

## COMPREHENSIVE AGREEMENT

This Comprehensive Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the **CITY OF FORT LAUDERDALE, FLORIDA**, a Florida municipal corporation (the "CITY") and **ONE STOP FTL, LLC** ("ONE STOP FTL" or "Developer"), pursuant to section 255.065(7), Florida Statutes:

### RECITALS

WHEREAS, the CITY holds all right, title, or interest, and is the owner of, lands commonly known as the former site of City of Fort Lauderdale One Stop Shop (the "Property"), as more particularly described in Exhibit \_\_\_\_ and in Section 1.5.7 herein; and

WHEREAS, on June 19, 2020, the CITY received an unsolicited proposal from ONE STOP FTL pursuant to Section 255.065(3), Florida Statutes, to design, construct, occupy, manage, and maintain the Property as a recreational and cultural facility as particularly described in the unsolicited proposal and related documents; and

WHEREAS, pursuant to Resolution No. 20-190, the City Commission, at its meeting of October 6, 2020, determined that the unsolicited proposal submitted by ONE STOP FTL serves a public purpose as a recreational and cultural facility which will be used by the public at large or in support of an accepted public purpose or activity, and as proposed, constitutes a qualifying project pursuant to Section 255.065, Florida Statutes; and

WHEREAS, pursuant to Resolution No. 20-190, the City Commission, at its meeting of October 6, 2020, declared its intent to enter into a Comprehensive Agreement with ONE STOP FTL encompassing therein the development, improvement, design, construction, and occupation of the Property as particularly described in the unsolicited proposal and related documents, and defined in Section 1.5.8 herein ("Qualified Project"); and

WHEREAS, pursuant to Resolution No. 20-190, the City Commission, at its meeting of October 6, 2020, declared its intent to accept other proposals for the same project in accordance with Section 255.065, Florida Statutes, for a period of sixty (60) days after the initial date of publication; and

WHEREAS, on October 9, 2020, the CITY published once a week for two weeks, in the Florida Administrative Register and a newspaper of general circulation, a Notice of its intent to accept other proposals for the same project on or before the sixtieth day from October 9, 2020; and

WHEREAS, no other proposals were received for the same project during the sixty (60) days beginning October 9, 2020; and

WHEREAS, the CITY and ONE STOP FTL desire to enter into this Comprehensive Agreement to supersede and replace all agreements now existing between them, both oral and written, effective as of the Effective Date.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other good and valuable considerations, the adequacy and receipt of which are hereby acknowledged, the CITY and ONE STOP FTL agree as follows:

## **ARTICLE 1. GENERAL PROVISIONS**

1.1. RELATIONSHIP. Each party agrees to act with trust, good faith, and fair dealing, and shall take all actions reasonably necessary to perform this Comprehensive Agreement in an economical and timely manner.

1.2. ETHICS. Each party shall perform with integrity. Each shall: (a) avoid conflicts of interest; (b) promptly disclose to the other party any conflicts of interest that may arise. Each party warrants that it has not and will not pay or receive any contingent fee or gratuities from the other party, including its agents, officers, employees, design professionals, subcontractors, sub-subcontractors, suppliers, or others, to secure preferential treatment.

1.3. DESIGN PROFESSIONALS. Architectural and engineering services shall be procured from licensed, independent design professionals retained by ONE STOP FTL or furnished by licensed employees of ONE STOP FTL, as permitted by law. If the design professional is an independent design professional, the architectural and engineering services shall be procured pursuant to a separate agreement between ONE STOP FTL and the design professional.

1.3.1. In accordance with §255.065(3)(a)(5), Fla.Stat., CITY reserves the right to retain architectural, engineering, and landscape architectural licensed professionals to evaluate the Qualified Project and advise CITY through the completion of the design and construction of the Qualified Project.

1.4. EXHIBITS. True and correct copies of all exhibits referenced in this Comprehensive Agreement will be initialed by the Parties and attached to this Comprehensive Agreement, and such exhibits will thereafter be incorporated into this Comprehensive Agreement by this reference.

1.5. DEFINITIONS.

1.5.1. "Community Arts Park" or "Community Park" means approximately 2/3 of the Property that will be developed with park, green spaces, gardens, a tree canopy, shade structures, green markets, art and music fairs, educational and cultural events and structures, and trade shows, for active and passive uses, and containing at least one significant art installation.

1.5.2. "Comprehensive Agreement" means this Comprehensive Agreement between the CITY and ONE STOP FTL, including all the attached Exhibits.

1.5.3. "Cultural Center" means collectively, the cultural center building and the Blade Building containing service of prepared food and beverages at a restaurant, café or similar setting, and a family market and arts and entertainment venue which structure or combination of structures sits on a maximum of approximately 1/3 of the Property, as more particularly depicted in composite **EXHIBIT 1** attached hereto, as conceptual only, and incorporated herein.

1.5.4. Demolition Bond means the bond required to be provided by ONE STOP FTL upon commencement of construction to cover demolition of all improvements constructed or installed on the Property by ONE STOP FTL.

1.5.5. "Maintenance" means all ordinary day-to-day general maintenance (including all labor, supplies, materials and equipment) reasonably necessary for the cleaning and routine upkeep of any property, landscaping, structures, surfaces, facilities, fixtures, equipment or furniture in order to preserve such items in their existing condition, ordinary wear and tear excepted. By way of illustration, and without limiting the generality of the foregoing, Maintenance will include: (a) preventive or periodic maintenance procedures for equipment, fixtures or systems; (b) periodic testing of building systems; (c) ongoing trash removal; (d) regular maintenance procedures for HVAC, plumbing, mechanical, electrical and structural systems, such as periodic cleaning, lubrication, and changing of air filters; (e) touch-up painting; (f) cleaning prior to, during and following all events; and (g) any other work of a routine, regular and generally predictable nature that is reasonably necessary in order to keep the Cultural Center and Community Arts Park in good order and condition. Such Maintenance is estimated at approximately \$400,00.00 per year.

1.5.6. "Parties" means the CITY and ONE STOP FTL collectively.

1.5.7 "Physical Obsolescence" and "Physically Obsolete" shall mean any equipment, fixture, furnishing, facility, surface, structure or any other component which has become dysfunctional (whether in whole or in part) due to ordinary wear and tear. For purposes of this definition, a surface shall be deemed dysfunctional if such surface or its finish has deteriorated to a degree that cannot be remedied through Maintenance.

1.5.8. "Property" means a portion of Lots 1, 2, 3, 4, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23 and 25, "F.R. Oliver Subdivision of Lot 1, Block 3, Town of Fort Lauderdale", according to the Plat thereof, as recorded in Plat Book 1, Page 34, of the Public Records of Dade County, Florida, together with a portion of Lots 1 through 26 inclusive, "F.R. Chapman Resubdivision of a Portion of F.R. Oliver Subdivision of Lot 1, Block 3, Town of Fort Lauderdale," according to the Plat thereof, as recorded in Plat Book 3, Page 188, of the Public Records of Dade County, Florida, also together with a portion of Lot 2, Block 3, "Town of Fort Lauderdale," according to the Plat thereof, as recorded in Plat Book "B," Page 40, of the Public Records of Dade County, Florida, more particularly described as commencing at the Northeast corner of Lot 4 of said "F.R. Chapman Resubdivision of a portion of F.R. Oliver Subdivision of Lot 1, Block 3, Town of Fort Lauderdale;" thence S 87°58'01" W on the north line of said Lot 4, a distance of 10.00 feet to a point on the West Right of Way line of North Andrews Avenue; thence S 02°08'21" E on said the West Right of Way line, a distance of 10.00 feet to the point of beginning; thence continue S 02°08'21" E on said West Right of Way line, a distance of 615.00 feet to a point that is 20.00 feet North of the South line of said Plat, "F.R. Oliver Subdivision of Lot 1, Block 3, Town of Fort Lauderdale;" thence S 87°58'01" W on a line that is parallel and 20.00 North of the South line of said Plat, a distance of 246.99 feet; thence N 06°00'10" E on a line that is 30.00 feet East of and parallel to, as measured at right angles, the East Right of Way line of Brickell Avenue (Northwest 1 Avenue), a distance of 621.10 feet to a point that is 10.00 feet South of the North Right of Way line of Northwest 4 Street; thence N 87°58'01" E on a line that is parallel to and 10.00 feet South of said Northwest 4 Street Right of Way line, a distance of 159.02 feet to the point of beginning.

1.5.9. "Qualified Project" means the design and construction on the Property of the Cultural Center and Community Arts Park as conceptually depicted in **EXHIBIT 1** attached hereto and incorporated herein. CITY understands and agrees that the renderings attached hereto are conceptual and are subject to change through the design and permitting process.

1.5.10. "Repair" means mean any work (including all labor, supplies, materials and equipment) reasonably necessary to repair, restore, or replace any equipment, facility, structure or any other component, if such work is necessitated by: (a) any material defects in design, construction or installation which, if not repaired, would create a threat to health or safety or a material interference with ONE STOP FTL's use or its day-to-day operations; (b) physical obsolescence (including replacement necessitated by the repeated breakdown of a component despite successive efforts to repair or restore it short of such replacement); (c) damage or destruction, including any damage or destruction resulting from the acts or omissions of other Parties (including licensees or invitees of ONE STOP FTL); (d) modifications required by Federal, State, County, or City laws, ordinances or regulations, including without limitation, accommodations required to be made to the Cultural Center under the Americans with Disabilities Act ("ADA"). Repairs will not include work necessitated by damage or destruction (ordinary wear and tear excepted) caused by the negligence of ONE STOP FTL or its agents, employees, contractors, or subcontractors.

## **ARTICLE 2. TERM / OPTIONS TO RENEW**

2.1. EFFECTIVE DATE. This Comprehensive Agreement shall be effective and binding upon CITY and ONE STOP FTL beginning on the date it is signed by the City (the "Effective Date").

2.2. TERM. The "Initial Term" of this Comprehensive Agreement is fifty (50) years, commencing on the Effective Date and expiring fifty (50) years thereafter.

2.3. RENEWAL TERM. For purposes of this Comprehensive Agreement, a "Renewal Term" means a term of twenty-five (25) years commencing upon the expiration of the Initial Term or the immediately preceding Renewal Term, if any. The terms and conditions applicable during any Renewal Term shall be the same as set forth in this Comprehensive Agreement. ONE STOP FTL shall have the option to renew this Comprehensive Agreement for two (2) Renewal Terms by mutual agreement of the Parties. ONE STOP FTL shall provide written notice of such exercise at least 180 days prior to the expiration of the Initial Term, and 180 days prior to the expiration of any subsequent term. This Comprehensive Agreement may be renewed for a maximum of two (2) additional twenty-five (25) year Renewal Terms for a total Term of One Hundred (100) years only upon the mutual written agreement of both the CITY and ONE STOP FTL. For purposes of this Comprehensive Agreement, the Initial Term and any Renewal Term may be referred to collectively as the "Term."

## **ARTICLE 3. CONSTRUCTION, CAPITAL IMPROVEMENTS, MAINTENANCE**

3.1. THE QUALIFIED PROJECT. The CITY authorizes ONE STOP FTL to design, develop and construct the Qualified Project on a "turn-key" basis and as conceptually depicted in **EXHIBIT 1** attached hereto and incorporated herein. The Parties agree that the Qualified Project shall be designed, constructed, developed, and completed by ONE STOP FTL on the Property in a first-class workmanlike manner, and as provided in this Comprehensive Agreement. ONE STOP FTL shall not be responsible for any "off-site" improvements necessary to serve the Qualified Project,

except such "off-site" improvements as are required by the development process pursuant to all applicable laws, codes, and ordinances, including but not limited to, the CITY's Unified Land Development Regulations ("ULDR"), as may be amended from time to time. ONE STOP FTL shall, in consultation with the CITY and in accordance with all applicable laws, codes, and ordinances, select the services of the Qualified Project design and construction team, including but not limited to the consultants, professionals, architects, engineering services, surveyors and landscape architects necessary to design and construct the Qualified Project and define its elements in detail sufficient for the Qualified Project's purposes and to fulfill the Qualified Project's construction requirements. To facilitate the expeditious completion of the Qualified Project, the CITY shall use its best efforts to process all permits and necessary applications promptly. ONE STOP FTL may engage outside consultants on the CITY's approved list of outside consultants to expedite the review process.

3.1.1. The Qualified Project's design and construction must be acceptable to the CITY and ONE STOP FTL. ONE STOP FTL shall submit the design of the Qualified Project, including the Cultural Center and the Community Arts Park ("Licensee Proposed Site Plan"), to the City Manager and the City Commission for review and approval prior to submission to, and commencement of, the CITY's regulatory design review process. CITY, as owner of the Property and as a party to this Comprehensive Agreement, shall have the right to review, disapprove, and comment upon the Licensee Proposed Site Plan and project design and construction documents at any time. Failure of the City Manager and City Commission to approve the Licensee Proposed Site Plan shall give ONE STOP FTL a right to terminate this Comprehensive Agreement without liability upon delivery of written notice to the CITY.

3.1.2. ONE STOP FTL shall not construct any structures upon the Property that are not reflected on the approved Licensee Proposed Site Plan without approval from the City.

3.1.3. ONE STOP FTL is accepting the Property in an "AS IS" condition. Except as may be expressly set forth in or required by this Comprehensive Agreement, ONE STOP FTL acknowledges that the CITY has made no other representations or warranties as to the condition or status of the Property and that ONE STOP FTL is not relying on any other representations or warranties of the CITY, any broker(s), or any agent of CITY in constructing improvements. Except as may be expressly set forth in or required by this Comprehensive Agreement, ONE STOP FTL acknowledges that neither the CITY nor any agent or employee of the CITY has provided any other representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning, or with respect to:

3.1.3.1. The nature, quality or condition of the Property, including without limitation, the water, soil and geology.

3.1.3.2. The suitability of the Property for any and all activities and uses which ONE STOP FTL may conduct thereon.

3.1.3.3. The compliance of or by the Property or its operations with any laws, rules, ordinances, or regulations of any applicable governmental authority or body.

3.1.3.4. The habitability, merchantability or fitness for a particular purpose of the Property.

3.1.3.5. Any other matter with respect to the Property.

3.2. MANAGEMENT OF THE QUALIFIED PROJECT CONSTRUCTION. ONE STOP FTL shall manage and oversee the construction of the Qualified Project in accordance with the design documents ("Design Documents") and construction documents ("Construction Documents") approved by the CITY or any further development of the Design Documents or Construction Documents that have been approved in writing by the CITY.

3.3. CONSTRUCTION REQUIREMENTS. Subject to the terms and conditions of this Comprehensive Agreement, in performing the construction of the Qualified Project ONE STOP FTL shall:

3.3.1. Exercise good faith commercially reasonable efforts to complete the Qualified Project in a safe, good, and workmanlike manner within the times established in the Comprehensive Agreement and in the most expeditious manner;

3.3.2. Provide project designs to the CITY for approval through the City's regular site plan development process, which approval shall not be unreasonably withheld, unreasonably conditioned or unreasonably delayed, and obtain all necessary permits, licenses, and other approvals as required by the CITY's ULDR's for the completion of the Qualified Project;

3.3.3. Be responsible for the completion of all work necessary to complete the Qualified Project, and be fully responsible for the payment of all moneys due to any contractor or subcontractor performing the work;

3.3.4. Comply with all applicable federal, state, and local rules and regulations, including the CITY's ULDR's, in completing the Qualified Project. ONE STOP FTL acknowledges and agrees that this requirement includes compliance with all applicable federal, state, and local health and safety rules and regulations, including, but not limited to (i) the Occupational Safety and Health Act, 29 CFR 1910 and 1926, respectively, General Industry Standards and Construction Industry Standards, including regulations regarding Trenching and Shoring; (ii) the Florida Workers' Compensation Law, Chapter 440, Florida Statutes; (iii) Rules 38F and 38I, Florida Administrative Code; and (iv) Florida Department of Transportation Manual of Traffic Control and Safe Practices;

3.3.5. Payment and Performance Bonds. In accordance with Section 255.065(5)(b)(1) and (7)(a)(1), Florida Statutes, and prior to commencement of construction of the improvements to the Property contemplated by this Comprehensive Agreement, ONE STOP FTL shall provide CITY with (i) a guarantee by ONE STOP FTL of the performance of its obligations under this Comprehensive Agreement and the payment of all subcontractors and (ii) cause its subcontractors to provide City with public performance and payment bonds in the amount equal their contract price which bond(s) shall meet the requirements of Section 255.05, Florida Statutes. Such bond(s) shall be written by a surety licensed to do business in the State of Florida and on the U.S. Department of Treasury's currently approved list of acceptable sureties on Federal Bonds, as found in the U.S. Department of Treasury Circular No. 570, as same may be updated from time to time and shall be rated as "A-1" or better as to general policy holders rating as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc., and otherwise acceptable to CITY; Such bond(s) shall be recorded in the Public Records of Broward

County, Florida by said subcontractors prior to the commencement of any construction work on the Qualified Project; ONE STOP FTL shall provide satisfactory proof that it has secured a statutory payment and performance bond pursuant to Florida Statute Chapter 713 and Florida Statute Chapter 255 (for itself or from its respective contractor(s)) for construction of the improvements and infrastructure improvements related thereto. Said bonds shall be executed and issued by a resident agent licensed by and having offices in the State of Florida representing such corporate surety at the time such capital improvements are constructed, conditioned upon full and faithful performance by ONE STOP FTL or any contractor, if applicable, of such contract, and full payment to all laborers and materialmen supplying labor or materials for such improvements. Such bonds shall identify CITY as an additional or dual obligee. If the bonds are provided by the contractor, the bond shall provide that a default by ONE STOP FTL in the performance of the contractor's contract, shall not be raised as a defense to the CITY as one of the obligee requiring performance of such construction contract by the surety;

3.3.6. Require that all contractors or subcontractors for the Qualified Project maintain commercially reasonable insurance and cause the CITY and ONE STOP FTL to be named as additional insureds on all required policies, except workers' compensation;

3.3.7. Require all contractors and subcontractors to indemnify and hold harmless the CITY and ONE STOP FTL, its officers, agents, directors, and employees;

3.3.8. Require an agreement with all contractors and subcontractors representing that the CITY and ONE STOP FTL are third-party beneficiaries of the contracts, entitled to enforce any rights thereunder for their respective benefits, and that, subject to the terms of the applicable contract, the CITY and ONE STOP FTL shall have the same rights and remedies vis-a-vis such contractors and subcontractors that the other party has including, without limitation, the right to be compensated for any loss, expense or damage of any nature whatsoever incurred by the CITY or ONE STOP FTL, resulting from any breach of such contract, any breach of representations and warranties, if any, implied or expressed, arising out of such agreements and any error, omission or negligence of such contractor or subcontractor in the performance of any of its obligations under such contract;

3.3.9. Obtain prior CITY approval, not to be unreasonably withheld, unreasonably conditioned, or unreasonably delayed, for any change orders on the Qualified Project that would materially amend the scope or quality of the Qualified Project, including the Cultural Center and Community Arts Park;

3.3.10. Plan, organize, supervise, monitor, direct, and control the work on the Qualified Project to ensure that it is done competently and efficiently and in accordance with the design and budget and protect the work from loss due to weather, theft, or other cause. No CITY funds shall be used to pay any Qualified Project costs;

3.3.11. Employ adequate safety precautions to prevent damage, injury or loss to personnel, the work, the Qualified Project, and the Property;

3.3.12. Provide the CITY with copies of all reports, warranties, design documents and as-builts and assign all warranties to the CITY;

3.3.13. Allow the CITY, or any agent thereof, entry unto the Property and Qualified Project, during any reasonable business hours, taking into account ONE STOP FTL's operations, for any of the following reasons, provided that nothing herein shall be construed in such a manner as to impose upon CITY the obligation to so enter the Property and perform any act referenced herein:

3.3.13.1. For observation, inspection, monitoring, and testing as contemplated in Section 255.065(7)(a)(3), Florida Statutes; and

3.3.13.2. To make repairs, addition(s) or alteration(s) that the CITY deems necessary for safety or preservation of the Property or improvements located thereon, after thirty (30) days advance notice in writing to ONE STOP FTL that the Property or any portion thereof is in need of maintenance or repair and ONE STOP FTL fails to take appropriate curative actions; or

3.3.13.3. To remove signs, fixtures, alterations, or additions that do not conform to the terms of this Comprehensive Agreement after thirty (30) days advance notice in writing to ONE STOP FTL that the Property or any portion thereof is not in compliance with the terms of the Comprehensive Agreement and ONE STOP FTL fails to take appropriate curative actions.

3.3.14. Manage the appropriately licensed contractors to ensure that any work not conforming to the Qualified Project designs and requirements is corrected or removed and replaced.

3.4. MINIMUM REQUIRED IMPROVEMENTS. ONE STOP FTL, at its sole expense and with no subsidy or payment from the City, shall complete, to both Parties' reasonable satisfaction, the following improvements on the Property as part of the Qualified Project:

3.4.1. Cultural Center, as defined in Section 1.5.3, and as conceptually depicted in **EXHIBIT 1** attached hereto and incorporated herein.

3.4.2. Community Arts Park, as defined in Section 1.5.1, and as conceptually depicted in **EXHIBIT 1** attached hereto and incorporated herein.

3.5. COSTS. ONE STOP FTL shall be responsible for the cost of all Improvements and construction of the Qualified Project, as well as the operations and maintenance of the Cultural Center and Community Arts Park, for the duration of the Term.

3.6. TITLE. Subject to the terms and conditions of this Comprehensive Agreement, including Section 13.4, title to the Improvements, and all parts thereof, shall immediately merge with the title of the land, free of any claim of ONE STOP FTL and all persons and corporations claiming under or through ONE STOP FTL (except for trade fixtures and personal property of ONE STOP FTL that can be removed without damage to the Improvements). For purposes of this Comprehensive Agreement, a trade fixture is any chattel installed by ONE STOP FTL within and at the Cultural Center or Community Arts Park for its use in the conduct of its business, such as art shows, cultural events, food and art markets, concerts and other events. Any trade fixtures or personal property brought or installed in or to the Qualified Project by ONE STOP FTL shall remain the property of ONE STOP FTL and shall not be deemed fixtures, and ONE STOP FTL will be entitled to remove such personal property from the Qualified Project upon the termination or expiration of this



Comprehensive Agreement so long as removal does not damage the Property. ONE STOP FTL shall be responsible for and shall repair any damage to any part of the Property resulting from the removal of ONE STOP FTL's personal property.

3.7. INSPECTION. The CITY hereby consents to ONE STOP FTL's use of privatized inspection services, selected from the CITY's approved list of inspectors, at ONE STOP FTL's option and sole cost and expense, to perform, under the CITY's guidance, the various inspections and approvals required for the scope of work for the construction of the Qualified Project and under this Comprehensive Agreement.

3.8. PERMITTING. THE CITY shall use its best efforts to timely process all permit reviews and processes associated with the permitting approval process; provided, however, that the CITY shall not be responsible for any increased costs associated with any such efforts. As deemed necessary by both the CITY and ONE STOP FTL, the CITY, as the owner of the Property, shall join with ONE STOP FTL as an applicant on all required applications, including but not limited to a liquor license consistent with this Comprehensive Agreement, and will support such applications throughout the review and approval process.

3.9. COMPLETION. ONE STOP FTL shall use commercially reasonable efforts to complete the Qualified Project within three (3) years of the CITY's issuance of the Building Permit however ONE STOP FTL may ask for and CITY may grant reasonable extensions for good cause shown; provided, however in the event ONE STOP FTL does not complete the work within such three (3) year period, or any extended period granted in writing by CITY, the CITY, in its sole discretion, shall be entitled to undertake the work to complete the Community Arts Park (but not the Cultural Center) on ONE STOP FTL's behalf at ONE STOP FTL's sole cost and expense, which amount shall not exceed \$10,000,000. Failure of ONE STOP FTL to complete the Qualified Project within three (3) years of the CITY's issuance of the Building Permit shall constitute a material default pursuant to Article 10 of this Comprehensive Agreement.

#### **ARTICLE 4. COST OF THE QUALIFIED PROJECT**

4.1. COST OF THE QUALIFIED PROJECT. The Qualified Project is estimated to cost over \$100 million dollars, including design fees, management fees and legal fees. The cost of the Qualified Project shall be fully financed by ONE STOP FTL through private funds to be evidenced by providing the CITY with appropriate and sufficient letters of credit or other documents from a financial institution evidencing ONE STOP FTL's ability to fully finance the Qualified Project, to the CITY's satisfaction within 90 days of the execution of this Comprehensive Agreement, however ONE STOP FTL may ask for and CITY may grant reasonable extensions of time so long as CITY is satisfied that ONE STOP FTL is making it best efforts to the required financing documents.

4.2. COST OVERRUNS. To the extent that there are cost overruns associated with the construction of the Qualified Project, any such cost overruns shall be paid by ONE STOP FTL.

#### **ARTICLE 5. RIGHTS AND OBLIGATIONS REGARDING THE QUALIFIED PROJECT AND GRANT OF USE**

5.1. GRANT OF USE. Except as otherwise provided in this Comprehensive Agreement, the CITY grants to ONE STOP FTL the exclusive, year-round right during the Term to: use; manage;

occupy; operate; program; market; broadcast and telecast from (via any medium now known or hereinafter developed); grant use to third parties; license; sponsor; install fixtures and construct facilities, improvements and other structures on and to, in accordance with this Comprehensive Agreement and any approved Site Plan; and make any other use of and to, whether or not specifically enumerated herein, the Qualified Project in accordance with the terms and conditions of this Comprehensive Agreement. ONE STOP FTL's use and occupancy of the Qualified Project and the Property is not, and shall not be construed to be, any interest in real property.

#### 5.1.1. Prohibited Uses.

5.1.1.1. ONE STOP FTL agrees that the permissible uses of the Property, will not include the conduct of an entertainment or other non-sports activity event that consists of a live performance where more than 10% of the sellable capacity is seated in a concert or theatrical event arrangement.

5.1.1.2. ONE STOP FTL agrees that it will not knowingly permit the Property and Qualified Project, or any portion thereof, to be used for any illegal purpose.

5.1.1.3. Without the consent of the CITY, which may be granted or withheld in the CITY's absolute discretion, this Comprehensive Agreement is entered into with ONE STOP FTL with the explicit condition that any type of gambling at or upon the Property or within the Qualified Project is prohibited.

5.1.1.4. Without the consent of the CITY, which may be granted or withheld in the CITY's absolute discretion, no live or virtual adult entertainment establishment or uses (including as defined in Section 15-156(a) of the City of Fort Lauderdale Code of Ordinances) shall be allowed at our upon the Property or within the Qualified Project. No aspect of ONE STOP FTL's business operation shall feature the display of any nude body parts (except as a part of an art exhibition) or pornographic material, whether or not such feature or display is violative of state and/or federal law.

5.1.1.5. ONE STOP FTL shall not use in the Property and Qualified Project any traveling or flashing lights or signs or any loudspeakers, television, radio or other audio-visual or mechanical devices in any manner so that they can be heard or seen outside the interior of the Property and Qualified Project, unless specifically granted permission by the CITY pursuant to a special event permit.

5.2. RIGHTS AND OBLIGATIONS. Except as specifically provided in this Comprehensive Agreement, ONE STOP FTL is exclusively responsible for managing, operating, and maintaining the Qualified Project at its sole discretion and expense during the Term. ONE STOP FTL shall not cause, permit, or suffer any waste or damage, disfigurement, or injury to the Qualified Project, the Property, or the fixtures or equipment thereon, except reasonable wear and tear, loss or damage by fire, natural catastrophe, or other casualty, or condemnation. During the Term, ONE STOP FTL has, but is not limited to, the following rights, responsibilities, and obligations in connection with the Qualified Project:

5.2.1. At its sole discretion, control the scheduling and use of the Cultural Center and Community Arts Park, except as provided in Article 5.5 below;

5.2.2. ONE STOP FTL agrees that the Certificate of Occupancy for the Community Arts Park shall be issued before or concurrent with the Certificate of Occupancy for the Cultural Center;

5.2.3. Permit the CITY to promote and hold a minimum of 12 events per year, including events in the Cultural Center, in a private event space, or in the Community Arts Park; Should the CITY desire additional events in any of the aforementioned spaces, the CITY and ONE STOP FTL agree to work together to find mutually agreeable dates for said events, and in such case, the CITY agrees to be reasonable with its requests and approval by ONE STOP shall not be unreasonably withheld; CITY agrees to provide a minimum of 120 day notice of its intent to use the Property and agrees that if the Property is already booked by ONE STOP FTL that City will request an alternate date. CITY shall be responsible for any actual costs associated with said events;

5.2.4. Perform all maintenance at the Qualified Project, including providing all of the labor and materials required to keep the Qualified Project clean and free of debris, by repairing, maintaining, and replacing all components of the Qualified Project, and by providing all funds necessary for the annual upkeep of the Community Arts Park;

5.2.5. Except as otherwise provided in this Comprehensive Agreement, provide all security, crowd control, maintenance, cleaning, landscaping and other personnel or independent contractors required for the proper maintenance and operation of the Qualified Project. To ensure the orderly disbursement of any persons after an event in the Cultural Center ONE STOP FTL shall employ at least one (1) off-duty Fort Lauderdale police officer for any events exceeding 250 people with said officer contracted for a minimum of one hour past closing time;

5.2.5. Obtain and maintain the insurance further described in Section 8, which shall list the CITY as an additional insured for any policies relating to ONE STOP FTL's use and operation of the Qualified Project;

5.2.6. Set rates and charges for the use of the Qualified Project;

5.2.7. For the first year after the City's issuance of the Certificate of Occupancy for the Cultural Center there shall be no license fee payment due; beginning year two (2) on day 1 of the 1 year anniversary of the issuance of the Certificate of Occupancy for the Cultural Center, ONE STOP FTL shall pay CITY Two Hundred and Fifty Thousand Dollars (\$250,000.00); in year three (3) on the two (2) year anniversary, ONE STOP FTL shall pay CITY Five Hundred Thousand Dollars (\$500,000.00); for year four (4) on the three (3) year anniversary, ONE STOP FTL shall pay CITY Seven Hundred and Fifty Thousand Dollars (\$750,000.00); for year five (5) on the four (4) year anniversary ONE STOP FTL shall pay CITY One Million Dollars (\$1,000,000.00); for year six (6) ONE STOP FTL shall pay CITY One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00); for year seven (7) ONE STOP FTL shall pay CITY One Million Five Hundred Thousand Dollars (\$1,500,000.00); thereafter on the yearly anniversary, the license fee shall increase by CPI but in no event shall the yearly increase be greater than 3% through the Term, together with any extensions. Payment of the license fee payment shall be paid to the CITY each and every successive anniversary of the Effective Date thereafter through the balance of the Term. The license fee payment shall be payable to the **City of Fort Lauderdale**, and delivered to the City of Fort Lauderdale, Finance Department, 100 North Andrews Avenue, Fort Lauderdale, Florida 33301, Attn: Finance Director;

5.2.7.1. No acceptance by the CITY of any license fee payment or other payments in whole or in part for any periods after a default of any of the terms, covenants, and conditions herein to be performed, kept or observed by ONE STOP FTL shall be deemed a waiver of any right on the part of the CITY to terminate this Comprehensive Agreement, or to exercise any other available remedies.

5.2.8. Advertise and promote all events conducted at the Qualified Project, such advertising and promotion to mention or identify the CITY to the extent practicable (ONE STOP FTL understands the importance of promoting the CITY and its image and desires and agrees to assist in such regard);

5.2.9. Select and employ all concessionaires, licensees and other contractors with respect to the Qualified Project, including, but not limited to, the Cultural Center and the Community Arts Park;

5.2.10. Enter into lawful contracts in ONE STOP FTL's name relating to any and all of the foregoing upon terms and conditions that are consistent with this Comprehensive Agreement;

5.2.11. Comply with all applicable laws, ordinances, and regulations, including, but not limited to the requirements of the ADA any amendments thereto, including Title II, Structural, and Title III, Programmatic Accessibility Standards, as well as any future additions;

5.2.12. Work with a group designated by the Flagler Village Civic Association ("FVCA") and with the Riverwalk Fort Lauderdale, Inc. ("Riverwalk") to provide input on plans for the Community Arts Park to be included in the site plan submittal to the City of Fort Lauderdale for the Qualified Project by meeting with FVCA and Riverwalk at least 3 times during site plan development prior to DRC submittal. FVCA and Riverwalk shall not have veto power over the final site plan. After the approval of the final site plan, host at least one annual meeting of neighborhood residents, businesses, and stakeholders, to discuss new and ongoing amenities and improvements for the Community Arts Park;

5.2.13. After the issuance of the Certificate of Occupancy for the Community Arts Park, One STOP FLL shall cause to be recorded a Declaration of Restrictive Covenants against the approximately 2/3 of the Property Community Arts Park providing that no structures shall be built on the area defined as Community Arts Park on the site plan;

5.2.14. Maintain at least one public art installation in the Community Arts Park at all times;

5.2.15. Preserve the existing banyan tree located at the south of the site, as well as a minimum of four (4) additional significant trees as depicted in the attached EXHIBIT 2 and use its best efforts to preserve and relocate any other trees of significance that may require being moved as a result of the Qualified Project, to other locations on site;

5.2.16. Make best efforts to work in partnership with local arts and culture groups on art-related projects and initiatives. Fort Lauderdale based, charitable arts and cultural organizations shall have the reasonable ability to display art and provide performances at no cost, however, to the extent that there may be any hard costs such as, but not limited to, CITY application fees, necessary staffing, security and trash removal associated with such art display or performance, that cost shall not be borne by ONE STOP FTL and shall be the responsibility of the organization;

5.2.17 ONE STOP FTL shall provide a minimum of 500 square feet of office space for use by the CITY's Cultural Affairs Manager, at no cost to CITY;

5.2.18. Adhere to CITY Entertainment District operating hours for both the Cultural Center and the Community Arts Park;

5.2.19. Live music and entertainment shall be limited to interior spaces in the Cultural Center and Blade Building. For any events that are to be held outdoors in the Community Arts Park, One Stop shall make application to the CITY pursuant to the Special Event Permit Application procedures in place at the time of application;

5.2.20. Noise levels shall not exceed those set by CITY's Code of Ordinances, as may be amended from time to time, and any outdoor spaces with activity, such as rooftop restaurants, will utilize a central audio system with zoned volume control and soundproofing equipment. Indoor and outdoor rooms where beer, wine, or liquor are sold or offered for sale will be adequately soundproofed to ensure noise mitigated. Any outdoor amplified music will end at 11:00 PM.

5.3. CANCELLATIONS. ONE STOP FTL has the right, at its sole discretion, to cancel or postpone any event to be held at the Qualified Project except those events scheduled by the CITY.

5.4. SALE, LEASE, OR TRANSFER. During the Term of this Comprehensive Agreement, except as otherwise provided in this Comprehensive Agreement, the CITY agrees not to sell, lease, or otherwise transfer portions of or rights to the Property, except easements and rights of way for utility or governmental purposes, without the prior written approval of ONE STOP FTL, which approval shall not be unreasonably withheld; provided, however, that the CITY agrees that the reserved easements and rights-of-way for utility or governmental purposes shall not be exercised in a way to unreasonably interfere with ONE STOP FTL's use of the Qualified Project for the purposes described above.

5.5. THE CITY'S USE OF THE CULTURAL CENTER AND COMMUNITY ARTS PARK. Pending ONE STOP FTL's established event schedule, the CITY has the right to use the Cultural Center and Community Arts Park for a minimum of twelve (12) times per year free of usage charge, which use may include, but is not limited to: State of the CITY event, Fort Lauderdale local graduations, sports, education, art, entertainment, festivals, and community enrichment purposes, at no charge to the CITY (other than reimbursing ONE STOP FTL for any operating expenses incurred by ONE STOP FTL as a result of the CITY's use of the Cultural Center and Community Arts Park).

5.5.1. The dates during which the CITY may use the Cultural Center and Community Arts Park shall be selected by mutual agreement of the Parties; provided that, if the Parties cannot agree on the dates, ONE STOP FTL's reasonable selection of dates will be final and controlling. The CITY may use the Cultural Center or Community Arts Park only for functions that do not directly compete with revenue-generating events and shall not create any conflicts with sponsorships that have been otherwise arranged by ONE STOP FTL. The CITY's use of the Cultural Center or Community Arts Park also must not interfere in any way with ONE STOP FTL's use and quiet enjoyment of the Property.

5.5.2. The CITY shall not use or authorize the use of the Cultural Center or Community Arts Park in any manner that would have a material detrimental impact on them, and the CITY

shall be and remain solely responsible for any damage or destruction to the Cultural Center and Community Arts Park by the CITY or its assignees.

5.5.3. Pursuant to Section 5.2.3 the CITY or its assignee is entitled to retain the revenues from ticket sales for its events, parking revenue, and concessions sold during the events when the Cultural Center or Community Arts Park are utilized by the CITY; provided, however, that although ONE STOP FTL covenants to cooperate with the CITY in such endeavors, ONE STOP FTL shall not be required to provide concession management services and/or any other related services during any CITY event. In all cases, ONE STOP FTL shall be reimbursed by the CITY for any operating costs and expenses incurred by ONE STOP FTL because of the CITY's use of the Cultural Center and Community Arts Park, including but not limited to, the cost of any parking attendants, ticket takers, security personnel, clean-up crews, pro-rata utility cost, and the like provided by ONE STOP FTL.

5.5.4 ONE STOP FTL proposes and agrees to provide certain public benefits including, but not limited to, a Community Arts Park of approximately 2.5 acres, subject to reasonable restrictions for access, security, hours of operation, etc. ONE STOP FTL shall commit a minimum of Ten Million dollars (\$10,000,000.00) toward the construction of the Community Arts Park and within 30 days of the Certificate of Occupancy for the Cultural Center and Community Arts Park, whichever is later, a Declaration of Restrictive Covenants shall be recorded against the land defined as Community Arts Park in the Site Plan approved by the CITY such that no structures shall be permitted to be built on the Community Arts Park. To the extent that the Community Arts Park is made available to the public, the CITY agrees that the Community Arts Park remain privately managed and any "open container" or similar alcohol restriction laws shall not be enforced so long as patrons do not leave the premises under the control of ONE STOP FTL and ONE STOP shall comply with Article 6. The Declaration of Restrictive Covenants shall contain a covenant and restriction that the Community Arts Park shall be and remain open space with landscaping and other amenities to be determined through the site plan process and shall remain reasonably available for access and use by the public, from 5:00 a.m. to 11:00 p.m. daily ("Permitted Times"), or as otherwise designated by the CITY, subject always however, to the following continuing conditions and limitations:

**Commented [A1]:** This provision is subject to discussion and determination by the City Commission, including a proposed provision for a two-year review clause, wherein the City Commission would be able to review the viability of open containers and terminate or amend such provision if desired.

(i) ONE STOP FTL shall have the exclusive ability to restrict or prevent access to the Community Arts Park to any specific member(s) of the public as they may deem appropriate to avoid loitering, creating a nuisance, restricting access during certain times as exceptions to the Permitted Times ("Special Functions") and/or otherwise violating the rules and regulations adopted with respect to the Community Arts Park and ONE STOP FTL retains at all times the right and ability to seek to enforce the foregoing and laws related to trespass;

(ii) The Community Arts Park shall not be, nor shall it ever be by reason of provisions of this Agreement a public forum, limited public forum, or any other type of public forum as may exist now or in the future;

(iii) The Community Arts Park and its use shall be and remain subject to rules and regulations as ONE STOP FTL deems necessary to properly manage the Property;

(iv) The use of the Community Arts Park by the public shall be in accordance with the Permitted Times, other than during Special Functions;

(v) ONE STOP FTL may reasonably limit use or preclude use of the general members of the public on the Community Arts Park for special functions for which a Special Event Permit has been issued by the CITY, or as otherwise permitted in this Comprehensive Agreement;

(vi) ONE STOP FTL shall have the right (but not the obligation) to conduct such surveillance and security functions and activities as ONE STOP FTL deems appropriate;

(vii) Use of the Community Arts Park shall be subject to temporary disruption as ONE STOP FTL may reasonably designate in connection with activities ONE STOP FTL conducts, such as construction or repairs, and other activities conducted on portions of the Community Arts Park.

5.6. COSTS AND EXPENSES OF OPERATION AND MAINTENANCE. ONE STOP FTL shall provide and pay for all costs and expenses required for the operation, maintenance, and repair of the Cultural Center and Community Arts Park that are not, by the terms of this Comprehensive Agreement, specifically required to be provided and paid for by the CITY or third parties, including, but not limited to, all personnel (including supervisory staff), labor, equipment, utilities, and materials. Costs for which ONE STOP FTL is responsible will include, but not be limited to, taxes, gas, electricity, internet services, telephone, water, sewer, storm water, solid waste, and other utilities related to operation of the Cultural Center and Community Arts Park and production of all events taking place at it, including damage that results from the negligence or wrongful acts of ONE STOP FTL or its agents, employees, contractors, subcontractors, invitees, licensees, or attendees. ONE STOP FTL shall also be responsible, at its sole expense, for the repair of ONE STOP FTL's and its officers', employees', contractors', subcontractors', and agents' personal property, except for repairs of such property necessitated by the wrongful or negligent acts of the CITY or its officers or employees.

5.7. LIAISON. ONE STOP FTL shall name a person to be the liaison to work with the CITY with respect to coordinating the mutual responsibilities of the Parties. ONE STOP FTL hereby designates Jeff John as the liaison unless and until a new person is designated in writing by ONE STOP FTL.

5.8. LIMITATIONS ON RIGHTS AND OBLIGATIONS. ONE STOP FTL's rights and obligations under this Comprehensive Agreement are subject to the following additional limitations:

5.8.1. No contract entered into pursuant to this Comprehensive Agreement may impair any right of the CITY hereunder.

5.8.2. ONE STOP FTL shall not, without the CITY's consent, enter into any contract extending beyond the expiration date of the Term of this Comprehensive Agreement.

5.8.3. ONE STOP FTL shall have no power or authority to incur any indebtedness giving a right to a lien of any kind or character upon the right, title, or interest of the CITY in and to the Property and improvements thereon owned by CITY, and no person shall ever be entitled to any lien, directly or indirectly derived through or under ONE STOP FTL, or its agents, servants, employees, contractors, or officers, or on account of any act or omission of ONE STOP FTL as to the CITY's right, title or interest in and to the Property and improvements thereon owned by CITY. All persons contracting with ONE STOP FTL, or furnishing materials, labor, or services to ONE STOP FTL, or to its agents, or servants, as well as all persons, shall be bound by this

provision of the Comprehensive Agreement. Should any such lien be filed against the Property and improvements thereon owned by CITY, ONE STOP FTL shall discharge the same within thirty (30) days thereafter, by paying the same or by filing a bond, or otherwise, as permitted by law. ONE STOP FTL shall not be deemed to be the agent of the CITY, so as to confer upon a laborer bestowing labor upon or within the Property or upon materialmen who furnish materials incorporated in the construction or improvements upon the foregoing, a construction lien pursuant to Chapter 713, Florida Statutes, as same may be amended from time to time, or any equitable lien upon the CITY's right, title, or interest in and to the Property. These provisions shall be deemed a notice under Section 713.01(26), Fla.Stat., as well as Section 713.10(1), (2)(b), Fla.Stat., as same may be amended from time to time, of the "non-liability" of the CITY.

5.8.4. ONE STOP FTL shall not knowingly occupy or use the Property for any purpose or in any manner that is unlawful.

5.8.5. ONE STOP FTL shall function as an independent contractor in fulfilling the duties required by this Comprehensive Agreement. All staff required by ONE STOP FTL to accomplish its obligations under this Comprehensive Agreement shall be employees and/or independent contractors of ONE STOP FTL and not the CITY.

5.8.6. ONE STOP FTL shall repair, replace, provide and maintain, at its expense, all equipment necessary to perform its responsibilities hereunder and upon the termination of this Comprehensive Agreement, such equipment may be identified and removed by ONE STOP FTL upon notice to the CITY.

5.8.7. If the CITY reasonably believes that ONE STOP FTL's failure to comply with any of its obligations under this Comprehensive Agreement involves a "life safety issue," as defined below, the CITY shall immediately notify ONE STOP FTL in writing and shall have an immediate right to correct the life safety issue. The reasonable and necessary costs and expenses incurred by the CITY in correcting the life safety issue will be due and payable by ONE STOP FTL to the CITY through written demand to ONE STOP FTL, which will be paid within thirty (30) days after submission of the written demand by the CITY to ONE STOP FTL. If such amount is not paid when due, it shall bear interest at the prime rate published by the *Wall Street Journal* from time to time from the date that ONE STOP FTL received the CITY's written statement until the date payment is made. For purposes of this Comprehensive Agreement, a "life safety issue" means a situation that imposes an immediate threat of bodily harm or death to any users or occupants of the Cultural Center and Community Arts Park.

5.8.8. On or before the expiration date of this Comprehensive Agreement, or its earlier termination as provided herein, ONE STOP FTL shall remove all of its personal goods and effects including any equipment, exclusive of fixtures that were purchased or paid for by ONE STOP FTL, repair any damage caused by such removal, and surrender and deliver the Property in an "as is" condition. Any personal property or effects not removed within thirty (30) days after the expiration date of this Comprehensive Agreement or its earlier termination as provided herein shall be deemed to have been abandoned by ONE STOP FTL and may be retained or disposed of by the CITY, in its sole discretion, in accordance with applicable law.

5.8.9. Upon the expiration or earlier termination of this Comprehensive Agreement, ONE STOP FTL shall return the Property and all the then existing fixtures, free and clear of any contractual obligations or other legal encumbrances granted by ONE STOP FTL, except for utility



easements and other encumbrances necessary for the maintenance and operation of the Cultural Center and Community Arts Park.

5.8.10. Neither the CITY nor ONE STOP FTL shall knowingly use the Property for the manufacture or storage of flammable, explosive or Hazardous Materials (as defined in Section 5.13, except for Hazardous Materials typically found for use or sale in retail stores, including supermarkets and dry-cleaning stores, and/or typically found for use in comparable facilities).

5.8.11. Commencing upon construction and for the remainder of the Term of this Comprehensive Agreement, ONE STOP FTL shall secure and keep in effect a Demolition Bond, which shall be in an amount not less than the amount covering the full amount of the cost to remove all ONE STOP FTL constructed and installed improvements, personal property, furniture, fixtures and equipment. CITY and ONE STOP FTL shall be named as dual obligees under such demolition bond.

5.9. REVENUES. During the Term of this Comprehensive Agreement, and unless provided otherwise herein, including but not limited to Section 5.5.3, ONE STOP FTL shall control, collect, receive, and retain all revenues generated by any means at or in connection with the Cultural Center and Community Arts Park, including, but not limited to, all revenues from ticket sales, food and beverage sales, merchandise sales, concessions and products sales, novelties, parking, telecast and broadcast rights, pouring rights, advertising, sponsorship, promotional and signage rights, and any other revenues derived or generated in connection with events held at the Cultural Center and Community Arts Park, except for city events, as provided in Section 5.2.3.

5.10. REBRANDING; NAMING RIGHTS. At all times during the Term of this Comprehensive Agreement, ONE STOP FTL has the right, but only with the written consent of the CITY, to designate the name of any portion of the Property, including but not limited to, the Cultural Center and Community Arts Park, which shall be in a manner that is aesthetically pleasing and in harmony with the surrounding community. The CITY reserves the right to disapprove and thus prohibit any name for any portion of the Property, including but not limited to, the Cultural Center and Community Arts Park, that the City Commission reasonably deems in bad taste or offensive to the City's image, or in the reasonable opinion of the City Commission, is or may reasonably become a source of embarrassment to the CITY.

5.11. THE CITY'S ACCESS. During the Term of this Comprehensive Agreement, the CITY has the right to enter into and upon any and all parts of the Qualified Project for the purpose of examining the same with respect to the obligations of the Parties under this Comprehensive Agreement and pursuant to Section 255.065, Florida Statutes, upon two (2) days prior written notice to ONE STOP FTL (or without prior notice in the event of a "life safety issue" as defined in Section 5.8.7, above, but with immediate notice thereafter).

5.12. FIRE OR OTHER CASUALTY. If, after the Effective Date, any portion of the Qualified Project is damaged or destroyed in whole or in part by fire or other casualty, ONE STOP FTL shall affect the prompt and expeditious repair, replacement, or reconstruction of the affected facilities, subject to delays in adjusting the insurance loss and delays caused by an event determined to be Force Majeure, but in no instance shall repair or restoration commence later than six (6) months after such damage or casualty, without the approval of CITY. Such repair or restoration shall be completed within six (6) months thereafter, unless an extension is granted by CITY. Such repair or restoration shall be to substantially the same condition in which the Property or improvements thereon were

before such damage. In addition, ONE STOP FTL shall be responsible for repairing, replacing, or otherwise restoring all personal property and fixtures of ONE STOP FTL located at the Qualified Project. In the event that ONE STOP FTL has not demonstrated reasonable attempts to commence repairs or restoration within six (6) months from the date of said damage, without the consent of CITY, this Comprehensive Agreement may be terminated by CITY in accordance with Article 10.

5.12.1. The CITY may, in each instance of actual or imminently threatened natural disaster, use the Community Arts Park as a staging area for disaster preparations, response, or other related uses. The CITY shall have the right to use the Community Arts Park as a debris management site for and as a result of named hurricanes. Notwithstanding anything in this Comprehensive Agreement to the contrary and subject to limitations contained in Section 768.28, Florida Statutes (2021), as may be amended or revised, and subject to the CITY's sovereign immunity, the CITY shall be responsible for any liability arising out of the CITY's use of the Community Arts Park as a disaster staging and/or debris storage area and shall restore the Community Arts Park to the condition prior to CITY's use.

5.12.2. In the event the CITY receives Federal Emergency Management Agency ("FEMA") proceeds for damage to or destruction of the Qualified Project, the CITY agrees to apply such FEMA proceeds toward the repair, restoration, or reconstruction of the Qualified Project as the CITY, in its sole and absolute discretion, deems necessary, and as permitted by FEMA and by law.

#### 5.13. ENVIRONMENTAL HAZARDS.

5.13.1. As used in this Comprehensive Agreement, "Environmental Laws" shall mean any currently existing or subsequently enacted federal, state or local statute, law, code, rule, regulation, ordinance, order, standard, permit, license or requirement (including consent decrees, judicial decisions, and administrative orders), and all related amendments, implementing regulations and reauthorizations, which pertain to the preservation, conservation or regulation of the environment. Environmental laws include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601, et seq. ("CERCLA"), the Resource Conservation and Recovery Act, 42 U.S.C. §§6901, et seq. ("RCRA"), the Toxic Substances Control Act, 15 U.S.C. §§2601, et seq., the Clean Air Act, 42 U.S.C. §§7401, et seq., and the Clean Water Act, 33 U.S.C. §§1251, et seq.

5.13.2. For purposes of this Comprehensive Agreement, "Hazardous Materials" means any contaminant, chemical, waste, irritant petroleum product, waste product, radioactive material, flammable or corrosive substance, explosive, polychlorinated biphenyls, asbestos, hazardous toxic substance, material or waste of any kind, or any other substance that any environmental law regulates. "Hazardous Materials" include, but are not limited to, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. section 9601, et seq.; the Hazardous Materials Transportation Act, 39 U.S.C. section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. section 6901, et seq.; all applicable state and local laws; and in the regulations adopted and publications promulgated pursuant to said laws or any amendments or addenda thereto.

5.13.3. "Environmental Hazard" means any use, exposure, release, generation, manufacture, storage, treatment, transportation, or disposal of Hazardous Material on, within, or from the Property.

5.13.4. A Phase I (and, if required, a Phase II) Environmental Site Assessment shall be secured by ONE STOP LLC and performed as to the Property within sixty (60) days of the Effective Date. The Environmental Site Assessment shall for the Environmental Baseline for this Comprehensive Agreement.

5.13.5. CITY shall be solely responsible, at its own cost and expense, for the management, control, containment, abatement, clean-up, removal, and prevention of any Environmental Hazard that exists on the Property prior to the Effective Date. CITY shall bear all costs and expenses associated with the, management, control, containment, abatement, clean-up, removal, and prevention of such pre-existing Environmental Hazards.

5.13.6. Hazardous Materials not revealed prior to the Effective Date hereof, but subsequently discovered on, under, or within the Property at levels that are in violation of the Hazardous Materials or Substances Laws shall be the absolute responsibility of ONE STOP FTL, including the management, control, containment, abatement, clean-up, removal, and prevention of such Environmental Hazards, unless:

a. ONE STOP FTL demonstrates by clear and convincing evidence that the presence of such Hazardous Materials on, under, or within the Property predates the Environmental Baseline, or;

b. ONE STOP FTL demonstrates by a preponderance of the evidence that the presence of such Hazardous Materials on, under, or within the Property after the Effective Date hereof was caused by the acts or omissions of the CITY, its agents, servants, employees, contractors, or licensees, provided such acts or omissions of the CITY's agents, servants, employees, contractors, or licensees are within the scope and course of their duties.

5.13.7. ONE STOP FTL shall comply with all Environmental Laws in connection with its use and occupancy of the Qualified Project. ONE STOP FTL shall be solely responsible, at ONE STOP FTL's own cost and expense, for the identification, management, control, containment, abatement, clean-up, and removal of any Environmental Hazard that is the result of any act or omission of ONE STOP FTL or of any of ONE STOP FTL's officers, employees, agents, contractors, subcontractors, guests, licensees, invitees, or attendees, including being solely responsible for the prevention thereof.

5.13.8. After the Effective Date, no Hazardous Materials shall be brought upon or kept or used in or about the Property by any person whomsoever, unless ONE STOP FTL first obtains written consent from the CITY's Contract Administrator. Nothing herein shall prohibit the use of gas powered vehicles or painting or decorating products normally used to pair or decorate a structure.

5.14. RECORDS. ONE STOP FTL and the CITY acknowledge that certain information and data relating to this Comprehensive Agreement may be public records subject to public inspection and copying in accordance with Chapter 119, Florida Statutes.

5.14.1. ONE STOP FTL agrees to implement policies and procedures to maintain, produce, secure, retain, and transfer public records in accordance with applicable laws, and regulations, including section 119.0701, Florida Statutes. ONE STOP FTL agrees to provide the CITY with a copy of all requested public records or to allow any public records to be inspected or copied within a reasonable time. ONE STOP FTL agrees to charge any third parties requesting

public records only such fees allowed by section 119.07, Florida Statutes, for locating and producing public records during the Term of this Comprehensive Agreement.

5.14.2. Upon the expiration of this Comprehensive Agreement, ONE STOP FTL shall transfer, at no cost, to the CITY all public records in the possession of ONE STOP FTL or keep and maintain any public records required by the CITY. If ONE STOP FTL transfers all public records to the CITY upon the expiration of this Comprehensive Agreement, then ONE STOP FTL will destroy any records that are confidential and exempt from public records disclosure requirements, in accordance with all applicable retention schedules and Florida law. If ONE STOP FTL keeps and maintains public records upon the expiration of this Comprehensive Agreement, then it will meet all applicable requirements for maintaining any public records.

5.14.3. All records stored electronically must be provided to the CITY upon request in a format that is compatible with the information technology systems of the CITY. Nothing in this Section is intended to suggest that all records related to the Cultural Center and Community Arts Park would be public records or that this Comprehensive Agreement is subject to Section 119.0701, Florida Statutes. ONE STOP FTL and the CITY shall cooperate to ensure that any records that are confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

5.14.4. ONE STOP FTL shall defend at its own expense, with counsel subject to the CITY's approval, and indemnify and hold harmless the CITY and its officers, employees, and agents against any and all claims, losses, fines, penalties, judgments, third party claims, and damages, including any award of costs and any award of attorney's fees, that may arise out of or be occasioned by the CITY's or ONE STOP FTL's treatment of any records as confidential and/or exempt from disclosure.

**IF ONE STOP FTL HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES (2021), TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS COMPREHENSIVE AGREEMENT, CONTACT, THE CUSTODIAN OF PUBLIC RECORDS AT 954.828.5002, CITY CLERK'S OFFICE, 100 NORTH ANDREWS AVENUE, FORT LAUDERDALE, FLORIDA 33301, [PRRCONTRACT@FORTLAUDERDALE.GOV](mailto:PRRCONTRACT@FORTLAUDERDALE.GOV).**

5.15. AUDIT RIGHTS. The CITY shall have the right to audit the books, records, and accounts of ONE STOP FTL and ONE STOP FTL's sub-licensees that are solely related to the obligations of this Comprehensive Agreement. ONE STOP FTL shall keep and ONE STOP FTL shall cause its sub-licensees to keep, such books, records, and account as may be necessary in order to record complete and correct entries related to the obligations under this Comprehensive Agreement. All books, records and accounts of ONE STOP FTL and ONE STOP FTL's sub-licensees as to the obligations set forth above shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, ONE STOP FTL or its sub-licensees, as applicable, shall make same available to the CITY at no cost to the CITY in written form.

5.15.1. ONE STOP FTL and ONE STOP FTL's sub-licensees shall preserve and make available, at reasonable times for examination and audit by the CITY, in the City of Fort Lauderdale, Florida, all financial records, supporting documents, statistical records, and any other

documents pertinent to ONE STOP FTL's or its sub-licensees' obligations as set forth herein for the required retention period of the Florida Public Records Law, Chapter 119, Florida Statutes, as it may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after expiration or earlier termination of this Comprehensive Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Law is determined by the CITY to be applicable to ONE STOP FTL and its sub-licensees' records, ONE STOP FTL and its sub-licensees shall comply with all requirements thereof; however, ONE STOP FTL and its sub-licensees shall violate no confidentiality or non-disclosure requirement of either federal or state law.

5.15.2. ONE STOP FTL shall, by written contract, require its sub-licensees to agree to the requirements and obligations of this Section 5.15.

5.15.3. ONE STOP FTL shall maintain during the term of this Comprehensive Agreement all books of account, reports and records relating to the obligations set forth in Section 5.15 hereof in accordance with its historic practice which shall not materially differ from generally accepted accounting practices and standards.

## **ARTICLE 6. ALCOHOLIC BEVERAGES**

6.1. ONE STOP FTL agrees that alcoholic beverages will only be sold within the Cultural Center and Blade Building. The ability to carry an open container shall be limited to passive consumption. Examples of passive consumption include but are not limited to traveling to and from the Cultural Center and Blade Building with an alcoholic beverage and / or enjoying a picnic with a bottle of wine. In no instance shall ONE STOP FTL permit the sale of alcohol in the Community Arts Park, except pursuant to any Special Events Permit or permit individuals to excessively consume alcoholic beverages in large groups in a manner that is disruptive or unruly.

**Commented [A2]:** This provision is subject to discussion and determination by the City Commission, including a proposed provision for a two-year review clause, wherein the City Commission would be able to review the viability of open containers and terminate or amend such provision if desired.

6.2 ONE STOP must have appropriate security (i.e. uniformed police and/or in-house staff) in place to handle crowd control, patron safety, and other security issues.

6.3 If ONE STOP FTL fails to provide reasonably adequate security CITY may supplement security and assess the cost thereof to ONE STOP.

6.4 ONE STOP FTL must abide by the conditions of its particular type of liquor license.

6.5 ONE STOP FTL must provide CITY with a company policy and security plan to address underage customers, intoxicated customers, and illegal drug activity.

6.6 No sale of alcoholic beverages shall be made to patrons who are outside of the secured boundaries of the Property.

## **ARTICLE 7. CONCESSIONS / ADVERTISING / PROMOTION**

7.1. ONE STOP FTL's CONCESSION RIGHTS

7.1.1. During the Term of this Comprehensive Agreement, ONE STOP FTL shall have all rights with respect to concession operations at the Cultural Center and Community Arts Park, including but not limited to: the right to select the concessionaire(s) at any time and for any and all events held at the Cultural Center and Community Arts Park; the right to negotiate and enter into agreements with such concessionaire(s), excluding leases or subleases; the right to create temporary or permanent concession facilities at the Cultural Center and Community Arts Park during the Term of this Comprehensive Agreement; the right to administer any agreement with its concessionaire(s), excluding leases or subleases; the right to operate any restaurants, bars, and other synergistic uses at the Cultural Center and Community Arts Park; the right to determine what concession services are operated at the Cultural Center and Community Arts Park, unless excluded in this Comprehensive Agreement; all of the foregoing being subject to any and all applicable laws and ordinances. Unless prohibited in this Comprehensive Agreement, ONE STOP FTL shall also have the sole right to determine what concession products are sold at the Cultural Center and Community Arts Park and the price, quality, and selection of the products sold. The CITY agrees to join with ONE STOP FTL in the filing of any meritorious application that requires joinder by the CITY, as the Property owner, and that is necessary to secure alcoholic beverage licensure under applicable law. ONE STOP FTL agrees that the concession activities will meet the then-applicable requirements of the CITY.

#### **ARTICLE 8. INSURANCE**

8.1. As a condition precedent to the effectiveness of this Comprehensive Agreement, ONE STOP FTL shall cause, when applicable, its general contractor, construction manager and any other entity performing work under this Comprehensive Agreement (collectively, "CONTRACTOR") to, procure and maintain, during the Term of this Comprehensive Agreement, at its sole expense, insurance of such types and with such terms and limits as are noted below. With regards to the Design/Build Insurance Requirements, if the CONTRACTOR does not procure and maintain the necessary coverages, ONE STOP FTL shall procure and maintain, during the term of this Comprehensive Agreement, at its sole expense, insurance of such types and with such terms and limits as are noted below. With regards to the Operations Insurance Requirements, ONE STOP FTL shall procure and maintain, during the term of this Comprehensive Agreement, at its sole expense, insurance of such types and with such terms and limits as are noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of ONE STOP FTL or the CONTRACTOR. ONE STOP FTL and the CONTRACTOR shall provide the City a certificate of insurance evidencing such coverage. ONE STOP FTL and the CONTRACTOR's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by ONE STOP FTL or the CONTRACTOR shall not be interpreted as limiting ONE STOP FTL or the CONTRACTOR's liability and obligations under this Comprehensive Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the City's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the Interests of the CITY, and these coverages, limits, and/or endorsements shall in no way be relied upon by ONE STOP FTL or the CONTRACTOR for assessing the extent or determining appropriate types and limits of coverage to protect ONE STOP FTL or the CONTRACTOR against any loss exposures, whether as a result of this Comprehensive Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by ONE STOP FTL or the CONTRACTOR under this Comprehensive Agreement.

### **8.1.1. DESIGN/BUILD INSURANCE REQUIREMENTS**

The following insurance policies and coverages are required:

#### Professional Liability

Coverage must be afforded for Wrongful Acts in an amount not less than \$5,000,000 each claim and \$5,000,000 aggregate.

CONTRACTOR must keep the professional liability insurance in force until the third anniversary of expiration or early termination of this Comprehensive Agreement or the third anniversary of acceptance of work by the City, whichever is longer, which obligation shall survive expiration or early termination of this Comprehensive Agreement.

#### Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$5,000,000 each occurrence and \$5,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$5,000,000 each occurrence and \$5,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The City, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the CONTRACTOR. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, employees, and volunteers.

#### Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$2,000,000 combined single limit each accident.

If the CONTRACTOR does not own vehicles, the CONTRACTOR shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

#### Crane and Rigging Liability

Coverage must be afforded for any crane operations under the Commercial General or Business Automobile Liability policy as necessary, in line with the limits of the associated policy.

#### Pollution and Remediation Legal Liability (Hazardous Materials)

For the purpose of this section, the term "hazardous materials" includes all materials and substances that are designated or defined as hazardous by Florida or federal law or by the rules or regulations of Florida or any federal agency. If work being performed involves hazardous materials, the CONTRACTOR shall procure and maintain any or all of the following coverage, which will be specifically addressed upon review of exposure.

#### Contractors Pollution Liability Coverage

For sudden and gradual occurrences and in an amount not less than \$1,000,000 per claim arising out of this Comprehensive Agreement, including but not limited to, all hazardous materials identified under the Comprehensive Agreement.

#### Property Coverage (Builder's Risk)

Coverage must be afforded in an amount not less than 100% of the total project cost, including soft costs, with a deductible of no more than \$25,000 each claim. Coverage form shall include, but not be limited to:

- All Risk Coverage including Flood and Windstorm with no coinsurance clause
- Guaranteed policy extension provision
- Storage and transport of materials, equipment, supplies of any kind whatsoever to be used on or incidental to the project
- Equipment Breakdown for cold testing of all mechanized, pressurized, or electrical equipment

This policy shall insure the interests of the owner, contractor, and subcontractors in the property against all risk of physical loss and damage and name the City as a loss payee. This insurance shall remain in effect until the work is completed and the property has been accepted by the City.

#### Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the City must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

The CONTRACTOR waives, and the CONTRACTOR shall ensure that the CONTRACTOR's insurance carrier waives, all subrogation rights against the City, its officials, employees, and volunteers for all losses or damages. The City requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

### **8.1.2. OPERATIONS INSURANCE REQUIREMENTS**

The following insurance policies and coverages are required:

#### Property Coverage

Coverage must be afforded in an amount not less than 100% of the replacement value of the property with a deductible of no more than \$25,000 each claim. Coverage form shall include, but not be limited to:

- All Risk Coverage including Flood and Windstorm with no coinsurance clause
- Any separate Flood and/or Windstorm deductibles are subject to approval by the City

This policy shall insure the interests of the owner and ONE STOP FTL in the property against all risk of physical loss and damage and name the City as a loss payee.

The ONE STOP FTL shall, at the ONE STOP FTL's own expense, take all reasonable precautions to protect the Property from damage or destruction.



#### Collection of Insurance

In the event of destruction of or damage to over fifty percent (50%) of any of the Property or the buildings, other structures and Improvements covered by insurance and ONE STOP FTL's election to rebuild the Property or the buildings, other structures and Improvements pursuant to ONE STOP FTL's option provided in this Comprehensive Agreement, the funds payable pursuant to such insurance policies shall be payable to, and deposited in, a commercial national bank as trustee, located in Fort Lauderdale, Florida, selected by the City, as a trust fund, and the funds shall be used for the purpose of reconstruction or repair, as the case may be, of any of the buildings, other structures or Improvements so damaged or destroyed. Such reconstruction and repair work shall be done in strict conformity with the ordinances and Charter of the City. Should the cost of reconstruction or repair exceed the amount of funds available from the proceeds of such insurance policy, then in such event, such funds shall be used as far as the same will permit in paying the cost of the reconstruction or repair. If the cost of such reconstruction or repair work shall be less than the proceeds derived from such insurance policies, the surplus shall be payable to ONE STOP FTL.

#### Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$2,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$2,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The City, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the ONE STOP FTL. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, employees, and volunteers.

#### Liquor Liability

ONE STOP FTL shall provide evidence of coverage for liquor liability in an amount not less than \$1,000,000 per occurrence. If the Commercial General Liability policy covers liquor liability (e.g. host or other coverage), ONE STOP FTL shall provide written documentation to confirm that coverage already applies to this Comprehensive Agreement.

#### Active Shooter Insurance

Coverage must be afforded for liability arising out of an actual or threat of an Active Shooter / Deadly Weapon Event in an amount not less than \$5,000,000 per event.

#### Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 combined single limit each accident.

If ONE STOP FTL does not own vehicles, ONE STOP FTL shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the City must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

ONE STOP FTL waives, and ONE STOP FTL shall ensure that ONE STOP FTL's insurance carrier waives, all subrogation rights against the City, its officials, employees, and volunteers for all losses or damages. The City requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

**8.1.3 INSURANCE CERTIFICATE REQUIREMENTS**

- a. ONE STOP FTL shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Comprehensive Agreement.
- b. ONE STOP FTL shall provide to the City a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of ONE STOP FTL to provide the proper notice. Such notification shall be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- d. In the event the Comprehensive Agreement term or any surviving obligation of ONE STOP FTL following expiration or early termination of the Comprehensive Agreement goes beyond the expiration date of the insurance policy, ONE STOP FTL shall provide the City with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Comprehensive Agreement until this requirement is met.
- e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
- f. For purposes of the Design/Build Insurance Requirements, the City shall be named as an Additional Insured on all liability policies, with the exception of Professional Liability and Workers' Compensation. For purposes of the Operations Insurance Requirements, the City shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.
- g. For purposes of the Operations Insurance Requirements, the City shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.
- h. The City shall be granted a Waiver of Subrogation on the Workers' Compensation insurance policy.
- i. The title of the Comprehensive Agreement, Contract number, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

City of Fort Lauderdale  
100 N. Andrews Avenue  
Fort Lauderdale, FL 33301

ONE STOP FTL has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the City as an Additional Insured shall be at ONE STOP FTL's expense.

If ONE STOP FTL's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Comprehensive Agreement, ONE STOP FTL may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

ONE STOP FTL's insurance coverage shall be primary insurance as respects to the City, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by ONE STOP FTL that excludes coverage required in this Comprehensive Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the City, or until this Comprehensive Agreement is terminated, whichever is later. Any lapse in coverage shall be considered a breach of contract and a material default of this Comprehensive Agreement. In addition, ONE STOP FTL must provide to the CITY confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Comprehensive Agreement. The CITY reserves the right to review, at any time, coverage forms and limits of ONE STOP FTL's insurance policies.

ONE STOP FTL shall provide notice of any and all claims, accidents, and any other occurrences associated with this Comprehensive Agreement to ONE STOP FTL's insurance company or companies and the City's Risk Management office, as soon as practical.

It is ONE STOP FTL's responsibility to ensure that any and all of its independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of ONE STOP FTL.

## **ARTICLE 9. INDEMNIFICATION**

9.1. ONE STOP'S INDEMNIFICATION OBLIGATION. ONE STOP FTL shall protect, defend, indemnify and hold harmless the CITY, its officials, officers, employees, and agents from and against any and all claims, demands, causes of action, lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges, and other expenses, including reasonable attorney's fees and costs through trial and the appellate level, or liabilities of every kind, nature, or degree arising,

including regarding hazardous substances, out of or in connection with the operation of the Property and Qualified Project, as well as the rights, responsibilities, and obligations of ONE STOP FTL under this Comprehensive Agreement, or the breach or default by ONE STOP FTL, its agents, servants, employees, or contractors of any covenant or provision of this Comprehensive Agreement, or arising out of or in connection with the negligent acts or omission, or willful misconduct of ONE STOP FTL or its agents, servants, employees, or contractors, except for any occurrence arising out of or resulting from the intentional torts or negligence of the CITY, its officers, and employees.

9.1.1. Without limiting the foregoing, any and all such claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction, rehabilitation, or restoration of any of the Qualified Project by ONE STOP FTL, its agents, servants, employees, or contractors, alleged infringement of any patents, trademarks, copyrights or of any other tangible or intangible personal or real property right by ONE STOP FTL, its agents, servants, employees, or contractors or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule, regulation, or decree of any court by ONE STOP FTL, its agents, servants, employees or consultants, are included in ONE STOP FTL's indemnification obligation.

9.1.2. ONE STOP FTL further agrees, upon being provided proper and timely notice in accordance with Section 8.3.1, to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and agrees to bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the CITY, ONE STOP FTL shall assume and defend not only itself but also the CITY in connection with any claims, suits, or causes of action, and any such defense shall be at no cost or expense whatsoever to the CITY, provided that the CITY (exercisable by the CITY's Attorney) shall retain the right to select counsel of its own choosing.

9.1.3. This indemnification shall survive termination, revocation, or expiration of this Comprehensive Agreement and shall cover any acts or omissions occurring during the Term of the Comprehensive Agreement, including any period after termination, revocation, or expiration of the Comprehensive Agreement while any curative acts are undertaken, and is not limited by insurance coverage. Notwithstanding the foregoing, in no event shall the discovery by ONE STOP FTL of contamination at the Property alone be considered damage to property resulting from ONE STOP FTL's or its agents, servants, employees, or contractors' use of or access to the Property that is subject to the indemnity covenants of ONE STOP FTL contained herein.

9.1.4. Upon request by the CITY, ONE STOP FTL shall provide copies of all property condition reports, environmental assessments, or surveys completed on the Property by ONE STOP FTL, its agents, employees, or contractors.

9.1.5. All construction materials, equipment, goods, signs and any other personal property of ONE STOP FTL, its agents, servants, employees, or contractors, shall be protected solely by ONE STOP FTL. ONE STOP FTL acknowledges and agrees that the CITY assumes no responsibility whatsoever for any such item and that the security and protection of any such item from theft, vandalism, the elements, acts of God, or any other cause, are strictly the responsibility of ONE STOP FTL.

9.2. CITY'S INDEMNIFICATION. Except as prohibited by the Florida Constitution or by the laws of the State of Florida, and subject to the limitations contained in section 768.28, Florida Statutes

(2021), as amended or revised, the CITY agrees to indemnify and hold harmless ONE STOP FTL against a judgment entered by a court of competent jurisdiction in the State of Florida against ONE STOP FTL for damages or injuries caused by the CITY's negligence in CITY's use of the Property. The foregoing will not serve as a waiver of the CITY's sovereign immunity or of any other legal defense available to the CITY. Such indemnity shall be limited by, and shall not include, liability and costs which are caused or contributed to by ONE STOP FTL or ONE STOP FTL's directors, officers, employees, agents, guests, invitees, licensees, attendees, or those for whom ONE STOP FTL is at law responsible (whether by reason of comparative negligence or otherwise) or by other third parties.

### 9.3. PROCEDURES REGARDING INDEMNIFICATION.

9.3.1. NOTICE OF CLAIM. The Indemnified Party shall provide the Indemnifying Party with written notice whenever the Indemnified Party receives notice of a claim that would invoke an indemnification provision contained in this Comprehensive Agreement. Such written notice shall be furnished to the Indemnifying Party as soon as practical after the Indemnified Party receives notice of the claim or is served with process in connection with the claim. In the case of service of process of the initial pleading in a lawsuit, the Indemnified Party shall provide its written notice to the Indemnifying Party within such time as may be necessary to give the Indemnifying Party a reasonable opportunity to respond to such process. The Indemnified Party's written notice to the Indemnifying Party of any claim shall include a statement of information pertaining to the claim then in the possession of the Indemnified Party. Any failure or delay of the Indemnified Party to notify the Indemnifying Party as required by this Section will not relieve the Indemnifying Party of its obligation to provide indemnification, unless and to the extent that such failure or delay materially and adversely affects the Indemnifying Party's ability to defend against, settle, or satisfy the claim.

9.3.2. DEFENSE OF CLAIMS; NOTICE OF INTENT TO DEFEND. After receiving notice of a claim, the Indemnifying Party shall defend the claim at its own expense, through attorneys, accountants, and others selected by the Indemnifying Party with the reasonable concurrence of the Indemnified Party. The Indemnifying Party shall notify the Indemnified Party in writing of its intent to contest or defend the claim. Such notice shall be provided not later than twenty (20) days after the Indemnifying Party receives notice of the claim from the Indemnified Party. If the Indemnifying Party fails to provide the Indemnified Party with written notice of its intention to defend the claim, the Indemnified Party shall have the right: (a) to authorize attorneys satisfactory to it to represent it in connection with the claim; and/or (b) to defend, settle or compromise the claim, to the extent permitted by law. If the Indemnified Party exercises either or both of its rights under this Section, it shall be indemnified by the Indemnifying Party to the same extent as if the Indemnifying Party had defended or settled the claim.

9.3.3. COOPERATION WITH DEFENSE. If and so long as the Indemnifying Party is actively contesting or defending a claim in accordance with this Section, the Indemnified Party shall cooperate with the Indemnifying Party and its counsel in such contest or defense, shall join in making any appropriate and meritorious counterclaim or cross-claim in connection with the claim, except that in the CITY's case, such joinder in a counterclaim or cross-claim shall be subject to the CITY's prior approval, and shall provide such access to the books and records of the Indemnified Party as is necessary in connection with such defense or contest, all at the sole cost and expense of the Indemnifying Party.

9.3.4. SETTLEMENT. The Indemnified Party has the right at any time to settle, compromise, or pay any claim with or without the consent of the Indemnifying Party, to the extent permitted by law, but (a) taking such action without the Indemnifying Party's consent shall be deemed a waiver and nullification by the Indemnified Party of all indemnification obligations that the Indemnifying Party would otherwise have with respect to the claim under this Section, and (b) such settlement or compromise shall not cause the Indemnifying Party to incur any present or future cost, expense, obligation or liability of any kind or nature, or otherwise adversely affect the rights of the Indemnifying Party.

9.3.5 Any claim may be settled or compromised by the Indemnifying Party without the Indemnified Party's consent, so long as: (i) the Indemnifying Party gives the Indemnified Party reasonable prior written notice of its intention to settle or compromise the claim; and (ii) such settlement or compromise does not cause the Indemnified Party to incur any present or future cost, expense, obligation or liability of any kind or nature, or otherwise adversely affect the rights of the Indemnified Party.

#### **ARTICLE 10. DEFAULT /TERMINATION**

10.1. ONE STOP FTL DEFAULT. The occurrence of any one or more of the following material events in this Section 10.1 constitutes a "Default" by ONE STOP FTL under this Comprehensive Agreement. In addition to Material Defaults listed in Section 10.1, a Default of this Comprehensive Agreement shall be deemed to be a failure by ONE STOP FTL to observe or perform in any material respect any covenant, agreement, condition, or provision of this Comprehensive Agreement, including but not limited to those obligations, covenants, and agreements enumerated in Article 5 and Article 6, if such failure continues for thirty (30) days after written notice thereof has been delivered by the CITY to ONE STOP FTL, provided, however, that ONE STOP FTL shall not be in Default with respect to matters that cannot reasonably be cured within thirty (30) days so long as within such thirty (30) day period, ONE STOP FTL commences such cure and diligently proceeds to complete the same thereafter. However, in no event shall a cure period for a Default continue for more than sixty (60) days after notice is received.

10.1.1 Material Defaults include, but are not limited to:

- (i) Non-payment of the license fee payment more than thirty (30) days past the date the payment is due.
- (ii) Failure to complete the Qualified Project within three (3) years of the CITY's issuance of the Building Permit.
- (iii) Failure to complete repairs or restoration of the Qualified Project within six (6) months from the date of fire damage or casualty, without the approval of CITY, as provided in Section 5.12.

10.2. CITY DEFAULT. In the event of any failure by the CITY to observe or perform any material covenant, agreement, condition, or provision of this Comprehensive Agreement wherein ONE STOP FTL's remedies on account thereof are not otherwise specifically provided for in this Comprehensive Agreement, and if such failure continues for thirty (30) days after written notice thereof has been delivered by ONE STOP FTL to the CITY, then the CITY shall be deemed to be in Default hereunder; provided, however, that the CITY shall not be in Default with respect to

matters that cannot reasonably be cured within thirty (30) days so long as within such thirty (30) day period, the CITY commences such cure and diligently proceeds to complete the same thereafter. However, in no event will a cure period for a Default continue for more than sixty (60) days.

10.3. HABITUAL DEFAULT. Notwithstanding any other provision of this Comprehensive Agreement, in the event ONE STOP FTL has frequently, regularly, and repetitively defaulted in the performance of or breached any of the terms, covenants, and conditions required in this Comprehensive Agreement to be kept or performed by ONE STOP FTL, and regardless of whether ONE STOP FTL has cured each individual condition of breach or default, ONE STOP FTL may be determined by the City Commission to be a "habitual violator." At the time such determination is made, the City Manager shall issue to ONE STOP FTL written notice advising of such determination and citing circumstances thereof. Such notice shall also advise ONE STOP FTL that there shall be no further notice or cure periods to correct any subsequent breaches or defaults and that any subsequent breaches or defaults whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and collectively shall constitute a condition of non-curable default and grounds for immediate termination of this Comprehensive Agreement. In the event of any such subsequent breach or default, CITY may terminate this Comprehensive Agreement upon giving of written notice of termination to ONE STOP FTL, such termination to be effective upon delivery of the notice to ONE STOP FTL.

10.4. CESSATION OF USE BY ONE STOP FTL. If, at any time during the Term of this Comprehensive Agreement, ONE STOP FTL ceases to permanently operate the Qualified Project as described in Article 5 above, such event shall constitute a "Cessation of Use" of the Qualified Project by ONE STOP FTL. Notwithstanding anything to the contrary contained in this Comprehensive Agreement, a Cessation of Use of the Qualified Project by ONE STOP FTL shall entitle the CITY to terminate this Comprehensive Agreement by giving ONE STOP FTL sixty (60) days' written notice of termination. ONE STOP FTL shall have sixty (60) days after receipt of the termination notice to renounce the Cessation of Use by confirming to the CITY its intention to continue to use the Qualified Project during the Term in the manner described in Article 5 and demonstrating that it is reasonably complying with its covenant to operate the Qualified Project. A termination pursuant to the provisions of this Section 10.3 will become effective upon the expiration of ONE STOP FTL's sixty (60) day cure period, or its repeated failure to demonstrate that it is reasonably complying with its covenant to operate the Qualified Project as provided by this Section after notice by the CITY. Notwithstanding the foregoing, a "Cessation of Use" resulting from a Force Majeure Event shall not constitute a "Cessation of Use" under this Comprehensive Agreement, if so asserted by ONE STOP FTL.

#### 10.5. NOTICES; DISPUTED DEFAULTS; IMMEDIATE RELIEF FOR CERTAIN DEFAULTS.

10.5.1. If a party believes in good faith that the other party has breached any of its material obligations under this Comprehensive Agreement, is in Default as provided in Sections 10.1, 10.2, or 10.3, or has failed to cure a previously noticed Default, the Non-Defaulting Party shall promptly notify the Defaulting Party, in writing, of the nature of the breach, Default or failure to cure.

10.5.2. Except as otherwise provided herein, whenever a notice asserting a breach, Default, or failure to cure is provided, the Defaulting Party shall notify the Non-Defaulting Party in writing, within ten (10) days after receiving the Non-Defaulting Party's notice, if the Defaulting

Party disputes the assertion that it is in Default or asserts that it has cured a previously noticed Default in accordance with this Article 10.

#### 10.6. REMEDIES; NATURE OF RELIEF; DEFENSES.

10.6.1. If ONE STOP FTL fails to proceed with reasonable diligence and in good faith to cure a Default, termination of this Comprehensive Agreement may occur only after the CITY gives not less than an additional thirty (30) days' advance notice to ONE STOP FTL. On the date specified in the notice, the Term, as provided in this Comprehensive Agreement, will end, and ONE STOP FTL shall quit and surrender the Property and Qualified Project to the City, except that ONE STOP FTL will remain liable as provided under this Comprehensive Agreement. Upon termination of the Comprehensive Agreement and Term, the CITY may peaceably re-enter the Property without notice to dispossess ONE STOP FTL, any legal representative of ONE STOP FTL, or any other occupant of the Property.

10.6.2. If a party is in Default as provided in this Article 10, the Non-Defaulting Party may enforce this Comprehensive Agreement and obtain legal or equitable relief for the Default in a court of competent jurisdiction in accordance with the venue provision contained in this Comprehensive Agreement.

10.6.3. The Defaulting Party shall be entitled to defend all claims, assertions, and requests for relief by the Non-Defaulting Party, and may raise all legal and equitable counterclaims and defenses as may be available to the Defaulting Party under this Comprehensive Agreement or applicable law, except as otherwise provided herein.

10.6.4. The CITY shall be entitled to any license fee that is due and unpaid, and those payments will become due immediately, and will be paid up to the time of the re-entry, dispossession, or expiration, plus expenses (including, but not limited to attorneys' fees, administrative time, labor, etc.) that the CITY incurs in returning the Property to good order, plus interest on the license fee when due at the rate of      % per annum.

10.6.5. WAIVER. The failure by ONE STOP FTL or the CITY to insist in any one or more instances upon the other party's strict performance of any of its obligations under this Comprehensive Agreement shall be limited to that particular instance and shall not be deemed or construed as a waiver or relinquishment of the right to require and enforce the future performance of such obligations. No waiver by ONE STOP FTL or the CITY of any provision of this Comprehensive Agreement shall be deemed to have been made unless expressed in writing and signed by an appropriate official on behalf of the CITY or by an officer of ONE STOP FTL.

#### 10.7. INSOLVENCY OR BANKRUPTCY

10.7.1. Subject to the provisions hereof respecting severability, should ONE STOP FTL at any time during the Term suffer or permit the appointment of a receiver to take possession of all or substantially all of the assets of ONE STOP FTL, or an assignment of ONE STOP FTL for the benefit of creditors, or any action taken or suffered by ONE STOP FTL under any insolvency, bankruptcy, or reorganization act, such action shall, at CITY's option, constitute a breach and default of this Comprehensive Agreement by ONE STOP FTL and ONE STOP FTL agrees to provide adequate protection and adequate assurance of future performance to the CITY, which will include, but not be limited to the following:



- a. All monetary and non-monetary defaults existing prior to the breach or default referenced above shall be cured within the time specified above that shall include all costs and attorneys' fees expended by the CITY to the date of curing the default.
- b. All obligations of ONE STOP FTL must be performed in accordance with the terms of this Comprehensive Agreement.

If at any time during the pendency of the bankruptcy proceeding ONE STOP FTL or its successor in interest fails to perform any of the monetary or non-monetary obligations under the terms of this Comprehensive Agreement, or fails to cure any pre-filing default, ONE STOP FTL HEREBY STIPULATES AND AGREES TO WAIVE ITS RIGHTS TO NOTICE AND HEARING AND TO ALLOW THE CITY TOTAL RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362 TO ENFORCE ITS RIGHTS UNDER THIS COMPREHENSIVE AGREEMENT AND UNDER STATE LAW.

#### **ARTICLE 11. FORCE MAJEURE**

11.1. DEFINITION. Force Majeure means any fire or other casualty, an act of God, war, act(s) of terrorism, riots, pandemics, epidemics, strikes, labor disputes, boycotts, intervention by civil or military government authorities, or any other causes whatsoever beyond the control of the Parties. Notwithstanding the foregoing, the legislative acts of the CITY or the County of Broward or the State of Florida shall not constitute a Force Majeure. If a Force Majeure prohibits or prevents a party, whether directly or indirectly, from performing any of its obligations under this Comprehensive Agreement, such party shall, upon notice to the other Party, be excused from such performance until the Force Majeure terminates or is removed. During such period of prevention or prohibition, the Parties shall at all times act diligently and in good faith to bring about the termination or removal of the Force Majeure as promptly as reasonably possible.

#### **ARTICLE 12. REPRESENTATIONS AND WARRANTIES**

12.1. REPRESENTATIONS BY ONE STOP FTL. ONE STOP FTL represents and warrants, as of the Effective Date and at all times during the Term of this Comprehensive Agreement, as follows:

12.1.1. ONE STOP FTL is a limited liability company validly existing and in good standing under the laws of the State of Florida and is duly authorized to conduct business in the State of Florida.

12.1.2. ONE STOP FTL is duly authorized and has the power and authority to enter into this Comprehensive Agreement and to carry out and perform each of its obligations under this Comprehensive Agreement. No provision of any charter or by-law or partnership agreement of ONE STOP FTL shall in any way prohibit, limit or otherwise affect the right or power of ONE STOP FTL to perform its obligations under this Comprehensive Agreement.

12.1.3. The execution of this Comprehensive Agreement by ONE STOP FTL has been duly and validly authorized by all necessary corporate action in accordance with ONE STOP FTL's

corporate documents, and this Comprehensive Agreement is a valid and binding obligation of ONE STOP FTL, enforceable against ONE STOP FTL in accordance with its terms.

12.2. REPRESENTATIONS BY THE CITY. The CITY represents and warrants, as of the Effective Date and at all times during the Term of this Comprehensive Agreement, as follows:

12.2.1. The CITY is a validly existing Florida municipal corporation.

12.2.2. The execution of this Comprehensive Agreement by the CITY has been duly and validly authorized by the CITY, and this Comprehensive Agreement is a valid and binding obligation of the CITY, and enforceable against the CITY in accordance with its terms.

### **ARTICLE 13. MISCELLANEOUS**

13.1. TAXES, USE CHARGES, AND SURCHARGES.

13.1.1. The Parties acknowledge that the Property is presently deemed to be exempt from property taxes ("Property Taxes"). It is the intent of the Parties that the Qualified Project and the Property be exempt from real Property Taxes throughout the Term of this Comprehensive Agreement. For purposes of this Comprehensive Agreement, Property Taxes means all ad valorem real estate taxes and special assessments that are levied against the Qualified Project or the Property by any taxing authority, including, but not limited to, the CITY, the County of Broward, the State of Florida, the School Board of Broward County, special districts, and authorities, so long as such tax is based upon or measured by the valuation of the Qualified Project or the Property.

13.1.2. If ONE STOP FTL is assessed any Property Taxes or it is determined by any competent authority that the Qualified Project or the Property is subject to Property Taxes, then ONE STOP FTL has the right to challenge such assessment/imposition to the fullest extent permitted by law, and the CITY agrees to support any such appeal at the request of ONE STOP FTL.

13.1.3. The Parties recognize that ONE STOP FTL's use of the Qualified Project and the Property serves a public and municipal purpose. Accordingly, if, after the exhaustion of all appeals, ONE STOP FTL is required by a court of competent jurisdiction to pay Property Taxes, or a court of competent jurisdiction enters a final judgment ruling that Property Taxes are due on the Qualified Project or the Property, ONE STOP FTL shall pay the Property Taxes imposed.

13.1.4. If any action is initiated by any person or entity contesting the legality of any of the provisions of this Article or any terms or provisions included in any subsequent agreement between or among ONE STOP FTL and the CITY related to Property Taxes, ONE STOP FTL shall defend, at ONE STOP FTL's expense and with counsel subject to the CITY's approval, indemnify, and hold harmless the CITY against any such action(s) at no cost or expense to the CITY. ONE STOP FTL acknowledges and agrees that in the event a court of competent jurisdiction, after the exhaustion of all appeals, determines that this Section or any terms or provisions included in any subsequent agreement between ONE STOP FTL and the CITY related to Property Taxes is not enforceable, ONE STOP FTL shall be responsible for the payment of Property Taxes. Nothing contained in this Section prevents ONE STOP FTL from seeking

reimbursement or contribution from any third party for any Property Taxes paid by ONE STOP FTL.

13.2. **MARKETING/PROMOTION.** ONE STOP FTL intends to enter into agreements between ONE STOP FTL and third parties for marketing and promotional opportunities. The CITY, subject to its sole discretion, agrees to assist ONE STOP FTL with offsite signage, including traffic signs and directional signage, and include ONE STOP FTL and the Qualified Project in appropriate marketing and tourism materials and information and public relations campaigns. All signs or any advertising erected, maintained or displayed at or on the Property or upon any improvements shall comply with the Code of Ordinances of the City of Fort Lauderdale, and all other applicable local, state and federal laws, rules, regulations, and ordinances pertaining to signage.

13.3. **LICENSE.** This Comprehensive Agreement shall be deemed to be a use agreement in the nature of a license and shall not be deemed to be a lease or conveyance of any real property rights, nor shall this Comprehensive Agreement constitute an agreement for the use of real property that would subject the Parties to the provisions of any statute regarding landlord and tenant rights. This Comprehensive Agreement does not establish a landlord-tenant relationship, a partnership, a joint venture, or an agency relationship between the Parties.

13.4. **TITLE.** The CITY has title to the Property and immediate title to all Improvements thereon.

13.5. **ASSIGNMENT.** Subject to the CITY's prior written consent, ONE STOP FTL may assign this Comprehensive Agreement at any time to any other developer or managing entity provided that such assignee shall be responsible for the performance of all of ONE STOP FTL's obligations under this Comprehensive Agreement. Any such Assignment must be agreed to in writing by the CITY after a public meeting of the City Commission, which consent shall not be unreasonably withheld. However, in no case may this Comprehensive Agreement be assigned during the first five (5) years after the issuance of the Certificate of Occupancy. Nothing in this Section 13.5 shall limit or diminish ONE STOP FTL's rights to grant use to all or part of the Qualified Project to any party in accordance with the terms of this Comprehensive Agreement during its Term.

13.6. **BINDING EFFECT; NO THIRD PARTY RIGHTS.** This Comprehensive Agreement inures to the benefit of and is binding upon the Parties hereto and their respective successors and permitted assigns. The Parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Comprehensive Agreement. Neither of the Parties intends to directly or substantially benefit a third-party by this Comprehensive Agreement. The Parties agree that there are no third-party beneficiaries to this Comprehensive Agreement and that no third-party will be or is entitled to assert a claim against any of the Parties based upon this Comprehensive Agreement. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third-parties in any manner arising out of any contract.

13.7. **SURRENDER OF THE QUALIFIED PROJECT AND THE PROPERTY.** Upon the expiration or earlier termination of this Comprehensive Agreement, ONE STOP FTL shall peaceably surrender the Qualified Project and the Property to the CITY in good order and in the same condition as on the date on which a Certificate of Occupancy is issued for the Qualified Project, ordinary wear and tear excepted. Upon the termination or expiration of this Comprehensive Agreement, ONE STOP FTL shall immediately remove all property owned by

ONE STOP FTL which it is permitted or required to remove from the Property under the provisions of this Comprehensive Agreement.

13.8. FURTHER ASSURANCES. ONE STOP FTL and the CITY shall each execute, acknowledge, and deliver, after the execution of this Comprehensive Agreement, without additional consideration, such further assurances and shall take such further actions as ONE STOP FTL and the CITY reasonably request of the other in order to fulfill the intent of and the transactions contemplated by this Comprehensive Agreement.

13.9. CONSENTS. No consent or approval by the CITY or ONE STOP FTL required under the terms of this Comprehensive Agreement shall be valid unless it is signed by an authorized officer of the party giving such consent or approval. In all instances where the consent or approval of the CITY or ONE STOP FTL is required with respect to any decision or action of the other party, such consent, approval, or concurrence shall not be withheld unreasonably. Notwithstanding the foregoing, either party shall be entitled to withhold its consent or approval on a matter that is left to that party's sole discretion as provided elsewhere in this Comprehensive Agreement. If either party withholds its consent or approval in response to a request from the other party for such consent or approval, the party disapproving the matter in question shall, simultaneously with its response, state in writing its reasons for such disapproval, unless the matter in question is one of the matters expressly left to that party's sole discretion as provided elsewhere in this Comprehensive Agreement.

13.10. LEGAL REVIEW; CONSTRUCTION. The Parties hereby acknowledge that this Comprehensive Agreement is the product of negotiation between the Parties and their respective legal counsel and that no provision of this Comprehensive Agreement shall be construed against a party solely because that party or that party's counsel drafted such provision.

13.11. CALCULATION OF TIME. Whenever any provision of this Comprehensive Agreement requires or permits any act or decision to be performed or made within a specified period of time, the day of the act or event from which the designated time period begins to run will not be included in computing such time period. The last day of such period will be included, unless it is a Saturday, Sunday, or a legal holiday in the State of Florida, in which case the period will run until the end of the next day that is not a Saturday, Sunday, or legal holiday in the State of Florida. All notice and other time periods will expire as of 5:00 p.m. Eastern Standard Time on the last day of the notice or other period.

13.12. NO WAIVER OF SOVEREIGN IMMUNITY. Nothing contained in this Comprehensive Agreement is intended to serve as a waiver of sovereign immunity by the CITY.

13.13. PLEDGE OR SECURITY INTEREST. In connection with any financing of the improvements upon the Property, ONE STOP FTL shall not voluntarily pledge, grant a security interest, or any interest therein without the prior written consent of the CITY which such consent shall not be unreasonably withheld, denied, or delayed. Any such financing of security interest in this Comprehensive Agreement by ONE STOP FTL shall require the approval of the City Commission.

13.14. NON-DISCRIMINATION. ONE STOP FTL shall not discriminate against any person in the performance of duties, responsibilities, and obligations under this Comprehensive Agreement

because of race, age, religion, color, gender, national origin, marital status, disability, or sexual orientation.

13.15. **SEVERABILITY.** If any provision of this Comprehensive Agreement, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, the remainder of this Comprehensive Agreement, or the application of the remainder of the provisions, shall not be affected. Rather, this Comprehensive Agreement is to be enforced to the extent permitted by law. The captions, headings and title of this Comprehensive Agreement are solely for convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of the Comprehensive Agreement is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this Comprehensive Agreement, unless otherwise expressly provided. All terms and words used in this Comprehensive Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and other gender, as the context requires.

13.16. **TIME OF THE ESSENCE.** ONE STOP FTL agrees promptly to perform, comply with and abide by this Comprehensive Agreement, and agrees that time of payment and of performance are of the very nature and essence of this Comprehensive Agreement.

13.17. **ENTIRE AGREEMENT.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Comprehensive Agreement that are not contained in this document. The Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

13.18. **GOVERNING LAW.** This Comprehensive Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Comprehensive Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be brought exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Comprehensive Agreement shall be exclusively in such state courts, forsaking any other jurisdiction that either party may claim by virtue of its residency or other jurisdictional device. By entering into this Comprehensive Agreement, the CITY and ONE STOP FTL hereby expressly waive any rights either party may have to a trial by jury in any civil litigation related to this Comprehensive Agreement or any acts or omissions relating to it.

13.19. **SCRUTINIZED COMPANIES.** As a condition to the effectiveness of this Comprehensive Agreement and as a condition to any renewal of this Comprehensive Agreement, ONE STOP FTL certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to section 215.4725, Florida Statutes (2021), as may be amended or revised, and that it is not engaged in a boycott of Israel. The CITY may terminate this Comprehensive Agreement at the CITY's option if ONE STOP FTL is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2021), as may be amended or revised, or been placed on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2018), as may be amended or revised, or is engaged in a boycott of Israel as defined in sections 287.135 and 215.4725, Florida Statutes (2021), as may be amended or revised.

13.20. NOTICE. Whenever any party desires to give notice to any other party, it must be given by written notice sent by electronic mail, followed by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the place designated below, and the place so designated will remain such until it have been changed by written notice in compliance with the provisions of this Section. For the present, the Parties designate the following as the respective places for giving notice:

**CITY:**

Christopher J. Lagerbloom  
City Manager  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301  
Attn: City Manager ([CLagerbloom@fortlauderdale.gov](mailto:CLagerbloom@fortlauderdale.gov))

With a copy to:  
Alain E. Boileau  
City Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301  
Attn: City Attorney ([ABoileau@fortlauderdale.gov](mailto:ABoileau@fortlauderdale.gov))

**ONE STOP FTL:**

Jeff John, CEO Damn Good Hospitality  
([jeff@damngoodhospitality.com](mailto:jeff@damngoodhospitality.com))  
100 Southwest Third Avenue  
Fort Lauderdale, Florida 33312

Stephanie J. Toothaker, Esquire  
toothaker.org  
([stephanie@toothaker.org](mailto:stephanie@toothaker.org))  
501 Southwest 2<sup>nd</sup> Avenue, Suite A  
Fort Lauderdale, FL 33301  
(954) 648-9376

**IN WITNESS WHEREOF**, the Parties hereto, through their duly authorized representatives, have executed this Comprehensive Agreement to be effective as of the day and year first set forth above.

**CITY OF FORT LAUDERDALE, a Florida  
municipal corporation**

By: \_\_\_\_\_  
Dean J. Trantalis  
Mayor

By: \_\_\_\_\_  
Christopher J. Lagerbloom  
City Manager

ATTEST:

\_\_\_\_\_  
David R. Soloman  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Alain E. Boileau  
City Attorney

**ONE STOP FTL, LLC**

By: \_\_\_\_\_  
Jeff John, CEO Damn Good Hospitality

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_. 2022, by **Jeff John** on behalf of ONE STOP FTL, LLC. He is personally known to me or produced \_\_\_\_\_ as identification and did not take an oath.

(SEAL)

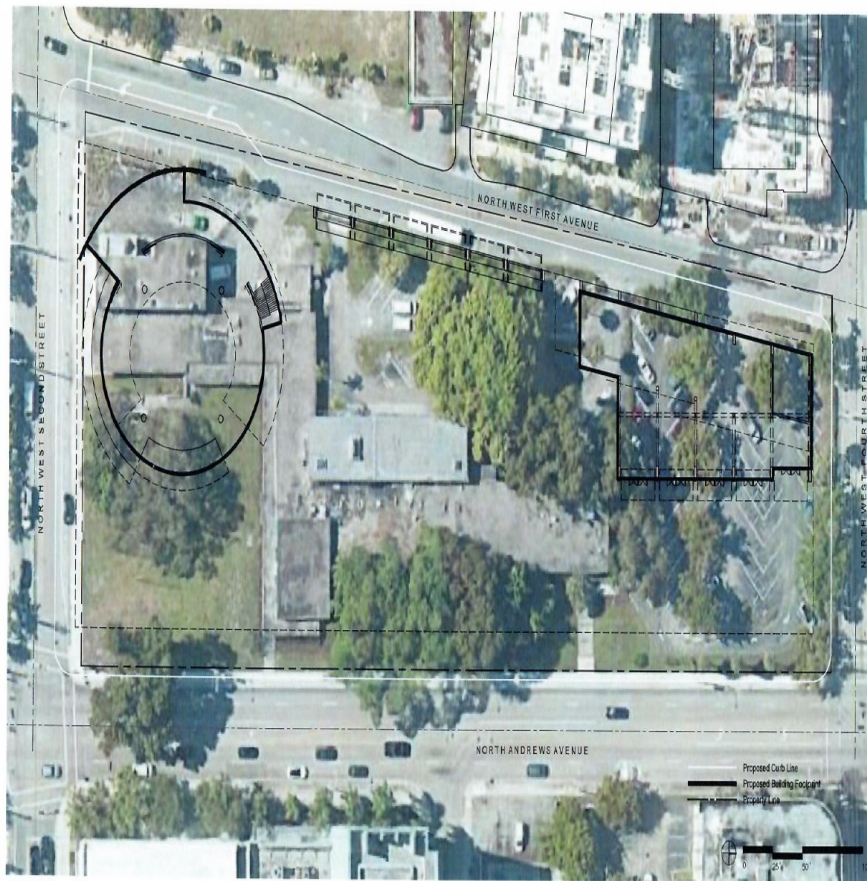
\_\_\_\_\_  
Notary Public Signature

\_\_\_\_\_  
Name Typed, Printed, or Stamped  
My Commission Expires:

\_\_\_\_\_  
Commission Number:



# COMPOSITE EXHIBIT 1



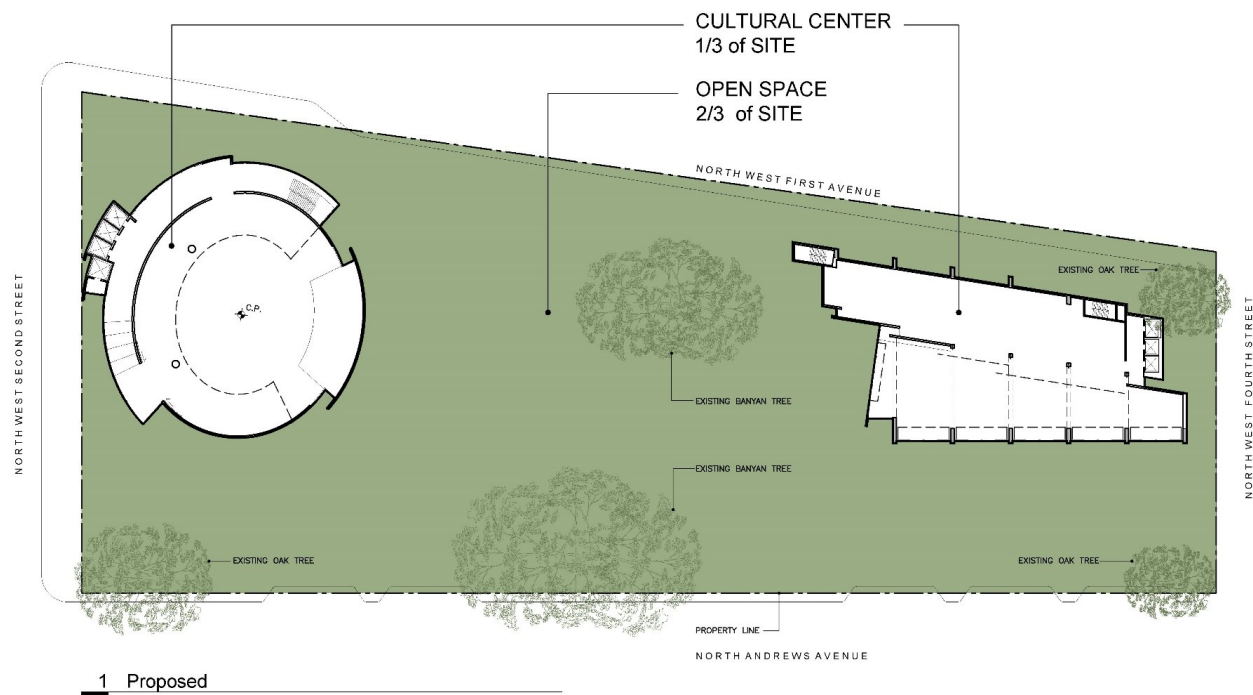
STUDIO Practice Architects

One Stop Shop  
Cultural Center and Marketplace  
Port Landmark, Florida

Site Diagram







**EXHIBIT 2**  
**Updated Tree Exhibit**





SCHEMATIC  
2/19/20  
**ONE STOP**  
FORT LAUDERDALE, FL

EXISTING TREES INCLUDED IN THE PROJECT

A403

**adache**  
group architects  
1000 S. OCEAN BLVD.