CURE. In the event of an Event of Default, under Article V, Lender shall provide written notice thereof to Borrower. Borrower shall have a period of thirty (30) days from receipt of Lender's notice within which to cure an Event of Default (limited to five (5) days in connection with Borrower's failure to maintain insurance as required by Lender), unless such Event of Default is incapable of being cured within such thirty (30) day period, in which event, so long as Borrower promptly commences and diligently pursues such cure, Borrower shall have a reasonable time not to

exceed ninety (90) days within which to effectuate such cure. If Borrower fails to cure such Event of Default as provided for herein, Lender may proceed to exercise any and all remedies available to Lender as provided in this Agreement.

B. DEFAULT CONSTITUTES DEFAULT UNDER LOAN DOCUMENTS: The occurrence of such Event of Default shall constitute a default or Event of Default under each of the Loan Documents, thereby entitling Lender (i) to exercise any of the various remedies therein provided, including but not limited to the acceleration of the Indebtedness evidenced by the Forgivable Note or the Non-Forgivable Note and the foreclosure of the Mortgage, and (ii) cumulatively to exercise all other rights, options, and privileges provided by law or in equity.

C. ACCELERATION: Declare the entire Indebtedness due and payable and provide written notice of same to Borrower.

D. RIGHT OF LENDER TO ASSUME POSSESSION: Upon the request of Lender, Borrower shall vacate the Property and permit Lender, subject to the terms and condition of the Subordination Agreement between Lender and Construction Lender to:

1. to enter into possession;
2. to perform or cause to be performed any and all work and labor necessary to complete the parking garage in accordance with the Plans and Specifications;
3. to employ security watchmen to protect the Property, and
4. to disburse that portion of the loan proceeds not previously disbursed (including any Retainage) to the extent necessary to complete construction of the Improvements in accordance with the Plans and Specifications, and if the completion requires a larger sum than the remaining undisbursed portion of the Loan, to disburse such additional funds, all of which funds so disbursed by Lender shall be deemed to have been disbursed to Borrower and shall be secured by the Mortgage. For this purpose, Borrower hereby constitutes and appoints Lender its true and lawful attorney-in-fact with full power of substitution to complete the construction of the Improvements in the name of the Borrower and hereby empowers Lender as said attorney to take all actions in connection therewith including, but not limited to, the following: To use any funds of Borrower including any balance which may be held in escrow and any funds which may remain unadvanced hereunder for the purpose of completing the Improvements in the manner called for by the Plans and Specifications; to make such additions and changes and corrections in the Plans and Specifications which shall be necessary or desirable to complete the Improvements in substantially the manner contemplated by the Plans and Specifications; to employ such contractors, subcontractors, agents, architects, and inspectors as shall be required for said purposes; to pay, settle, or compromise all existing or future bills and claims which are or may be liens against said Property or may be necessary or desirable for the completion of the Improvements or the clearance of title to the Property; to execute all applications and

certificates in the name of Borrower which may be required by any construction contract and to do any and every act with respect to the construction of the Improvements which Borrower may do in its own behalf. It is understood and agreed that this power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked by death, dissolution or otherwise. Said attorney-in-fact shall also have power to prosecute and defend all actions or proceedings in connection with the construction of the Improvements and to take such action and require such performance as it deems necessary. In accordance therewith, Borrower hereby assigns and quit claims to Lender all sums to be advanced hereunder, including retainage and any sums in escrow conditioned upon the use of said sums, if any, for the completion of the Improvements. Notwithstanding any matters set forth above, Lender shall have no obligation to perform any such responsibilities if Lender elects.

E. INTENTIONALLY OMITTED.

F. INTENTIONALLY OMITTED.

G. GENERAL: Lender is entitled to exercise any and all rights and remedies available at law and/or in equity including, but not limited to, the right to have a receiver appointed for the Borrower and/or the Property and the right to institute foreclosure proceedings.

H. NO ELECTION OF REMEDIES: Lender has the option of proceeding individually against Borrower or Mortgagor, if any, for the Indebtedness and may utilize any remedies allowable by law. Lender shall have the right to exercise any right or remedy available to Lender as a secured party under the Florida Uniform Commercial Code. Lender may proceed to realize upon and all other security for the Indebtedness in such order as Lender may elect; no such action shall constitute any election or remedies by Lender nor in any manner alter, diminish, or impair the security interest created by this Loan Agreement unless and until the Indebtedness is paid in full.

I. JUDGMENT: Lender may seek and recover judgment for all amounts due and payable in accordance with the Loan Documents either before, after or during the pendency of any other proceedings or action to obtain relief under or with respect to this Loan Agreement or the Loan Documents or both and Lender's right to seek and recover any such judgment will not be affected by obtaining any such other relief. Neither the security interest referenced in this Loan Agreement nor the rights and remedies to the Lender hereunder will be impaired in any way by the recovery of any judgment of Lender against Borrower, or by the levy of an execution upon such judgment upon any portion of the Secured Property until the Indebtedness is paid in full.

J. OTHER RIGHTS: No right or remedy conferred upon or reserved to Lender by this Loan Agreement is intended to be exclusive of any other right or remedies; and each and every right and remedy is cumulative and in addition to any other right or remedy otherwise available. Every right, power, privilege and remedy granted Lender by this Loan

Agreement or the Loan Documents or both or otherwise available at law or in equity may be exercised by Lender from time to time as often as Lender deems expedient until the Indebtedness is paid in full. Lender's failure to insist at any time upon a strict observance or performance by Borrower of any of the provisions of the Loan Agreement, or to exercise any right or remedy provided in this Loan Agreement will not impair any such right or remedy nor be construed as a waiver or relinquishment thereof for the future. Receipt of Lender of any payment required to be made pursuant to this Loan Agreement or the Loan Documents or both with knowledge of the breach or Event of Default of any provision of this agreement or the Loan Documents or both will not constitute a waiver of such breach or Event of Default. In addition to all of the remedies provided in this Loan Agreement and Loan Documents, Lender will be entitled, to the extent permitted by law and/or by virtue of any equitable rights, to injunctive relief in the case of a violation or attempted or threatened violation of any of the provisions of this Loan Agreement or the Loan Documents or both or to a decree coercing performances of any of the provisions of any of the foregoing.

ARTICLE VII

MISCELLANEOUS

A. NOTICES TO ALL PARTIES: All notices, statements, requests, and demands given to or made upon any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given or made when hand delivered or two (2) days after deposited in the certified mail of the United States, return receipt requested, postage prepaid, or one (1) day after delivery to a recognized overnight courier service, addressed to such party at the address or addresses herein above stated following the names of the respective parties, or to a different address in accordance with any unrevoked written direction from such party to the other parties hereto, except in cases herein where it is expressly provided that such notice, request, or demand shall not be effective until received by the party to whom it is intended.

B. NO PARTNERSHIP OR JOINT VENTURE: Nothing herein nor the acts of the parties hereto shall be construed to create a partnership or joint venture between Borrower and Lender.

C. NO ASSIGNMENT BY BORROWER: This Agreement may not be assigned by Borrower without the prior written consent of Lender which may be withheld in Lender's sole and absolute discretion. If Lender approves an assignment hereof by Borrower, Lender shall be entitled to make advances to such assignee and such advances shall be evidenced by the Forgivable Note or the Non-Forgivable Note, as appropriate, and secured by the Mortgage and Loan Documents. Borrower shall remain liable for payment of all sums advanced hereunder before and after such assignment.

D. RELIEF FROM AUTOMATIC STAY: The Borrower hereby agrees that, in consideration of the Lender funding the Loan, in the event that the Borrower shall (i) file with any bankruptcy court of competent jurisdiction or be the subject of any petition under Title 11 of the United States Code, as amended ("Title 11"); (ii) be the subject of any order

for relief issued under Title 11; (iii) file or be the subject of any petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal or state act of law relating to insolvency or bankruptcy, or other relief from creditors for debtors; (iv) have sought or consented to or acquiesced in the appointment of any trustee, receiver, conservator, or liquidator; (v) be the subject of any order, judgment, or decree entered by any court of competent jurisdiction approving a petition filed against such party for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future federal or state act or law relating to insolvency or bankruptcy, or other relief from creditors for debtors, the Lender shall thereupon be entitled to relief from any automatic stay imposed by Section 362 of Title 11, or otherwise, on or against the exercise of the rights and remedies otherwise available to the Lender under this Loan Agreement and the Loan Documents, and as otherwise provided by law.

E. RIGHTS OF THIRD PARTIES: All conditions of the obligations of Lender hereunder, including the obligation to make advances, are imposed solely and exclusively for the benefit of Lender, its successors and assigns, and no other person shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will refuse to make advances in the absence of strict compliance with any or all thereof, and no other person shall, under any circumstances, be deemed to be a beneficiary of such conditions, any and all of which may be freely waived in whole or in part by Lender at any time if in its sole discretion it deems it desirable to do so. In particular, Lender makes no representations and assumes no obligations as to third parties or otherwise concerning the quality of the construction of the Improvements by Borrower or the absence thereof of defects.

F. INDEMNIFICATION: Borrower agrees to and shall indemnify Lender from any liability, claims or losses, and attorneys' fees resulting from the disbursement of the Loan proceeds or from the condition of the Property whether related to the quality of construction or otherwise and whether arising during or after the term of the Loan made by Lender to Borrower in connection herewith. Furthermore, Borrower agrees to indemnify and hold harmless Lender from any costs or damages whatsoever arising under this Loan Agreement and the Loan Documents from any cause whatsoever, including reasonable attorneys' fees and costs for Lender through appeal or in Federal Bankruptcy actions through final appellate level. The provisions shall survive the repayment of said Loan and shall continue in full force and effect so long as the possibility of such liability, claims or losses exists.

G. ASSIGNMENT: Lender shall have the unconditional right to assign all or any part of its interest hereunder to any third parties as provided in the Subordination Agreement, but Borrower may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of Lender, consent which may be withheld in Lender's sole and absolute discretion.

H. SUCCESSORS AND ASSIGNS INCLUDED IN PARTIES: Whenever in this

Agreement one of the parties hereto is named or referred to, the heirs, legal representatives, successors, and assigns of such parties shall be included and all obligations which shall be binding upon them, and all covenants and agreements contained in this Agreement by or on behalf of the Borrower or by or on behalf of Lender shall bind and inure to the benefit and detriment of their respective heirs, legal representatives, successors and assigns whether so expressed or not.

- I. **HEADINGS:** The headings of the sections, paragraphs and subdivisions of this Agreement are for the convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.

J. **INVALID PROVISIONS TO AFFECT NO OTHERS:** If fulfillment of any provision hereof or any transaction related hereto at the time performance of such provisions shall be due, shall involve transcending the limit of validity prescribed by law, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; and if any clause or provision or portion thereof herein contained operates or would prospectively operate to invalidate this Agreement in whole or in part, then such clause or provision or portion thereof only shall be ineffective and deleted as though not herein contained, and the remainder of this Agreement shall remain operative and in full force and effect.

K. **NEUTER AND GENDER:** Whenever the singular or plural number, masculine or feminine, or neuter gender is used herein, it shall equally include the other.

L. **AMENDMENTS:** Neither this Agreement nor any provision hereof may be changed, waived, discharged, or terminated orally, but only by instrument in writing signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought.

M. **GOVERNING LAW:** This Agreement shall be governed by and construed according to the laws of the State of Florida.

N. **TIME:** Time is of the essence with respect to all obligations, terms, duties and periods of time set forth herein.

O. **NO WAIVER:** Lender shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by Lender, and then only to the extent specifically set forth in writing. A waiver on one event shall not be construed as continuing or as a bar to or waiver of any right or remedy to a subsequent event.

- Q. **LENDER LIABILITY:**

1. **To Third Persons.** This Agreement shall not be construed to make

Lender liable to any lienors as defined by Chapter 713, Florida Statutes, or others for goods or services delivered by them in or upon the Property, or for debts or claims to any such parties against Borrower or for claims of any nature made by third persons arising out of the construction or the financing provided hereunder.

2. **Inspection Service.** It is expressly agreed that all inspection and other services rendered by Lender officers or agents shall be rendered solely for the protection and benefit of the Lender, and Borrower shall not be entitled to claim any loss or damage, either against Lender or its officers or agents, for failure of said officers or agents to properly discharge their duties to Lender. Lender, its officers or agents shall not be liable for failure of any dealer, contractor, craftsman or laborer to deliver the goods or perform the services to be delivered or performed by them, nor for the quality, sufficiency or fitness of the said goods or services.

R. TENANT IMPROVEMENTS. In the event that construction proceeds are to be utilized for any tenant improvements, no such funds shall be disbursed for the purpose of tenant improvements until fully executed leases from tenants seeking such improvements have been submitted to Lender and the terms thereof have been accepted and approved by Lender.

S. FORCE MAJEURE. Subject to providing written notice of such an event and the party's intention to exercise the applicability of this provision, no party to this Agreement shall be deemed in default, and the time for performance of any required act hereunder shall be extended for such period, where such a default is based on a delay in performance as a result of war, acts of terrorism, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualty, acts of God, epidemic, pandemic, quarantine restrictions, freight embargo, shortage of labor or materials, interruption of utilities service, lack of transportation, government restrictions of priority, litigation, severe weather and other acts or figures beyond the control or without the control of either party; provided, however, that the extension of time granted for any delay caused by any of the foregoing shall not exceed the actual period of such delay. In no event shall any of the foregoing excuse the financial inability of a party unless such financial inability is caused by the closure of the Construction Lender by a regulatory authority due to insolvency.

T. ADDITIONAL CLAUSES:

1. **Promotion.** Borrower will permit Lender to publicize its involvement in the Property and construction of the Improvements and will, at Lender's request, name Lender as the construction lender in all publicity and promotion which Borrower or its agent publishes in connection therewith, and will permit Lender to place and keep its signs upon the Property at all times during the term of the Loan.

2. **Joinder by Contract.** If Borrower is employing a general contractor with respect to construction of the Improvements, Borrower will require such contractor (the "Contractor") to execute and deliver to Lender a collateral assignment of the contract

between Borrower and Contractor in form and content reasonably acceptable to Lender, subject to the rights and priority of the Construction Lender.

3. **Releases by Lender.** Lender, from time to time, without notice to any person and without affecting the liability of Borrower or of any other person (other than any person expressly released by Lender in writing) for the payment of any of the indebtedness, and without affecting the priority or extent of the security interest of the Loan Agreement and Loan Documents, may do any and/or all of the following: (i) release in whole or in part any person liable for payment of any or all of the Indebtedness; (ii) extend the time or otherwise alter the terms of payment of the Indebtedness, in whole or in part, or; (iii) accept additional or substitute security of any kind, or; (iv) release or otherwise deal with any property, real or personal, securing the indebtedness.

4. **Additional Miscellaneous.** This Loan Agreement cannot be changed or terminated orally. If any portion of this Loan Agreement is rendered unenforceable, same shall not affect the remaining portions of this Loan Agreement, which remaining portions shall remain in full force and effect. Venue for any proceeding arising under this Loan Agreement shall be Broward County, Florida.

5. **Special Clauses.** Nothing herein shall be deemed a waiver of sovereign immunity in favor of the Lender.

T. **WAIVER OF RIGHT TO JURY TRIAL.** LENDER AND BORROWER HEREBY WAIVE ANY OBJECTION TO VENUE BEING IN COURTS LOCATED IN BROWARD COUNTY, FLORIDA, FOR ANY DISPUTE ARISING OUT OF THE LOAN AND THIS LOAN AGREEMENT AND THE LOAN DOCUMENTS. BORROWER AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY AGREE NOT TO SEEK A TRIAL BY JURY AND WAIVE ANY RIGHTS TO HAVE SAME IN RESPECT OF ANY LITIGATION (INCLUDING BUT NOT LIMITED TO ANY CLAIMS, CROSS-CLAIMS, THIRD PARTY CLAIMS) ARISING IN CONNECTION WITH THE LOAN AGREEMENT, THE LOAN DOCUMENTS, AND THE TRANSACTIONS CONTEMPLATED THEREIN AND ALL AND ANY COMBINATION OF THE FOREGOING. BORROWER ACKNOWLEDGES THAT THE LENDER HAS BEEN INDUCED TO ENTER INTO THE LOAN BY, INTER ALIA, THE PROVISIONS OF THIS PARAGRAPH.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Borrower and Lender have hereunto caused these presents to be executed on the date first above written.

Signed, sealed and delivered in the presence of:

SUNSHINE SHIPYARD, LLC, a Delaware limited liability company, acting by and through its Administrative Member, to wit:

By: FUSE 9 LLC, a Delaware limited liability company, acting by and through its Manager, to wit:

Print Name: _____
Address: _____

By: FLORIDA PRIME ACQUISITIONS, LLC, a Florida limited liability company, acting by and through its Manager, to wit:

By: R.E.L. PARTNERS LLC, a Florida limited liability company

Print Name: _____
Address: _____

By: _____
Eyal Peretz, Manager

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2024, by Eyal Peretz, as Manager of R.E.L. Partners LLC, as manager of Florida Prime Acquisitions LLC, as Manager of Fuse 9 LLC, as administrative member of Sunshine Shipyard, LLC a Delaware limited liability company, on behalf of and as an act of the company who is personally known to me or has produced _____ as identification.

Notary Public
Print Name: _____
My Commission Expires: _____

(NOTARY STAMP/SEAL)

LENDER:

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

Donna Varisco
Print Name Donna Varisco
Address: 101 NE 3rd Ave
Fort Lauderdale, FL
33301

By: [Signature]
Susan Grant, Acting Executive Director
BEN ROGERS ACTING

[Signature]
Print Name Erica Kader
Address: 1 E. Broward Blvd.
#1105, Ft Lauderdale, FL 33301

ATTEST:

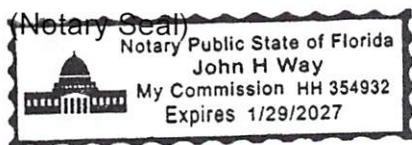
[Signature]
David R. Solomon, CRA Secretary

Approved as to form and correctness:
Thomas J. Ansbro, General Counsel

[Signature]
Lynn Solomon, Assistant General Counsel

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of ☐ physical presence
☐ online notarization this 28th day of MAY, 2024, by Susan Grant, as Acting - Acting
Executive Director, of Fort Lauderdale Community Redevelopment Agency, who is
personally known to me OR produced _____ as identification.
and who did not take an oath.



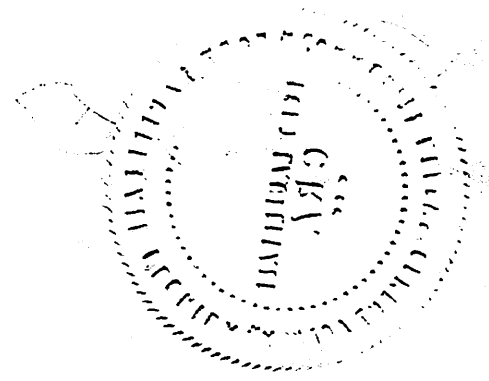
Print Name: John H Way
NOTARY PUBLIC [Signature]
Commission No: _____
Commission Expires: _____

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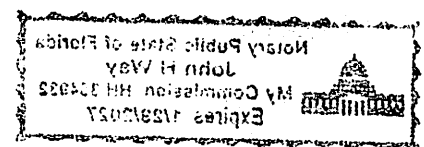


EXHIBIT "A"
LEGAL DESCRIPTION

Parcel 1

Lots 2 through 24, Block 325, PROGRESSO, according to the Plat thereof, as recorded in Plat Book 2, Page 18, of the Public Records of Miami-Dade County, Florida, said lands situate, lying and being in Broward County, Florida.

Less and except from Parcel 1, the following property conveyed by C. W. HENDRIX et. al. to the CITY OF FORT LAUDERDALE, a municipal corporation by deed recorded in Official Records Book 3411, Page 994:

That part of Lots 23 and 24 in Block 325 of "PROGRESSO", as recorded in Plat Book 2, Page 18 of the public records of Miami-Dade County, Florida; described as follows:

BEGIN at the southwest corner of said Lot 24; thence go easterly 135.0 feet along the south line thereof to the southeast corner of said Lot 24; thence northerly along the east line thereof 37.36 feet to the tangent point of a circular arc having a radius of 25 feet and being concave to the northwest; thence southerly to westerly along said arc, 39.27 feet through a central angle of 90°00' to the end of said arc; thence westerly and tangent to said arc along a line being 35 feet north of and parallel to the south boundary of the N 1/2 of Section 3, Township 50 South, Range 42 East, 110.0 feet to the west line of said Lot 24; thence southerly 12.32 feet along said west line to the POINT OF BEGINNING.

Parcel 2

Lots 25 through 48, less the West 15 feet for right of way of said Lots, in Block 325, PROGRESSO, according to the Plat thereof, as recorded in Plat Book 2, Page 18, of the Public Records of Miami-Dade County, Florida, said lands situate, lying and being in Broward County, Florida.

Less and except from Parcel 2, the following property conveyed by C. W. HENDRIX et. al. to the CITY OF FORT LAUDERDALE, a municipal corporation by deed recorded in Official Records Book 3411, Page 995:

That part of Lots 25 and 26 in Block 325 of "PROGRESSO", as recorded in Plat Book 2, Page 18 of the public records of Miami-Dade County, Florida; described as follows:

BEGIN at the intersection of the east line of the west 15 feet and the north line of the south 17 feet of said Lot 25; thence go northerly along said east line and along the east line of the west 15 feet of Lot 26, 20.27 feet to the tangent point of a circular arc concave to the northeast; thence southeasterly along said arc, having a radius of 25 feet and arc distance of 23.64 feet through a central angle of 54° 10' 48" to the north line of the south 17 feet of Lot 25; thence westerly along said north line 10.37 feet to the POINT OF BEGINNING.

AND Less the South 17 feet of the aforesaid Lot 25 for right of way.

And further less from Parcels 1 and 2, above the land conveyed by deed attached to Resolution No. 2023-446

(accepting same) recorded as Instrument Number 119240434 more particularly described below:

Legal description: Right-of-Way Dedication

A portion of Lots 25 through 48, Block 325, "Progresso", according to the plat thereof, as recorded in plat book 2. Page 18, of the public records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwest corner of said Block 325; thence North 87°52'38" East along the North line of said Block 325 for 15.00 feet to the Point of Beginning.

Thence continue North 87°52'38" East along said North line 40.01 feet; thence South 42°52'08" West 42.43 feet to a point on a line 25 feet East of and parallel with the West line of said Block 325; thence South 02°08'22" East along said parallel line 523.00 feet; thence South 47°07'52" East 42.42 feet to a point on a line 17 feet North of and parallel with the South line of said Block 325; thence South 87°52'38" West along said parallel line 29.62 feet to a point on the arc of a circular curve concave Northeasterly from which a radial line bears North 33°40'48" East; thence Northwesterly along the arc of said curve to the right, having a radius of 25.00 feet, a central angle of

54°10'48", for an arc distance of 23.84 feet to a point of tangency on a line 15 feet East of and parallel with said West line of Block 325; thence North 02°08'22" West along said parallel line 562.73 feet to the Point of Beginning.

Said land lying and being in the City of Fort Lauderdale. Broward County, Florida.

EXHIBIT "B"
SCHEDULE OF VALUES/CONSTRUCTION BUDGET
and CONSTRUCTION CONTRACT

The Arcadian Garage
Contract Schedule of Values
 Finrock Project 22-2119 2023.10.11

DESCRIPTION	TOTAL COST
DIVISION 1 - GENERAL REQUIREMENTS	\$442,205
DIVISION 2 - EXISTING CONDITIONS	\$0
DIVISION 3 - CONCRETE	\$8,129,526
DIVISION 4 - MASONRY	\$2,250
DIVISION 5 - METALS	\$207,780
DIVISION 6 - WOOD & PLASTICS	\$0
DIVISION 7 - THERMAL & MOISTURE PROTECTION	\$628,677
DIVISION 8 - DOORS & WINDOWS	\$78,743
DIVISION 9 - FINISHES	\$280,637
DIVISION 10 - SPECIALTIES	\$61,587
DIVISION 11 - EQUIPMENT	\$123,000
DIVISION 12 - FURNISHINGS	\$0
DIVISION 13 - SPECIAL CONSTRUCTION	\$0
DIVISION 14 - CONVEYING SYSTEMS	\$130,000
DIVISION 21 - FIRE PREVENTION	\$424,286
DIVISION 22 - PLUMBING	\$326,323
DIVISION 23 - HVAC	\$23,320
DIVISION 26- ELECTRICAL	\$786,739
DIVISION 27 - COMMUNICATIONS	\$0
DIVISION 28 - ELECTRONIC SAFETY AND SECURITY	\$50,000
DIVISION 31 - EARTHWORK	\$18,042
DIVISION 32- SURFACE IMPROVEMENTS	\$0
DIVISION 33 - UTILITIES	\$0
SUBTOTAL	\$11,713,713
DESIGN FEES	\$390,565
BOND	\$36,050
GENERAL CONTRACTOR'S FEE	\$122,630
DESIGN BUILD TOTAL	\$12,262,958

EXHIBIT "C"
POST-CLOSING REQUIREMENTS

Prior to the first disbursement under the Lender's Indebtedness, Borrower shall provide the following documents to the reasonable satisfaction of the Lender.

**Building Permit for the Garage and Phase I
Payment and Performance Bond
Plans and Specifications for the Garage
Notice of Commencement in compliance with F.S. 713.13.
Satisfactory evidence that the Construction Loan has closed.**



COMMISSION AGENDA ITEM DOCUMENT ROUTING FORM

Today's Date: 5/28/24 **RUSH**

1. DOCUMENT TITLE: Construction Loan Agreement- Sunshine Shipyard (Arcadian Project)

COMM. MTG. DATE: 11/07/2023 CAM #: 23-0958 ITEM #: R-2 CAM attached: ☒ YES ☐ NO

Routing Origin: CAO Router Name/Ext: Erica K./6088 Action Summary attached: ☒ YES ☐ NO

CIP FUNDED: ☐ YES ☐ NO

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, or 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, or real.

1) Dept: _____ Router Name/Ext: _____ # of originals routed: 1 Date to CAO: _____

2) City Attorney's Office: Documents to be signed/routed? ☒ YES ☐ NO # of originals attached: 1

Is attached Granicus document Final? ☒ YES ☐ NO Approved as to Form: ☒ YES ☐ NO

Date to CCO: 5/28/24

Lynn Solomon
Attorney's Name

[Signature]
Initials

3) City Clerk's Office: # of originals: _____ Routed to: Donna V./Aimee L./CMO Date: _____

4) City Manager's Office: CMO LOG #: _____ Document received from: _____

Assigned to: SUSAN GRANT ☐ ANTHONY FAJARDO ☐ LAURA REECE ☐
SUSAN GRANT as CRA Executive Director ☐ BEN ROGERS ☐

☐ APPROVED FOR S. GRANT'S SIGNATURE ☐ N/A FOR SUSAN GRANT TO SIGN

PER ACM: L. Reece (Initial/Date) PER ACM: S. Grant (Initial/Date)

☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward _____ originals to ☐ Mayor ☐ CCO Date: _____

5) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) Date: _____

6) City Clerk: Forward _____ originals to CAO for FINAL APPROVAL Date: _____

7) CAO forwards _____ originals to CCO Date: _____

8) City Clerk: Scan original and forwards 1 original to: Erica Keiper/ xt. 6088

Attach _____ certified Reso# _____ ☐ YES ☐ NO

Original Route form to: Erica K./6088