

**DEVELOPMENT AGREEMENT**  
**ADDERLEY**

THIS DEVELOPMENT AGREEMENT (this "Agreement") is by and among:

FORT LAUDERDALE COMMUNITY  
REDEVELOPMENT AGENCY, a Community  
Redevelopment Agency created pursuant to Chapter  
163, Part III, Florida Statutes, hereinafter referred to  
as "Agency" or "CRA";

and

WEST VILLAGE, LLC, a Florida limited liability  
company, hereinafter referred to as the  
"Developer".

**WITNESSETH:**

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

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

WHEREAS, by adoption of Resolution 95-170, the redevelopment plan for the Redevelopment Area was approved by the City Commission on November 7, 1995, and was amended in 2001 by Resolution 01-86, in 2002 by Resolution 02-183, in 2013 by Resolution 13-137, in 2016 by Resolution 16-52 and in 2018 by Resolution. 18-226 and as subsequently amended (the "Redevelopment Plan"); and

WHEREAS, on or around July 16, 2019, the Fort Lauderdale Community Redevelopment Agency, issued a Notice of Intent to Dispose of Fort Lauderdale Community Redevelopment Agency Property located at 714 Sistrunk Boulevard (NW 6<sup>th</sup> Street) and 526 NW 7<sup>TH</sup> Terrace, Fort Lauderdale, Florida (collectively referred to as, "Agency Parcels") for sale to the highest and best respondent; and

WHEREAS, the Developer has applied for funding in the amount of \$12,000,000 under the Agency's Development Incentive Program; and

WHEREAS, Owner (defined below) owns the Developer Parcels (defined below) adjacent to the Agency Parcels and intends to assemble the Entire Site (defined below) for the construction of a mixed use project; and

WHEREAS, on December 10, 2019, the CRA Advisory Board recommended approval of this Project (defined below) which has been modified since presented to the CRA advisory board; and

WHEREAS, the Board of Commissioners of the Agency finds that development of the Project will create stable communities, enhance the quality of life, improve the aesthetic and useful enjoyment of the Redevelopment Area; create economic development opportunities, all in accordance with and in furtherance of the Redevelopment Plan and as authorized by and in accordance with the Act; and

WHEREAS, the CRA Board finds that West Village LLC has demonstrated that it has the financial capacity, legal ability, development experience, qualifications and ability best suited to construct and complete the Project; and

WHEREAS, on January 21, 2020, by Resolution 20-01 (CRA), the Board of Commissioners of the Agency approved an award of the Agency Parcels and an award of \$12,000,000 under the Development Incentive Program to the Developer, under the terms and condition described in the Letter of Intent dated January 28, 2020; and

WHEREAS, the Agency transferred title to the Agency Parcels to the Developer on or around February 10, 2020; and

WHEREAS, on October 5, 2021, by Resolution 21-09 (CRA), the Board of Commissioners of the Agency approved an amendment to Resolution 20-01(CRA) to allow replacement of the one of the members of the Developer and to approve the amended Letter of Intent.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each of the parties hereto, the parties agree as follows:

## **ARTICLE 1** **DEFINITIONS**

As used in this Agreement the following terms shall have the following meanings:

"Affiliate", "Affiliated" or "Affiliated Person" means, when used with reference to a specific person:

- (1) Any Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the specified Person;
- (2) Any Person that is an officer of, partner in, member of, or trustee of, or serves in a similar capacity with respect to the specified Person or of which the specified Person is an officer, partner, member, or trustee, or with respect to which the specified Person serves in a similar capacity;
- (3) Any Person that, directly or indirectly, is the beneficial owner of 10% or more of any class of equity securities of, or otherwise has a substantial beneficial interest (10% or more) in the specified Person, or of which the specified Person is directly or indirectly the owner of 10% or more of any class or equity securities or other form of ownership, or in which the specified Person has a substantial beneficial interest (10% or more); or
- (4) A relative or spouse of the specified Person.

As used in this definition, the term "relative" shall include all the relationships specified in § 732.103, Florida Statutes (intestate succession) as they pertain to the Person or the Person's spouse, instead of decedent (e.g., the term includes brother-in-law or father-in-law).

"Agency" means the Fort Lauderdale Community Redevelopment Agency created pursuant to Part III of Chapter 163, Florida Statutes and by City of Fort Lauderdale Resolution No. 95-86 adopted by the City Commission on June 20, 1995, or its successors or assigns.

"Agency Forgivable Funds" or "Forgivable Funding" or Forgivable Loan" means a forgivable loan in the amount of Eight Million Four Hundred Thousand and No/100 Dollars (\$8,400,000.00) as evidenced by a Promissory Note to fund Hard Costs for developing the Project and which shall be secured by a second mortgage on the Entire Site. Agency Funds shall not be used to fund Horizontal Improvements within a public right of way.

"Agency Non-Forgivable Funds" or "Non-Forgivable Funding" or "Non-Forgivable Loan" means a non forgivable loan in the amount of Three Million Six Hundred Thousand and No/100 Dollars (\$3,600,000.00) as evidenced by a Promissory Note to fund Hard Costs for developing the Project and which shall be secured by a second mortgage on the Entire Site. This Agency Non-Forgivable Funds shall be repaid according to the terms set forth herein and, in the Agency, Non-Forgivable Promissory Note. Agency Funds shall not be used to fund Horizontal Improvements within a public right of way.

**“Agency Loan”** or **“Agency Funds”** means the total amount of the Agency Non-Forgivable Loan and Agency Forgivable loan.

**“Agency Parcels”** means the real property located at 714 Sistrunk Boulevard and 526 NW 7<sup>th</sup> Terrace, Fort Lauderdale, Florida and legally described in described in Exhibit “A”.

**“Agreement”** means this Development Agreement by and between the Agency and the Developer.

**“Agency Documents”** means this Agreement together with the documents and instruments described in Section 3.2.2 of Article 3 and such other certifications, affidavits and other instruments reasonably requested by the Agency.

**“Authorized Representative”** means as to the Agency, the Executive Director or his designee and Frank Guerra or Alberto Suarez, as to the Developer.

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

**“Building Permit”** means, for each part of the infrastructure and improvements to be constructed on the Project, any building permit or development approval issued by the appropriate department, office or official of the City (or other governmental authority having jurisdiction over the Project) charged with reviewing the plans, specifications, drawings, details and other construction documents for compliance with the Building Code and other similar codes applicable to that part of the Project being constructed thereon, and having the authority to issue building permits or development approvals for infrastructure improvements or construction of buildings, structures or other improvements in accordance with construction documents therefor reviewed and approved by such department, office or official.

**“Construction Lender”** means a regulated financial institution selected by Developer and approved by the Agency, which approval shall not be unreasonable withheld conditioned or delayed, to provide construction financing for the Project.

**“Contractor”** means one or more individuals or firms constituting a general contractor properly licensed by Broward County, the State of Florida or other appropriate jurisdiction to the extent required by applicable law to perform contracting services to construct the Improvements, bonded to the extent required by applicable law and contract specifications and means a Contractor for site development work (infrastructure), structural improvements, underground water and sewer utilities, mechanical (HVAC), plumbing and electrical.

**“Certificate of Occupancy or C/O”** means wherever this term is used herein it shall refer to a final certificate of occupancy issued by the City’s building official pursuant to the Florida Building Code or other appropriate governing authority.

**“City”** means the City of Fort Lauderdale, a municipal corporation of the state of Florida.

**“City Commission”** means the elected officials and governing body of the City.

**“Closing Date”** means the date the Developer closes on its construction loan with the Construction Lender. The Closing Date shall occur on or before December 31, 2022. Developer may request that the Authorized Representative of the Agency extend the Closing Date for up to an additional sixty (60) days provided that Developer has used Reasonable Efforts in meeting the lending conditions of its Construction Lender and has secured a loan commitment, a copy of which has been provided to the Agency.

**“Commencement Date”** means, for purposes of this Agreement, commencement of the Horizontal and Vertical Improvements of the Project no later than January 15, 2023.

**“Completion Date”** means the date on which a Certificate of Occupancy is issued for the entire Project which date shall be no later than thirty (30) months from the Commencement Date, subject to Force Majeure (as defined in 15.5) and extensions approved by the Executive Director.

**“Contract Administrator”** means the Executive Director of the Agency or his or her designee. For purposes of Article 5 and Section 6.2 of Article 2, the Contract Administrator shall be deemed the Area Manager for the Northwest-Progresso-Flagler Heights Community Redevelopment Area.

**“CRA Advisory Board”** means the City of Fort Lauderdale Northwest-Progresso-Flagler Heights Community Redevelopment Agency Advisory Board appointed by the City Commission to advise the City and CRA Board regarding community redevelopment matters affecting the Redevelopment Area.

**“CRA Board”** means the governing board of the Agency.

**“Developer”** means WEST VILLAGE, LLC, a Florida limited liability company.

**“Developer Parcels”** means the real property located at XXX NW 7<sup>th</sup> Terrace, 701 W. Sistrunk Blvd, 735 NW 7<sup>th</sup> Avenue, 502 NW 7<sup>th</sup> Terrace, 500 NW 7<sup>th</sup> Terrace, 516 NW 7<sup>th</sup> Terrace, 518, NW 7<sup>th</sup> Terrace, 509 NW 7<sup>th</sup> Avenue XXX NW 7<sup>th</sup> Avenue, 517 NW 7<sup>th</sup> Avenue, Fort Lauderdale, Florida and legally described in Exhibit “B” attached hereto.

**"Declaration of Developer Restrictive Covenants"** means that instrument executed by Developer at closing on the Entire Site in favor of the Agency, in form and content acceptable to the Agency.

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

**"Entire Site"** or **"Property"** means Agency Parcels and Developer Parcels, which are contiguous to each other with no gaps or hiatuses.

**"Funding Agreement"** means that certain agreement which shall be entered into between the Agency and a Construction Lender or a mutually acceptable third-party disbursing agent, which will govern the disbursement and use of the Agency's Forgivable Funds and Non-Forgivable Funds and the Construction Lender's loan proceeds for construction of the Improvements.

**"Hard Costs"** means costs for labor and materials required to construct a permanent structure on the Entire Site and for installation of site improvements such as water, sewer, electric and other utilities, grading, paving and drainage improvements to the Project Site.

**"Horizontal Improvements"** means the water, sewer, electric and other utilities, grading, paving and drainage improvements to the Entire Site.

**"Improvements"** means collectively the Horizontal Improvements and Vertical Improvements to be constructed on the Entire Site as shown in the Developer's application for Agency funding and site plan approved by the appropriate governing authority, which is attached hereto as Exhibit "D".

**"Owner"** means Sistrunk 2245 LLC, 220145, LLC Urbano 500 LLC and West Village LLC.

**"Person"** means any individual, corporation, firm, partnership, trust, association, or other entity of any nature.

**"Plans and Specifications"** means the documents required for the construction of the Improvements, that may include predesign plans and drawings, preliminary plans and building, electrical and mechanical drawings, schematic design documents, design development documents, together with all amendments and modifications thereof, approved by Agency and the Developer as provided in this Agreement. To the extent not included in the Plans and Specifications, the subcontractor agreements used by the Contractor shall include written instructions specifying materials, workmanship, style, color and finishes consistent with the Project Development Plan.

**"Project"** means the financing, marketing, design, construction, operation and management by the Developer of a mixed-use project consisting of 417 residential units, 12, 000 square feet of commercial/retail space, parking garage together with other

Improvements in accordance with the Project Development Plan Project Schedule and Project Budget.

"Project Budget" means the preliminary budget prepared by the Developer as described in Exhibit "C" that shows the anticipated line items and the estimated costs for all the items that the Developer expects to incur in connection with development and construction of the Project.

"Project Development Plan" means the plan prepared by the Developer as attached in Exhibit "D" which includes the approved site plan for the Project, as well as the floor plans and elevations for the Vertical Improvements and the minimum features of the Project.

"Project Schedule" means the preliminary schedule and time frame for the submittal of applications for approvals required by this Agreement, and for the commencement and completion of construction of the Improvements pursuant to this Agreement, attached hereto as Exhibit "E" to this Agreement.

"Reasonable Efforts" means a good faith attempt by a Person to cause a result, but not an assurance or guarantee that such result will be achieved.

"Redevelopment Area" means the Northwest-Progresso-Flagler Heights Community Redevelopment Area, as designated by Resolution 95-86, as may be amended from time to time.

"Vertical Improvements" means above grade buildings and structures for which a building permit is required.

Other capitalized terms not defined in this Article shall have the meanings assigned to them elsewhere in this Agreement. Words used herein in the singular shall include the plural and words in the masculine/feminine/neuter gender shall include words in the masculine/feminine/neuter where the text of this Agreement requires.

## ARTICLE 2 PURPOSE

2.1 The purpose of this Agreement is to promote implementation of the Redevelopment Plan by providing for conveyance of the Property to the Developer and an award of Agency Funds, subject to the terms and conditions set forth herein, for the development and construction of the Project in accordance with the Project Development Plan, Project Schedule and Project Budget to create a mixed use project, to create a vibrant community, to create stable communities, to enhance the quality of life, improve the aesthetic and useful enjoyment of the Redevelopment Area through the elimination of slum and blight, all in accordance with and in furtherance of the Redevelopment Plan and as authorized by and in accordance with the Act.

2.2 After review of the application for funding by the Developer, the Agency approved the Project as being in the public interest and in furtherance of the goals, objectives and provisions of the Redevelopment Plan and authorized execution of this Development Agreement to set forth the respective duties and responsibilities of the parties pertaining to the terms and condition for development of the Project.

2.3 The Developer's application for Agency Forgivable Funds and Non-Forgivable Funds are incorporated in this Agreement as if fully set forth herein. In the event of a conflict between the application and this Agreement, the terms of this Agreement shall control.

### ARTICLE 3 PROJECT

3.1 Agency is providing funding under its Development Incentive Program and has sold the Agency Parcels to the Developer with the understanding that the Developer shall construct the Project in accordance with the Project Schedule, Project Development Plan and Project Budget.

3.2 Conditions.  
Closing on the Agency Loan is subject to compliance with the following conditions:

3.2.1 Closing on Developer's construction financing which shall include a guaranty of payment and performance from Alberto J. Suarez, Anthony Seijas and Frank Guerra if required by the lender with a financial institution approved by the Agency or satisfactory evidence that it has sufficient funding to complete the Improvements in accordance with the Project Development Plan, Project Schedule and Project Budget. Closing shall occur on the Closing Date. The Agency agrees to subordinate the lien of its second mortgage to a first mortgage in favor of a regulated financial institution providing construction financing for the Project.

3.2.2 Execution and delivery of the Agency Forgivable Promissory Note, Agency Non-Forgivable Promissory Note, Second Mortgage and Security Agreement, UCC-1 Financing Statement, Loan Agreement, Declaration of Developer Restrictive Covenants, Commercial Lease, Negative Pledge Agreement, Environmental Indemnity Agreement, Loan Agreement, Funding Agreement and such other agreements and instruments as reasonably required by the Agency.

3.2.3 Survey certified to the Agency meeting the minimum technical standards and otherwise in form and substance acceptable to the Agency using commercially reasonable standards.

3.2.4 Issuance of a Title Commitment and subsequent lender's title policy in the amount of \$12,000,000, at Developer's expense, to ensure the Agency security interest in the Entire Site with the Developer



bearing responsibility to pay the owner's and lender's title premium and title search fees. Such title commitment shall be bound to delete all standard exceptions, including the gap, delete all schedule B-requirements and to issue Florida Form 9 coverage and Environmental Lien.

**3.2.5** Compliance with the terms and conditions of the Loan Agreement and if applicable, the Funding Agreement.

**3.2.6** If required by the Construction Lender, the Developer's securing a payment and performance bond in accordance with the requirements of the Construction Lender.

**3.2.7** Recordation of the Declaration of Developer Restrictive Covenants in the public records of Broward County, Florida, which shall be prior in dignity to the lien and encumbrance of the Construction Lender and recordation of the Second Mortgage and UCC-1 Financing Statement in favor of the Agency.

**3.2.8** Agency approval of the final Plans and Specifications for the Improvements.

**3.2.9** Proof of recording of a Notice of Commencement after the Agency's second mortgage listing the Agency as a party to receive Notice to Owner.

**3.2.10** Proof of Insurance as required under Article 9.

**3.2.11** Review and acceptance of environmental assessment on the Property.

**3.2.12** Satisfactory evidence that Developer has sufficient equity to complete construction of the Project.

**3.2.13** Receipt and review of a draw schedule, construction schedule and budget, sources and uses, project schedule, survey and schedule of values for the Project.

**3.2.14** Receipt and review of a construction contract between the Developer and a qualified and experienced general contractor along with copy of the general contractor's license.

**3.2.15** Certificates of Good Standing and corporate authorization of the Developer and its controlling entities.

**3.2.16** All development approvals from the appropriate governing

authority have been issued for the Project.

3.2.17 Receipt and review of all owners who hold a direct or beneficial interest in the Property or Developer and its controlling entities along with copies of the organizational documents.

3.2.18 Transfer of title to the Developer Parcels to the Developer, if necessary.

3.2.19 Such other documents, instruments, studies, analysis and evaluation as required by the CRA in the exercise of its reasonable discretion.

### **3.3 Conditions for Satisfaction of the Agency Forgivable Loan and Non-Forgivable Loan.**

3.3.1 A Satisfaction of Mortgage shall be issued and the note cancelled on the Agency Forgivable Loan upon issuance of a Certificate of Occupancy for the Project.

3.3.2 A Satisfaction of Mortgage shall be issued for the Agency Non-Forgivable Loan upon payment in full of the Non-Forgivable Note according to the terms and conditions stated therein. The Non-Forgivable Loan requires a repayment of \$3,600,000 payable over ten (10) years in quarterly installments starting twelve (12) months from the date a Certificate of Occupancy is issued for the Project and each anniversary date thereafter. The Non-Forgivable Loan may be prepaid in whole or part without any prepayment penalty and shall contain a 15 day grace period. Thereafter, a late fee of 5% of the payment due shall be assessed. The Agency reserves the right to assign the Non-Forgivable Loan in its sole discretion and without the necessity of securing approval from the Developer or its successors and/or assigns.

3.3.3. Neither loan shall be subject to a charge of interest except in the event of default. Upon such an occurrence, interest shall accrue at the maximum rate permitted by law.

### **3.4 Restrictions.**

The Agency and Developer agree that the Entire Site shall be owned, held, used, transferred, sold, conveyed, demised, occupied, possessed and used subject to the Declaration of Developer Restrictive Covenants, as well as all other reservations, regulations and burdens set forth in this Agreement. The Developer shall execute a Declaration of Developer Restrictive Covenants which shall be binding upon the Developer and its successors and/or assigns. Such Declaration of Developer Restrictive Covenants shall be recorded in the Public Records of Broward County,

Florida at Developer's expense simultaneous with recording the Agency Mortgage and Security Agreement. As a condition of the Agency Forgivable Loan and Agency Non-Forgivable Loan, Developer shall cause the owner of the Property to execute the Restrictive Covenant to covenant and to lease 4,000 square feet of commercial retail space of the Project to the Agency, or its successors and/or assigns, for a minimum of five years at a rate of \$12.00 per square foot plus common area maintenance expenses starting from the date the Certificate of Occupancy is issued, with the understanding that the Agency, or its successors and/or assigns, may sublet all or a portion of the retail space to small businesses as part of its initiative to support and sustain small businesses. The Agency shall have the absolute right to assign its entire leasehold interest to a third party, without recourse and without the necessity of consent from the Developer or its successors and/or assigns. Further, upon such an assignment, the Agency shall be released from any and all liability under the Commercial Lease. All subtenants must comply with applicable rules and regulations related to rental of retail or commercial space within the Project and will receive the same benefits and privileges as other similarly situated tenants. The Agency reserves the right to charge rent in excess of the rate charged by Developer, or its successor and/or assigns, and Developer shall not be entitled to share in the excess rents or receive any benefits from the excess rents.

**3.5. Right to Enforce.**

**3.5.1** The parties stipulate and agree that for enforcement purposes the Declaration of Developer Restrictive Covenants shall run in favor of the Agency. The Agency shall have the right, in the event of any breach of the Declaration of Developer Restrictive Covenant to exercise all the rights and remedies available to the Agency as provided therein, including maintenance of any actions at law for damages, for declaratory relief or actions in equity for the enforcement of the terms hereof.

**3.5.2** The Agency may enforce the Declaration of Developer Restrictive Covenants in any judicial proceeding in any court of competent jurisdiction seeking any remedy cognizable at law or in equity, including injunctive relief, specific performance or any other form of relief against any Person violating or attempting to violate any term or condition of the Declaration of Developer Restrictive Covenants. The failure of the Agency to enforce any provision contained in the Declaration of Developer Restrictive Covenants shall in no event be deemed a waiver of such provision or of the right of the Agency to thereafter enforce such provision. The prevailing party in any such litigation shall be entitled to the award of court costs and reasonable attorneys' fees at both the trial and appellate levels, including mediation relating thereto.

**3.5.3** It is intended and the parties do hereby stipulate and agree that the Declaration of Developer Restrictive Covenants shall so expressly provide, that the covenants and restrictions provided for

therein, shall be covenants running with the land and that they shall, in any event and without regard to technical classification or designation, legal or otherwise, and except only as to otherwise specifically provided for therein, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the Agency against Developer. The Declaration of Developer Restrictive Covenants shall remain in full force and effect until the conditions for release have been satisfied. For the purposes of enforcement of the Declaration of Developer Restrictive Covenants, the parties stipulate and agree that a violation thereof constitutes an irreparable injury for which there is no adequate remedy at law.

#### ARTICLE 4 DISBURSEMENT OF AGENCY FUNDS

At Closing, Developer, Agency and Developer's Construction Lender or alternatively, a mutually acceptable escrow and disbursing agent, shall enter into a Funding Agreement setting forth the obligations of each party to disburse the Agency funds in accordance with a source and uses statement, schedule of values and construction budget. Notwithstanding any Construction Lender requirements, Agency Loan shall be disbursed after the Developer's equity contribution is fully exhausted and applied to the Project. The Agency Loan shall be used for Hard Costs only and such funding and disbursements shall be made pari passu with the Construction Lender. The Agency shall budget and appropriate legally available funds sufficient to fully fund the Agency Loan by Fiscal Year 2022/2023, beginning with fiscal year 2019/2020, as follow, subject to the approval as to form and substance by the CRA's General Counsel and City Auditor, as follows:

Fiscal Year- 2019/2020- \$1,000,000  
Fiscal Year- 2020/2021- \$3,000,000  
Fiscal Year- 2021/2022- \$3,500,000  
Fiscal Year- 2022/2023- \$4,500,000

Such obligations to annually appropriate and disburse the Agency Loan are subordinate to overhead and administrative costs related to operating and managing the Agency and current and future Agency debt and previously approved Agency projects. Neither this Agreement nor the obligations imposed upon the Agency hereunder shall be or constitute an indebtedness or general obligation of the Agency or other governmental authority within the meaning of any constitutional, statutory or charter provisions requiring the Agency or other governmental authority to levy ad valorem taxes nor a lien upon any properties or funds of the Agency or other governmental authority. The parties agree this Agreement is not intended to create debt of the Agency nor does this Agreement constitute an unconditional obligation to pay the Agency Loan. The agreement to budget and appropriate shall not constitute a lien, either legal or equitable, on any of the Agency's tax increment revenue or other revenue, nor shall it preclude the Agency

from pledging its tax increment revenue in the future and nor shall it give the Developer a prior claim to the revenue of the Agency.

Subject to reconciliation with any conflicts with the requirements of the Construction Lender, Developer, or its affiliates or other related third parties, agree to receive its Developer's fee (\$4,000,000) for this Project in stages. Ten Percent (10%) of the Developer's fee shall be paid at closing on the construction loan, sixty-five percent (65%) during construction (prorata over the total number of construction draws) and the balance shall be paid upon issuance of a Certificate of Occupancy for the entire Project. The CRA reserves the right to change the timing of payments upon review of the Construction Lender draw schedule and other relevant factors. Notwithstanding, the Agency Loan is not a source of payment for the Developer's fee.

## ARTICLE 5 PROJECT DEVELOPMENT PLAN

5.1 Project Development Plan. The Agency acknowledges that the Developer has prepared and completed a Project Development Plan for development of the Project on the Entire Site. Agency hereby approves the Project Development Plan, which is conceptual in nature, subject to the Vertical Improvements meeting the requirements of the ULDR for the City and such other laws, rules and regulations applicable to the Project and as otherwise provided for in this Agreement. Prior to the submission to the City of an application for the first building permit for the construction of the Vertical Improvements or for the first engineering permit for construction or installation of any infrastructure improvements, the Developer shall submit the final Plans and Specifications for the Vertical Improvements to the Contract Administrator for the Redevelopment Area for a determination that the Plans and Specifications are consistent with the Project Development Plan in effect at the time of such submission. Any such requests shall be acted upon by the Contract Administrator within fourteen (14) days of the submission of such request or the Plans and Specifications will be deemed to be consistent with the Project Development Plan by the Agency. If the Contract Administrator determines that the Plans and Specifications are not consistent with the Project Development Plan, the Developer will have thirty (30) days to resolve any objections of the Contract Administrator and to modify the Plans and Specifications as required by the Contract Administrator. If the Developer submit(s) modifications to the Plans and Specifications as required by the Contract Administrator, the Contract Administrator shall have ten (10) days to determine if such modifications sufficiently resolve the Contract Administrator's objections to the Plans and Specifications. If the Contract Administrator does not act on the modifications to the Plans and Specifications submitted to the Contract Administrator within the ten (10) day period, the submitted modifications to the Plans and Specifications will be deemed to be consistent with the Project Development Plan by the Agency. If the Developer and Contract Administrator cannot reach agreement upon any objections raised by the Contract Administrator upon

the initial or any subsequent submittal or modifications to the Plans and Specifications, then the Developer may appeal to the Executive Director of the Agency whose decision must not be unreasonably withheld, conditioned or delayed.

**5.2 Modification.** Any proposed modifications to the Project Development Plan, shall be submitted to the Contract Administrator for approval, which approval will not be unreasonably withheld. However, all modifications must substantially conform to the Project Development Plan and such modification must relate to impediments of the sites or other construction obstacles and not related to constructing less expensive or reducing the density of the Vertical Improvements unless otherwise approved by the Agency in its sole discretion. Any request for approval of a modification shall be acted upon by the Contract Administrator within fourteen (14) days of submission of such request or such request shall be deemed approved by the Agency. The Contract Administrator may approve, deny, or approve the proposed modifications subject to conditions. If the proposed modifications are approved or approved with conditions, the Developer will have thirty (30) days to include the conditions or changes in the Project Development Plan. If the Developer includes the changes, the revised modifications to the Project Development Plan will be resubmitted to the Contract Administrator, and if it is determined that the revised Project Development Plan conforms with the conditions requested, the Contract Administrator will shall approve such modifications. If the Contract Administrator does not act on the resubmitted modifications to the Project Development Plan within the ten (10) day period, the submitted modifications to the Project Development Plan will be deemed to be consistent with the Project Development Plan by the Agency. If the Developer and Contract Administrator cannot reach agreement upon any objections raised by the Contract Administrator upon the initial or any subsequent submittal or modifications to the Project Development Plan, then the Developer has the right to appeal to the Executive Director of the Agency whose decision must not be unreasonably withheld, conditioned or delayed.

**5.3 Zoning, Vacation of Streets, other Government Approvals.** The Developer acknowledges and agrees, to obtain or cause to be obtained at its own expense, all appropriate approvals, permits, subdivisions variances, rezonings, street vacations or waivers necessary under applicable law rules and regulations including building permits for construction of the Project as contemplated by this Agreement and as required by the applicable governmental authority. The Developer shall comply with all applicable zoning, subdivision, land use and/or environmental laws; provided that the foregoing shall not relieve the Developer of the obligation to pay water charges, pollution control charges and electrical service charges with respect to the Vertical Improvements, at their normal rates or levels. Nothing in this Agreement shall waive the City's police powers and obligations with respect to the review of development approval applications acting in its governmental and regulatory capacity.

**5.4 Permits.** All Improvements shall be constructed by the Developer pursuant to a building or engineering permit or permits, as applicable, issued by the City covering each such improvement. The Developer is responsible for obtaining all required permits for Improvements and/or connections as applicable and required from

any and all jurisdictional authorities.

**5.5 Approval by Other Governmental Agencies.** All Plans and Specifications must be approved by such other governmental agencies, whether state, local, or federal, that have jurisdiction and require approval of them. Plans and Specifications shall be prepared, construction of all Improvements shall be carried out and all obligations of the Developer as provided in this Agreement shall be carried out and use of the Project shall be in accordance with all applicable rules, laws, ordinances and governmental regulations of all governmental agencies having jurisdiction over such matters. The Developer is responsible for obtaining all required approvals as applicable and required from any and all jurisdictional authorities.

**5.6 Changes to Project Schedule.** If required, due to changes in the Project Development Plan, the Project Schedule shall be revised by Developer to reflect such changes to the Project Development Plan.

**5.7 Submission of Applications for Development Permit Approval.** It shall be the responsibility of Developer to obtain approval of the zoning, site plan, and the Plans and Specifications for the Improvements from the applicable departments within the City. In the event the City requires changes to the Project Development Plan and/or the Plans and Specifications so as to ensure the Project complies with applicable zoning, land use and/or building code requirements, which required changes are in conflict with any required changes or modifications required by the Agency through the review process set forth in Sections 5.1 and 5.2 above, the requirements of the City shall control and Developer shall be deemed to be in compliance with this Agreement notwithstanding any disagreement between the Agency and the City concerning such conflict. The Developer and the Agency expressly agree that the requirements of the City for obtaining all permits for the Project shall control any changes to the Project Development Plan and the Plans and Specifications.

**5.8 Submission of Project Documents.** During the course of constructing all Improvements, the Developer will, upon request, submit to the Agency copies of the following (herein collectively called "Project Documents"):

5.8.1 All soil test, engineering studies, feasibility studies, plans, specifications and related documents, studies, tests, plans and drawings concerning any item comprising the Improvements;

5.8.2 Preliminary plans and specifications for the Vertical Improvements, including but not limited to all civil, architectural, structural, mechanical, electrical and landscaping plans and specifications, soil borings and foundation plans;

5.8.3 Final Plans and Specifications, permits and related documents concerning the Improvements; and

5.8.4 Any revisions, corrections, amendments or supplements to any of the foregoing.

## **ARTICLE 6**

### **THE DEVELOPMENT**

6.1 **Scope of Development.** The Developer shall be responsible for arranging, managing, overseeing, coordinating and administering the development and construction of the Project subject to the terms and conditions provided in this Agreement. The Developer shall construct and develop, or cause to be constructed and developed, all Improvements which the Developer is obligated to construct and develop in accordance with the Project Schedule, and subject to the conditions established in this Agreement. The Developer shall assume responsibility for securing the necessary financing for completing the Project, including carrying costs, financing costs, marketing and promotional expenses.

6.2 **Authority of Agency to Monitor Compliance.** During all periods of design and construction, the Contract Administrator shall have the authority (at no cost to the Developer) to monitor compliance by the Developer with the provisions of this Agreement and the Project Development Plan. To that end, during the period of construction and without prior notice to the Developer, or any Contractor, representatives of the Agency shall have the right of access to the Project and the Entire Site and to every structure within the Project and on the Entire Site during normal construction hours. Agency monitoring of compliance shall not be in lieu of normal engineering or building inspections for any element or sub-element of the Improvements or connections as required by other jurisdictional authorities.

## **ARTICLE 7**

### **PROJECT SCHEDULE**

7.1 The Developer and the Agency staff have jointly prepared a Project Schedule setting forth specific dates for the performance of each party's respective obligations under this Agreement (herein called the "Project Schedule"). The Project Schedule is hereby approved by the Agency and the Developer. Subject to the terms of this Agreement, the Developer hereby agrees to undertake and complete the construction and development of the Project in accordance with this Agreement and the Project Schedule, and to use all Reasonable Efforts to comply with all of the obligations and abide by all the dates set forth therein. The Agency hereby agrees to complete those acts to be performed by the Agency within the dates set forth in the Project Schedule, and to use all Reasonable Efforts to cause those acts to be performed by the Agency within the dates established by the Project Schedule, and to otherwise comply with all of the obligations of the Agency and abide by all the dates set forth therein. The Project Schedule may be modified by Developer upon providing advance notice of such modification to the Agency for good cause, subject to approval by the Contract Administrator which approval will not be unreasonably withheld, conditioned or delayed. Any request for such approval shall be acted upon by the Contract Administrator within



fourteen (14) days of submission or such request shall be deemed approved by the Agency. In any event, construction and development of the Project shall be completed no later than thirty (30) months from the Commencement Date of this Agreement, provided however, the Agency may approve up to one (1) consecutive six (6) month extensions for such completion upon the written request of the Developer for good cause, which approval will not be unreasonably withheld. The Project Schedule will be extended for events constituting Force Majeure as provided in Section 15.6 hereof; including delays caused by the Agency.

7.2 Timing of Completion. Each part of the Project and the Project as a whole shall be completed by the dates set forth in the Project Schedule unless amended by the Parties hereto in writing.

## ARTICLE 8 ADDITIONAL CONDITIONS FOR PARTICIPATION

8.1 Other Documents. The Agency shall have received on or before the date of any disbursement hereunder such other documents or items as the Agency may reasonably request.

8.2 Compliance with Consultant's Competitive Negotiation Act. The Agency did not make the initial decision for construction of this Project nor does it control planning for the Project and will not use the Project. Finally, the architect or engineer will not be responsible to the Agency for administration of the construction documents. Further, none of the proceeds of the Agency Loan shall be used fund improvements (including Horizontal Improvements) in a public right of way.

8.3 Taxes and Other Charges. Upon acquiring title to the Entire Site, Developer must pay all ad valorem and non-ad valorem taxes and other governmental fees, charges or assessments that are related to the Entire Site or personalty situated thereon or operations conducted thereon. Developer shall pay all such taxes and other charges when due and before any fine, penalty, interest or other cost is added, becomes due, or is imposed by operation of law for nonpayment. These taxes and other charges include, but are not necessarily limited to the following:

8.3.1 All taxes, assessments, water, sewer, connection fees, garbage rates and charges, public utility charges, excise levies, licenses and permit and impact fees;

8.3.2 All such charges whether they are general or special, ordinary or extraordinary, foreseen or unforeseen, assessed, levied, confirmed or imposed upon the Entire Site or use thereof or improvements thereto or personalty situated thereon;

8.3 Contest. Nothing in this subsection shall require the payment of any such sum if the Developer promptly notifies the Agency and the City and by appropriate proceedings contests the same in good faith. Developer may contest the validity of any tax, tax claim, or charge or assessment, described herein without being in default for nonpayment of taxes under this Agreement, provided Developer complies with terms and conditions of this Section. Developer must give Agency written notice of Developer's intention to contest and Developer must also furnish Agency with a bond with surety by a surety company qualified to do business in the State of Florida or cash paid into escrow and held by Agency. The bond or cash must be in an amount equal to the amount of the taxes, claim, charge or assessment together with estimated penalties and interest being contested and must be conditioned upon payment of the taxes, claim, charge or assessment once the validity has been determined. Developer must give the written notice accompanied by evidence of the bond or escrow to Agency not later than sixty (60) days before the contested taxes would otherwise become delinquent.

## ARTICLE 9 INSURANCE

### 9.1 Insurance.

Developer agrees to provide the following insurances or include the following insurance requirements in any agreement it enters into with any Contractor performing construction work on the Premises, the following insurance and Developer further agrees to provide to Agency, prior to commencement of the improvements with respect to such contract, certificates of insurance evidencing the Contractor's compliance with the requirements of this Section.

Providing proof of and maintaining adequate insurance coverage are material obligations of the Developer. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the contractor shall not be interpreted as limiting the contractor's liability and obligations. 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.

The coverages, limits, and/or endorsements required herein protect the interests of the Agency, and these coverages, limits, and/or endorsements shall in no way be relied upon by the contractor for assessing the extent or determining appropriate types and limits of coverage to protect the contractor against any loss exposures. The requirements contained herein are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the contractor.

The following insurance policies and coverages are required:

#### Professional Liability

Coverage must be afforded for Wrongful Acts in an amount not less than \$2,000,000 each claim and \$2,000,000 aggregate.

Contractor must keep the professional liability insurance in force until the third anniversary of acceptance of work by Developer.

#### 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 Agency, 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 Agency, 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 \$1,000,000 combined single limit each accident.

#### 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.

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.

#### 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 the following coverage:

#### Contractor's Pollution Liability Coverage

For sudden and gradual occurrences and in an amount not less than \$5,000,000 per claim including but not limited to, all hazardous materials.

#### 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. This insurance shall remain in effect until the work is completed.

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

Coverage must be afforded per Chapter 440, Florida Statutes and be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

#### Insurance Certificate Requirements

- a. The Developer shall provide the Agency with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work.
- b. 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.
- c. The Agency shall be named as an Additional Insured on all liability policies, with the exception of Professional Liability, Business Auto Liability, and Workers' Compensation.
- d. The Agency shall be granted a Waiver of Subrogation on the contractor's Workers' Compensation insurance policy.
- e. The title of the project or other identifying reference must be listed on the Certificate of Insurance.

#### The Certificate Holder should read as follows:

Fort Lauderdale Community Redevelopment Agency  
914 Sistrunk Blvd., Suite 200  
Fort Lauderdale, FL 33311

If the contractor's primary insurance policy/policies do not meet the minimum requirements, the contractor may provide evidence of an Umbrella/Excess insurance policy to comply with these requirements.

The contractor's insurance coverage shall be primary insurance as respects to the Agency, its officials, employees, and volunteers. Any insurance or self-insurance

maintained by the Agency, its officials, employees, or volunteers shall be non-contributory.

It is the Developer's responsibility to ensure that any and all of the Developer's 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 the Developer.

#### Operation and Management of the Project.

During the term of this Agreement and after the Certificate of Occupancy is issued and during any renewal or extension term of this Agreement, the Developer, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Developer. The Developer shall provide the Agency a certificate of insurance evidencing such coverage. The Developer's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Developer shall not be interpreted as limiting the Developer's liability and obligations under this 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 Agency's Risk Manager.

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

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 Agency

This policy shall insure the interests of the Owner and Developer in the property against all risk of physical loss and damage and name the Agency as a loss payee.

The Developer shall, at the Developer's own expense, take all reasonable precautions to protect the Premises from damage or destruction.

#### Collection of Insurance

In the event of destruction of or damage to over fifty percent (50%) of any of the Premises or the buildings, other structures and Improvements covered by insurance, 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 Developer, 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 a good and workmanlike manner. 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 Developer.

#### 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 Agency, 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 Agency, its officials, employees, and volunteers.

#### Insurance Certificate Requirements

- f. The Developer shall provide the Agency with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Agreement.
- g. The Developer shall provide to the Agency a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- h. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Developer to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.

- i. In the event the Agreement term or any surviving obligation of the Developer following expiration or early termination of the Agreement goes beyond the expiration date of the insurance policy, the Developer shall provide the Agency with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect.
- j. 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.
- k. The Agency shall be named as an Additional Insured on the general liability policy.
- l. The title of the Agreement, Contract number, or other identifying reference must be listed on the Certificate of Insurance.

**The Certificate Holder should read as follows:**

Fort Lauderdale Community Redevelopment Agency  
914 Sistrunk Blvd., Suite 200  
Fort Lauderdale, FL 33311

The Developer 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 Agency as an Additional Insured shall be at the Developer's expense.

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

The Developer's insurance coverage shall be primary insurance as respects to the Agency, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the Agency, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by the Developer that excludes coverage required in this 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 Agency, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Developer must provide to the Agency confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Agency reserves the right to review, at any time, coverage forms and limits of Developer's insurance policies.

The Developer shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the Developer's insurance company or companies and the Agency's Risk Management office, as soon as practical.

It is the Developer's responsibility to ensure that any and all of the Developer's 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 the Developer.

9.2 Maintenance Costs. It is understood and agreed that Developer shall be responsible for all matters pertaining to the Project and all costs, fees, taxes, conditions or any other matter associated with the Project. The Developer shall maintain the Entire Site in a clean, sanitary and safe condition. No portion of the Entire Site shall be allowed to become or remain overgrown or unsightly nor be used or maintained as a dumping ground for rubbish. The Developer shall, at its own expense and subject to reasonable construction conditions and activities, keep the Entire Site in good and clean order and condition and will promptly make all necessary or appropriate repairs, replacements and renewals, thereof, whether interior or exterior, structural or non-structural, ordinary or extraordinary, foreseen or unforeseen. All repairs, replacements and renewals shall be equal in quality and class to the original work. When making such repairs, replacements and renewals, the Developer shall comply, if legally required, with all laws, ordinances, codes and regulations then applicable to the Project or Property.

9.3 Waste. The Developer shall not permit, commit or suffer waste or impairment of the Project or the Entire Site except as may be due to construction activity on the Entire Site.

## ARTICLE 10 REPRESENTATIONS AND WARRANTIES

10.1 Approval of Agreement. By the execution hereof:

10.1.1 The Agency represents that the execution and delivery hereof has been approved at a duly convened, properly noticed, meeting of the Agency and the same is binding upon and enforceable against the Agency in accordance with its terms.

10.1.2 The Developer represents that: (i) the execution and delivery hereof has been approved by all Persons whose approval is required; (ii) this Agreement is binding upon the Developer and enforceable against it in accordance with its terms; (iii) the Persons executing this Agreement on behalf of the Developer are duly authorized and are empowered to



execute the same for and on behalf the Developer; and (iv) each entity composing the Developer is duly authorized to transact business in this state and has received all necessary permits and authorizations required by appropriate governmental agencies as a condition to doing business in the State of Florida. The Developer represents to the Agency that the Developer Parcels does not contain any adverse environmental conditions that will prevent or adversely affect development of the Project thereon or the use of the Project as described in this Development Agreement.

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

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

- (1) requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted herein.
- (2) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on Developer, or
- (3) contravenes or results in any breach of, default under or, other than as contemplated by this Agreement, results in the creation of any lien or encumbrance upon any property of the Developer under any indenture, mortgage, deed of trust, bank loan or credit agreement, the Developer's Articles of Organization, or, any other agreement or instrument to which the Developer is a party or by which Developer may be bound.

10.1.5 This Agreement and, to the extent such documents presently exist in form accepted by the Agency and Developer, each document contemplated or required by this Agreement to which Developer is or will be a party constitutes, or when entered into will constitute, a legal, valid and binding obligation of Developer enforceable against Developer in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to

time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

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

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

10.1.8 Developer agrees that as of the Effective Date and through the expiration of the Completion Date it shall use its commercially reasonable efforts to maintain the financial capacity necessary to carry out its obligations and responsibilities in connection with the development of the Project as contemplated in this Agreement

10.1.9 The principal place of business and principal executive offices of Developer is in the Miami-Dade County, Florida.

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

10.1.11 The Developer holds all right, title and interest in the Entire Site free and clear of any liens, encumbrances and other adverse matters except as previously disclosed to the Agency.

#### **ARTICLE 11** **DEVELOPER DEFAULTS, REMEDIES, TERMINATION** **AND FURTHER RIGHTS**

11.1 **Event of Default.** The occurrence of any one or more of the following shall constitute an Event of Default by the Developer, hereunder:

11.1.1 If the Developer defaults in the performance of any

obligation imposed under this Agreement, Agency Documents or if the Developer fails to complete any item required to be completed under the Project Schedule, and further subject to Force Majeure as provided in Section 15.5 at the time called for therein, and the Developer does not Commence to cure such default within thirty (30) days after delivery of notice of such default from the Agency and diligently pursue such cure to completion within sixty (60) days after delivery of such notice; or

11.1.2 If any statement, representation or warranty made by the Developer herein or in any writing now or hereafter furnished in connection herewith shall be false or misleading in any material respect; or

11.1.3 If, (a) an order, judgment or decree is entered by any court of competent jurisdiction adjudicating the Developer bankrupt or insolvent, approving a petition seeking a reorganization or appointing a receiver, trustee or liquidator of the Developer or of all or a substantial part of its assets, or (b) there is otherwise commenced as to the Developer or any of its assets any proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment, receivership or similar law, and if such order, judgment, decree or proceeding continues unstayed for more than sixty (60) days after any stay thereof expires.

11.1.4 Developer fails to repay the Agency Non-Forgivable Loan or honor the covenants of the Declaration of Developer Restrictive Covenants.

11.1.5 Developer shall commit a default under the construction loan which remains uncured after the cure period has expired.

## 11.2 Remedies.

11.2.1 Upon the occurrence of any Event of Default hereunder by Developer the Agency, shall have the following non-exclusive rights: (i) to terminate the Agreement; (ii) to immediately enforce all of its rights under this Agreement; and (iii) to avail itself of any right or remedy it may have at law or in equity including the right of specific performance or injunctive relief, excluding the right to pursue consequential or punitive damages or (iv) withhold any and all disbursements of the Agency Loan.

## ARTICLE 12 AGENCY DEFAULTS, REMEDIES, TERMINATION

12.1 Event of Default. The occurrence of any one or more of the following shall constitute an Event of Default hereunder by the Agency.

12.1.1 The Agency defaults in the performance of any obligation imposed under this Agreement or if the Agency fails to complete any item required to be completed under the Project Schedule, and further subject to Force Majeure as provided in Section 15.5 at the time called for therein, and the Agency does not commence to cure such default within thirty (30) days after delivery of notice of such default from the Developer and diligently pursue such cure to completion within seventy-five (75) days after delivery of such notice.

12.1.2 Upon the occurrence of any Event of Default hereunder by Agency the Developer, shall have the right to terminate the Agreement and return any of the Agency Loan previously disbursed.

### ARTICLE 13

#### INTENTIONALLY OMITTED

### ARTICLE 14

#### ANTI-SPECULATION AND NON-TRANSFER PROVISIONS

14.1 Purpose. The Developer represents and agrees that their undertakings pursuant to this Agreement are for the purpose of developing the Project pursuant to this Agreement, and not for speculation in land holding. The Developer further recognizes, in view of the importance of the development of the Project to the general health and welfare of the City and redevelopment of the Redevelopment Area that the qualifications, financial strength and identity of the members and managers of the Developer are of particular concern to the Agency.

14.2 Assignment of Agreement; Limitation on Conveyance. Except as provided herein, the Developer agrees that it shall not without the prior written consent of the Agency, assign, transfer or convey this Agreement or any provision hereof to another party, unless such assignment is made to: (a) an Affiliate; (b) any firm or corporation which the Developer controls, is controlled by, or is under common control with Frank Guerra and Alberto Suarez, Anthony Seijas and Felipe Yalale; or (c) any partnership in which the Developer has a majority interest (collectively, "Related Company"), only after approval by the Agency.

14.3 Assignment of Sites; Limitation on Conveyance. Except as provided herein, the Developer agrees that it shall not without the prior written consent of the Agency assign, transfer or convey the Entire Site or any portion thereof to another party, unless such assignment is made to: (a) an Affiliate; (b) any firm or corporation which the Developer controls, is controlled by, or is under common control with Frank Guerra and Alberto Suarez, Anthony Seijas and Felipe Yalale; or (c) any partnership in which the Developer has a majority interest (collectively, "Related Company"), only after approval by the Agency.

#### **14.4 Composition of Developer.**

**14.4.1** On the date this Agreement is executed by Developer, Developer is made up of the following members and each has control and ownership of the Developer and corporate members as follows:

##### **Developer:**

**Percentage Interest**

**Name**

100%

BOZ AC Adderley LLC ("BOZ AC")

##### **Developer Member**

**Percentage Interest**

**Name**

80%

BOZ V-F Holdings LLC ("Boz")

20%

Altis Cardinal Adderley Fund, LLC  
("Adderley Fund")

##### **BOZ Member**

**Percentage Interest**

**Name**

TBD

Bridge Opportunity Zone Fund V LP,  
("Fund")

##### **Fund Member**

**Percentage Interest**

**Name**

TBD

Bridge Opportunity Zone Fund V GP  
LLC ("Opportunity")

##### **Adderley Fund Member**

**Percentage Interest**

**Name**

TBD

Altis Cardinal Living LLC Member

**14.4.2** Except as otherwise permitted under Sections 14.2 and 14.3, no person listed in Article 14.4.1 may transfer, all or part thereof, of its interest in the Developer without the prior written consent of the Contract Administrator. Any such transfer in violation of this provision shall be null and void. A transfer as a result of a merger of the Developer that results in the Developer controlling the merging entity after such merger shall not be prohibited by any provision of this Agreement. The Developer represents that BOZ, BOZ-AC, the Fund and Opportunity are passive investors under the Opportunity Zone tax credit program as regulated by the Internal Revenue Service and are providing the equity investment to partially fund construction of this Project. Control over the construction, operation and management of the Project is retained and held by Frank Guerra, Felipe Yalale, Anthony Seijas and Alberto J. Suarez by and through BOZ-AC, and Adderley Fund and Altis Cardinal

Living LLC. Prior to and as a condition to closing on the Agency Funds, the Developer shall verify the names of the members of the Developer, BOZ, BOZ-AC, Adderley Fund, Fund, Opportunity and Altis Cardinal Living LLC and whether the entities are member-managed or manager-managed. If manager-managed, then the Developer or its counsel shall verify the authority that has been delegated to Frank Guerra, Alberto J. Suarez, Anthony Seijas and Felipe Yalale to control the construction, operation, and management of the Project. The prohibition against transfers, sales or conveyance of an interest in the Project, this Agreement or in the Developer is not intended to apply to passive investors who are solely seeking a return on their investment but are not holding themselves out as having the skill, experience and expertise to construct, operate and manage a Project of this scope, size and scale.

## ARTICLE 15 GENERAL PROVISIONS

15.1 Non-liability of Agency Officials. No member, official or employee of the Agency shall be personally liable to the Developer, Contractor or to any Person with whom the Developer, or any Contractor shall have entered into any contract, or to any other Person in the event of a default or breach by the Agency or for any amount which may become due to the Developer, or any other Person under the terms of this Agreement.

15.2 Inspection of Books and Records. The Agency shall have the right at all reasonable times to inspect the books and records of the Developer pertaining to the performance by it of its obligations under this Agreement. Agency shall have the right to audit the books, records, and accounts of Developer that are related to this Agreement. Developer shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement in accordance with generally accepted accounting practices and standards. All books, records, and accounts of Developer 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, Developer shall make same available at no cost to Agency in written form.

Developer shall preserve and make available, at reasonable times for examination and audit by Agency in Broward County, Florida, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida public records law, Chapter 119, Florida Statutes, as 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 termination of this Agreement. If any audit, litigation or other action has been initiated and has 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, litigation or other action. If the Florida public records law is determined by Agency to be applicable, Developer shall comply with all requirements thereof. Any incomplete or

incorrect entry in such books, records, and accounts shall be a basis for Agency's disallowance and recovery of any payment upon such entry.

**15.3 Public Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records, if any. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Chapter 119, Florida Statutes, as same may be amended from time to time and any resultant award of attorney's fees for non-compliance with that law.

To the extent applicable, Developer and all contractors or subcontractors (the "**Contractor**") engaging in services in connection with construction and/or maintenance of the Project shall:

**15.3.1** Keep and maintain public records that ordinarily and necessarily would be required by Agency in order to perform the services rendered.

**15.3.2** Upon request from Agency's custodian of public records, provide Agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2016), as may be amended or revised, or as otherwise provided by law.

**15.3.3** Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law and as to Developer for the duration of the Agreement and as to Contractor for the duration of the contract term and following completion of said contract if Contractor does not transfer the records to Agency.

**15.3.4** To the extent applicable, upon completion of said construction or maintenance at the Project, transfer, at no cost, to Agency all public records in possession of Developer or Contractor or keep and maintain public records required by Agency to perform the service. If Contractor transfers all public records to Agency upon completion of the Project, Developer and Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Developer or Contractor keeps and maintains public records upon completion of the Project, Developer and Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Agency, upon request from Agency's custodian of public records, in a format that is compatible with the information technology systems of Agency.

**If Developer or any contractor has questions regarding the application of Chapter 119, Florida Statutes, to Developer or**

**Contractor's duty to provide public records relating to its contract, contact the Agency's custodian of public records by telephone at 954-828-5002 or by e-mail at PRRCONTRACT@FORTLAUDERDALE.GOV or by mail at 100 North Andrews Avenue, Fort Lauderdale, FL 33301 Attention: Custodian of Public Records.**

15.4 Approval. Unless a different standard is expressly stated, whenever this Agreement requires the Agency or the Developer to approve any contract, document, plan, specification, drawing or other matter, such approval shall not be unreasonably withheld, delayed or conditioned. The Developer and the Agency shall perform all obligations imposed upon them under this Agreement in a reasonable and timely fashion.

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

15.6 Notices. All notices to be given hereunder shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, or delivered by an air courier service utilizing return receipts to the parties at the following addresses (or to such other or further addresses as the parties may designate by like notice similarly sent) and such notices shall be deemed given and received for all purposes under this Agreement three (3) business days after the date same are deposited in the United States mail, if sent by registered or certified mail, or the date actually received if sent by personal delivery or air courier service, except that notice of a change in address shall be effective only upon receipt.

If to the Agency:

Executive Director  
Fort Lauderdale Community Redevelopment Agency  
914 Sistrunk Blvd., Suite 200  
Fort Lauderdale, FL 33311

If to the Developer:

Frank Guerra or  
Alberto Suarez  
West Village LLC  
901 Ponce de Leon Blvd



Coral Gables, FL 33134  
Telephone no. 786-539-4949

**15.7 Time.** Time is of the essence in the performance by any party of its obligations hereunder.

**15.8 Entire Agreement.** This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior negotiations and agreements between them with respect to all or any of the matters contained herein.

**15.9 Amendment.** This Agreement may be amended by the parties hereto only upon the execution of a written amendment or modification signed by the parties.

**15.10 Waivers.** All waivers, amendments or modifications of this Agreement must be in writing and signed by all parties hereto. Any failures or delays by any party in asserting any of its rights and remedies as to any default shall not constitute a waiver of any other default or of any such rights or remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties hereto are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, or any other rights or remedies for the same default or other default by any other party.

**15.11 Assignment.** Except as provided in Section 14.2, this Agreement and the rights, duties, obligations and privileges of the parties herein are non-assignable and any purported assignment shall be void and of no force and effect and shall constitute a default of this Agreement. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

**15.12 Indemnification.** Developer agrees to protect, defend, indemnify and hold harmless the Agency, and its officers, employees and agents, from and against any and all lawsuits, penalties, claims, damages, settlements, judgments, decrees, costs, charges and other expenses or liabilities of every kind, sort or description including, but not limited to, attorneys' fees at both the trial and appellate levels, in connection with or arising, directly or indirectly, out of or resulting from this Agreement or the Developer's acts or omissions in performing its obligations under this Agreement or arising out of or in connection with any negligent act or omissions of the Developer, its agents, employees or assigns while performing the duties and obligations required by this Agreement. Without limiting the foregoing, any and all such claims, relating to personal injury, bodily injury, death, damage to property, defects in material or workmanship, actual or alleged infringement or any patent, trademark, copyright or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance administrative order, rule or regulation or decree of any court, are included in the indemnity. The Developer further agrees 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(s) is groundless, false or fraudulent. However, the Agency reserves the right to select counsel of its own choosing. Notwithstanding anything set forth in this Agreement to the contrary, in no event shall Developer be obligated to protect, defend, indemnify or hold harmless the Agency, or its officers, employees and agents, from and against any lawsuits, penalties, claims, damages, settlements, judgments, decrees, costs, charges and other expenses or liabilities of every kind, sort or description including, but not limited to, attorneys' fees at both the trial and appellate levels, in connection with the gross negligence of the Agency, its officers, employees or agents, acting during the course and scope of their employment. This provision shall survive the expiration or termination of this Agreement and is not limited by the amount of insurance coverage. It is understood and agreed that neither party to this Agreement waives any immunity it may have as provided by law.

15.13 Severability. The invalidity, illegality or unenforceability of any one or more of the provisions of this Agreement shall not affect any other provision of this Agreement, but this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

15.14 Contingent Fee. The Developer represents and warrants that they have not employed or retained any Person to solicit or secure this Agreement and that they have not paid or agreed or promised to pay any Person any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the execution of this Agreement.

15.15 Independent Contractor. In the performance of this Agreement, the Developer will be acting in the capacity of independent contractor and not as an agent, employee, partner, developer or association of the Agency. The Developer and Contractor, if any, employees or agents shall be solely responsible for the means, method, technique, sequences and procedures utilized by the Developer in the construction of the Vertical Improvements and in its performance under this Agreement.

15.16 Non-merger. None of the terms, covenants, agreements or conditions set forth in this Agreement shall be deemed to be merged with any deed conveying title to the Property.

15.17 Not A General Obligation. Neither this Agreement nor the obligations imposed upon the Agency hereunder shall be or constitute an indebtedness or general obligation of the City, within the meaning of any constitutional, statutory or charter provisions requiring the City to levy ad valorem taxes nor a lien upon any properties of the City. Nothing herein shall be deemed a pledge of tax increment revenue of the Agency or a grant of the right of the Developer, or its successors and/or assigns to encumber the Agency's trust fund. Further, the obligations of the Agency are subordinate to use of funds for the overhead and administrative cost to operate the Agency and any payments for existing debt of the Agency.

15.18 Agreement Not a Development Agreement or Order. This Agreement is

not, and shall not be construed to be, a development agreement as that term is defined by Section 163.3220, Florida Statutes, et seq. and none of the provisions of Florida law applicable to development agreements pursuant to that statute or related statutes shall apply to this Agreement. No permit or order issued pursuant to, or affected by, this Agreement shall be deemed to be a development permit or development order as those terms are defined in Chapter 380, Florida Statutes, or Chapter 163, Part II, Florida Statutes.

**15.19 Parties to Agreement.** This is an agreement solely between the Agency, and the Developer. The execution and delivery hereof shall not be deemed to confer any rights or privileges on any Person not a party hereto other than the successors or assigns of the Agency and the Developer.

**15.20 Venue: Applicable Law.** All legal actions arising out of or connected with this Agreement must be instituted in the Circuit Court of Broward County, Florida, or United States District Court for the Southern District of Florida. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement.

**15.21 Timing of Approvals.** Unless specifically provided otherwise, the Agency, shall have a period of not more than twenty (20) days from the date of submission of any item under this Agreement (not including development permit or building permit approvals) to take any action or give its approval or denial, or make a request for additional information. The failure of the Agency to take any such action or give such approval or denial or request additional information within such period of time shall be deemed approval, subject, however, to applicable law.

**15.22 Authorized Representative.** The person or persons designated and appointed from time to time as such by the Agency in writing is authorized to represent the Agency in administrative matters as opposed to policy matters.

**15.23 "As-Is Conveyance.** "Developer acknowledges that prior to the Effective Date hereof it has performed sufficient inspections of the Entire Site in order to fully assess and make itself aware of the condition of the Entire Site. Developer acquired the Agency Parcels in its "AS IS" condition. Developer acknowledges that the Agency has made no other representations or warranties as to the condition or status of the Entire Site and that Developer is not relying on any representations or warranties of the Agency or any broker(s), of agent of Agency in acquiring the Entire Site. Developer acknowledges that neither Agency nor any agent or employee of Agency 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 with respect to:

15.23.1 The nature, quality or condition of the Entire Site, including, without limitation, the water, soil and geology;

15.23.2 The suitability of the Entire Site for any and all activities and uses which Developer may conduct thereon;

15.23.3 The compliance of or by the Entire Site or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body;

15.23.4 The habitability, merchantability or fitness for a particular purpose of the Entire site; or

15.23.5 Any other matter with respect to the Entire Site.

Without limiting the foregoing, Agency does not and has not made and specifically disclaims any other representation or warranty regarding the presence or absence of any hazardous substances, at, on, under or about the Entire Site or the compliance or non-compliance of the Entire Site with any laws, rules, regulations or orders regarding hazardous substances laws. Hazardous substances shall also include Radon Gas. Developer further acknowledges that neither Agency nor any agent of Agency has provided any representation or warranty with respect to the existence of asbestos or other hazardous substances on the Entire Site. Accordingly, the physical condition of the Entire Site and compliance with all applicable laws, statutes, ordinances or regulations with respect to the physical condition of the Entire Site shall be the sole responsibility and obligation of Developer.

15.24 Discrimination. The Developer shall not discriminate against any person, or group of persons, on account of race, color, creed, sex, age, religion, national origin, marital status, handicap, having children or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of all or any part of the Vertical Improvements or in the design and construction of any infrastructure improvements.

15.25 Scrutinized Companies. Developer certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2018), as may be amended or revised, and that it is not engaged in a boycott of Israel.

15.26. Public Entity Crime.

15.26.1 Developer represents that the execution of this Agreement will not violate the Public Entity Crime Act, Section 287.133, Florida Statutes, as may be amended from time to time, which essentially provides that a person or affiliate who is a contractor, consultant, or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to Agency, may not submit a bid on a contract with Agency for the construction or repair of a public building or public work, may not submit bids on leases of real property to Agency, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with Agency, and may not transact any business with Agency in excess of the threshold amount provided in Section 287.017, Florida Statutes, as may be amended from time to time, for Category Two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this

Agreement and recovery of all monies paid by Agency pursuant to this Agreement and may result in debarment from Agency's competitive procurement activities.

15.26.2 In addition to the foregoing, Developer further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Developer has been placed on the convicted vendor list.

15.27. Sunset of the Agency. Notwithstanding anything herein to the contrary, the Agency shall have no obligation to provide Agency Loan after its sunset date of November 7, 2025.

15.28 Best Efforts. Developer will use its best efforts to work with the Agency to notify local business firms, minority owned firms, women-owned firms or labor surplus area firms of the opportunity to submit bids for construction work on the Project, with the goal of achieving a minimum 30% participation for minorities. Further, Developer shall use its best efforts to hire local business firms, minority owned firms, women owned firms for the operation and management of the residential and commercial uses within the Project and shall provide annual reports, in form, substance and content, acceptable to the Agency and its successors and/or assigns.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, this Agreement is executed the day and year set forth below.

WITNESSES:

FORT LAUDERDALE COMMUNITY  
REDEVELOPMENT AGENCY, a special  
district created pursuant to Chapter 163, Part  
III, Florida Statutes

Donna Varisco  
Donna Varisco  
Print Name

Al Boileau  
Al Boileau  
Print Name

By [Signature]  
Christopher J. Lagerbloom, ICMA-CM  
Executive Director

Date: May 20, 2022

ATTEST:

Approved as to form:  
Alain E. Boileau, General Counsel

[Signature]  
David R. Soloman, CRA Secretary



[Signature]  
Lynn Solomon, Assistant General Counsel

WITNESSES:

WEST VILLAGE, LLC, a Florida  
limited liability company

[Signature]

MICHELLE DELGADILLO  
Print Name

[Signature]  
Julie de Llano  
Print Name

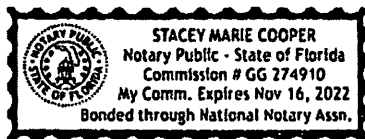
By [Signature]  
Felix Zole  
Manager

By [Signature]  
Felix Zole  
Manager

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this  
May 20, 2022, by \_\_\_\_\_ and \_\_\_\_\_, each as  
Manager of WEST VILLAGE, LLC., a Florida limited liability company, on behalf of the  
company by means of ☐ physical presence or ☐ online notarization. He is personally  
known to me or has produced  
\_\_\_\_\_ as identification.

(SEAL)



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

Stacey M. Cooper  
Name of Notary Typed, Printed  
Or Stamped

My Commission Expires: 11-16-22

GG 274910  
Commission Number





COMMISSION AGENDA ITEM  
DOCUMENT ROUTING FORM  
Today's Date: 5.20.22

**RUSH**

DOCUMENT TITLE: West Village/Adderley- Development Agreement

COMM. MTG. DATE 10/5/2021 CAM #: 21-0959 ITEM #: R-1 CAM attached: ☒ YES ☐ NO

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

CIP FUNDED: ☐ YES ☐ NO

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

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

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

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

Date to CCO: 5.20.22

Lynn Solomon  
Attorney's Name

LS  
Initials

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

4) City Manager's Office: CMO LOG #: May 51 Document received from: \_\_\_\_\_

Assigned to: CHRIS LAGERBLOOM ☐ TARLESHA SMITH ☐ GREG CHAVARRIA ☐  
CHRIS LAGERBLOOM as CRA Executive Director ☐

☐ APPROVED FOR C. LAGERBLOOM'S SIGNATURE ☐ N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: T. Smith (Initial/Date) PER ACM: G. Chavarria (Initial/Date)

☐ PENDING APPROVAL (See comments below)

Comments/Questions: \_\_\_\_\_

Forward 1 originals to ☐ Mayor ☒ CCO Date: 5.20.22

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

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

7) CAO forwards \_\_\_\_\_ originals to CCO Date: \_\_\_\_\_

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

Attach \_\_\_\_\_ certified Reso# \_\_\_\_\_ ☐ YES ☐ NO

Original Route form to: Erica K./6088