

**DEVELOPMENT AGREEMENT
FOR
DEVELOPMENT INCENTIVE PROGRAM
(COMFORT SUITES HOTEL)**

between

**FORT LAUDERDALE
COMMUNITY REDEVELOPMENT AGENCY**

And

**AVENUE D'ARTS FLL, LLC
a Florida Limited Liability Company**

**DEVELOPMENT AGREEMENT
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(COMFORT SUITES HOTEL)**

This DEVELOPMENT AGREEMENT FOR DEVELOPMENT INCENTIVE PROGRAM (the "Agreement") is by and between the **FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY**, a public body corporate and politic of the State of Florida created pursuant to Part III, Chapter 163, Florida Statutes (the "Agency") and **AVENUE D' ARTS FLL, LLC**, a Florida Limited Liability Company ("Developer") with the joinder and consent of Franchise Holder, Sameet A. Patel, individually and Impact Investments, 1, LLC (as the owner of the Developer Parcels (defined below).

WITNESSETH:

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

WHEREAS, the Northwest-Progresso-Flagler Heights Plan ("Redevelopment Plan") was adopted on November 7, 1995, and subsequently amended in 2001, 2002, 2013, 2016, 2018 and as subsequently amended and provides for redevelopment of the Northwest-Progresso-Flagler Heights Area (the "Redevelopment Area");

WHEREAS, the Agency, pursuant to the Redevelopment Plan, has created certain business incentive programs to stimulate redevelopment within the Redevelopment Area including the Development Incentive Program (the "Programs");

WHEREAS, the Developer, pursuant to the terms of the Programs, has applied for funding in the amount of \$3,000,000 to support construction of a five story, 100 room hotel within the Redevelopment Area under the Comfort Suites trademark and trade name with supporting amenities and parking located at 713, 717 and 723 NW 3rd Street and 301 NW 7th Avenue, Fort Lauderdale, Fl (the "Project");

WHEREAS, on August 2, 2018, the Agency issued a Request for Proposal to develop the real property located at 713, 717 and 723 NW 3rd Street, Fort Lauderdale, Florida ("Agency Parcel");

WHEREAS, the only the Developer responded to the request and offered to pay \$355,000.00 for the Agency Parcel with the intent to construct the Project on the Agency Parcel together with contiguous parcels owned by the Developer;

WHEREAS, on February 21, 2019, the Agency's Northwest-Progresso-Flagler Heights Advisory Board (the "Advisory Board") approved the Developer's funding request for the Project and sale of the Agency Parcel;

WHEREAS, on May 21, 2019, under Resolution No. 19-07 (CRA), after review of the

Developer's Proposal (as hereinafter defined), the Agency accepted Developer's Proposal as being in the public interest and in furtherance of the goals, objectives and provisions of the Redevelopment Plan, approved an award of \$3,000,000 ("Grant" or "Grant Award") for the Project and authorized negotiation of a development agreement between the Agency and Developer setting forth the terms and conditions for the funding and development of the Project and authorized sale of the Agency Parcel subject to the terms and conditions of the Commercial Contract and Addendum;

WHEREAS, as of May 29, 2019, the Agency and Developer entered into the Development Program Loan Letter of Intent and Commercial Contract and Addendum;

WHEREAS, the parties desire to amend the terms and condition of the award and Commercial Contract and Addendum in accordance with Resolution No. 22-04(CRA), Resolution No. 22-13(CRA) and Resolution 19-07(CRA), as amended and move forward with execution of this Development Agreement and Commercial Contract as amended by that Second Addendum to Commercial Contract;

WHEREAS, the Agency and Developer have entered into and concluded negotiations for the Project pursuant to the Development Incentive Program, which negotiations have resulted in this Agreement;

WHEREAS, the Principals (defined below) of Developer have approved this Agreement and have authorized and directed certain individuals to execute this Agreement on behalf of Developer.

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

ARTICLE 1. DEFINITIONS

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

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

"Affiliate (s)" means any trust, firm, partnership, corporation, joint venture, association, company, or other legal or business entity or investment enterprise that is controlled. by, whether directly or indirectly, by Developer where control means control over the management and voting of the Affiliate.

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

“Agency Parcel” means the real property located at 713, 717 and 723 NW 3rd Street, Fort Lauderdale, Florida and legally described in Exhibit “A”.

“Agreement” means this Development Agreement for the Development Incentive Program, including any Exhibits, and any amendments hereto or thereto.

“Arbitrable Event” shall mean a dispute or disagreement between the parties concerning the occurrence or non-occurrence of any event or whether a set of facts meets criteria set forth in this Agreement, which such dispute or disagreement shall be resolvable by resort to arbitration under Article 13 hereof.

“Authorized Representative” means the Executive Director or his designee, as to the Agency and Minesh Patel or his designee, as to the Developer, and person or persons designated and appointed from time to time as such by the Agency or the Developer pursuant to Section 2.04.

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

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

“Certificate of Completion” means a certificate of completion or certificate of occupancy issued by the City or other appropriate governmental authority for the Project.

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

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

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

“Closing Date” means the date, on which the Grant Documents have been executed and delivered by the Developer, an agreement in recordable form has been received from the first mortgage holder consenting to a second mortgage and security agreement in favor of the Agency. Closing Date on the Agency Parcel shall occur as provided in the Commercial Contract as amended and

subject to the reservation of rights as set forth herein and in the Commercial Contract as amended. The instrument of conveyance shall provide in the event the Developer fails to develop the Project and sells, conveys or transfer the Agency Parcel or if Minesh Patel or Samuel Patel sells or conveys or transfer its interest in the Developer, then the Agency shall receive fifty percent (50%) of the gross profit (Total consideration paid) from the sale or transfer of the Agency Parcel without credit, setoff or deduction for closing costs associated with the transfer but less the net consideration paid to the Agency under the Commercial Contract for the Agency Parcel. Further, Closing Date for the Grant award shall occur no later than twelve (12) months from the date (June 7, 2022) the Agency approves the revised terms and conditions to the Grant award;

“Commencement Date” means the date on which the Developer commences construction of the Project as evidenced by issuance of a Permit but in any event no later than one (1) month after the Closing Date.

“Completion Date” means the date on which a Certificate of Completion is issued by the appropriate governmental authority for the Project, the Project is substantially open for business as a Comfort Suites Hotel or comparable hotel with the same industry standard rating or better and renting rooms to the public, and the Developer is eligible for the commencement of the Development Incentive Program as set forth in Section 5.02. The Completion Date shall be no later than eighteen (18) months after the Commencement Date, unless otherwise extended by the Executive Director, in his sole discretion, due to Unavoidable Delays.

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

“Developer” means Avenue D’Arts FLL, LLC, a Florida limited liability company and successors and/or assigns approved by the Agency in accordance with the provisions of Article 10 hereof.

“Developer Parcel” means the real property owned by Impact Investments, 1 LLC and located on 301 NW 7th Avenue, Fort Lauderdale, Fl and legally described on Exhibit “B”.

“Development Incentive Program Loan” or “Grant” means a forgivable loan in an amount not to exceed Three Million Dollars (\$3,000,000.00), which shall accrue interest at zero percent (0%), except in the event of default, provided by the Agency pursuant to this Development Agreement and Grant Documents to reimburse the Developer for eligible hard costs associated with construction of a building and permanently attached fixtures/systems, which loan shall be forgivable at the end of five (5) years starting from the Completion Date, subject to satisfaction of the terms and conditions set forth herein.

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

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

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

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

“Franchise Agreement” means that Choice Hotels International, Inc., Franchise Agreement dated September 29, 2017 by and between Choice Hotels International, Inc. and Sameet A. Patel, individually.

“Full Time Equivalent (FTE) Job Hours ” means each and every non-construction hour for all full or part time employees hired by the Developer, its Affiliates for the Project for which an employee is paid or entitled to be paid according to the Developer’s normal business practice including training, vacation, paid time off, holiday, illness, incapacity (including disability, layoff, jury duty, maternity leave, bereavement, military duty or leave of absence).

“Grant Documents” mean this Development Agreement for Development Incentive Program Grant, Mortgage and Security Agreement, Promissory Note, Declaration of Restrictive Covenant (the forms of the Promissory Note, Mortgage and Security Agreement and Declaration of Restrictive Covenant are attached hereto as Exhibit “C”), an agreement in recordable form from the first mortgage holder, if necessary, consenting to a second mortgage and security agreement in favor of the Agency, and such other reasonable documents or instruments contemplated by this transaction or requested by Agency.

“Grant Eligibility Period” means a term of five (5) years starting from the Completion Date.

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

“Job Creation Requirement” means non-construction workforce of the Project hired from residents within the Redevelopment Area which total 20,800 FTE Job Hours. FTE Job Hours for one employee is calculated by multiplying a forty (40) hour work week by fifty-two (52) weeks by two (2) years. On the Completion Date, the Developer shall certify in writing in form and substance acceptable to the Agency its total non-construction workforce (i.e. employees) for the Project and shall certify such data on each anniversary date thereafter during the Grant Eligibility Period. In no event shall any construction jobs or construction related jobs which are solely related to construction or renovation of the Project be included in the calculation of Full Time Equivalent (FTE) Job Hours under this Agreement.

“Jobs Report” shall have the meaning set forth in Section 7.02.

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

“NWPFH” means the Northwest-Progresso-Flagler Heights Community Redevelopment Area.

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

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

“Principals” means Minesh Patel and Sameet A. Patel, holder of the rights to the brand mark and trade name.

“Project” shall have the meaning set forth in the fourth WHEREAS.

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

“Proposal” means the proposal for development of the Project Site presented by Developer to the Agency’s Advisory Board on February 21, 2019.

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

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

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

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

“Soft Costs” means those costs associated with the development and construction of the Project which are not Hard Costs, including, without limitation, surveying, architectural and engineering fees, provided that “Soft Costs” shall not include developer fees, general overhead charges or other similar fees payable to Developer, Affiliates of the Developer or other Persons.

“Termination Date” means the date on which any party terminates this Agreement as provided in Article 10.

“Unavoidable Delay” means any of the following events or conditions or any combination thereof: Acts of God, acts of a public enemy, riot, insurrection, war, act of terrorism, pestilence, archaeological excavations required by law, unavailability of materials after timely ordering of

same, epidemics, pandemics, quarantine restrictions, freight embargoes, fire, lightning, hurricanes, earthquakes, tornadoes, floods, inclement weather (as indicated by the records of the local weather bureau for a ten (10) year period preceding the Effective Date), exercise of the power of condemnation as to a portion of the Project Site bearing a material relationship to the improvements to be constructed, strikes or labor disturbances, any of which shall be beyond the reasonable control of the party performing the obligation, adverse economic conditions, delays due to proceedings under Chapters 73 and 74, Florida Statutes, restoration in connection with any of the foregoing or any other cause beyond the reasonable control of the party performing the obligation in question, including, without limitation, such causes as may arise from the act of the other party to this Agreement, or acts of or failure to act by any governmental authority, which such event(s) or condition(s) or any combination(s) thereof substantially frustrate on a commercially reasonable basis the performance contemplated by this Agreement. Lack of funding or failure to secure funding shall not be deemed an Unavoidable Delay.

1.02 Use of Words and Phrases.

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

ARTICLE 2. PURPOSE PROPOSAL; PROJECT DEVELOPMENT SCHEDULE

2.01 Purpose of Agreement.

(a) The purpose of this Agreement is to set forth the agreement between the Agency and Developer for the terms and conditions of the Grant and the development of the Project and to set forth mutual roles and responsibilities of each. It is also to further the implementation of the Redevelopment Plan by providing for the development and construction of the Project on the Project Site in accordance with the conceptual site plan and the Final Site Plan, as approved by the City.

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

2.02 Developer's Proposal.

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

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

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

2.03 Cooperation of the Parties.

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

2.04 Authorized Representative.

(a) The Agency has designated the Executive Director as its Authorized Representative to act on its behalf to the extent of the grant of authority to such representative. The Developer has designated Minesh Patel as its Authorized Representative to act on its behalf. Written notice of the designation of such an Authorized Representative (and any subsequent change in the Authorized Representative) and the authority that may be exercised by such Authorized Representative, shall be given by the designating party to the other party in writing in accordance with the procedure set forth in Section 14.01 hereof.

(b) Except as otherwise expressly provided in this Agreement, whenever approval or action by the Developer or the Agency is required by this Agreement, such action or approval may, to the extent of authorization granted, be taken or given by the Authorized Representative thereof. Subject to any limitation of authority set forth in the written notice, a party to this Agreement may rely upon the representation of the other party's Authorized Representative that such person has the requisite authority to give the approval or take the action being done by that Authorized Representative.

ARTICLE 3. PROJECT SITE.

3.01 Conceptual Site Plan and Final Site Plan.

Agency acknowledges that Developer has prepared and completed the Conceptual Site Plan that was submitted to and approved by the Advisory Board. The Development Review Committee of the City approved the Site Plan on August 27, 2019 and the City Commission approved a heights bonus on November 5, 2020 under Resolution No. 20-225 (the "Final Site Plan").

3.02 Preparation of Conceptual and Final Site Plan.

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

3.03 Approval of Final Site Plan by Executive Director.

(a) The Final Site Plan shall be approved by the Executive Director of the Agency without further review or approval of the Agency.

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

3.04 Not a Development Order or Permit

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

ARTICLE 4. PROJECT FUNDING

4.01 Development Incentive Program Grant.

The Agency agrees, and the Grant Documents shall provide, as follows:
Subject to the conditions set forth herein, the Agency agrees to grant to Developer up to Three Million Dollars (\$3,000,000) in accordance with the terms of this Agreement and in accordance with the policy of the Agency’s Development Incentive Program, to reimburse the Developer for Hard Costs associated with constructing the improvements to the Project Site. Developer shall use its own funds, funds obtained from construction financing, funds from other financing sources or equity contributions for the amount needed to design, develop, construct, own, operate and maintain the Project as contemplated by this Agreement. To support its request for reimbursement for eligible construction costs, Developer shall provide (i) invoices from its Contractor, Major Subcontractor, subcontractor, materialman or vendor for material or services paid for by the Developer and (ii) proof of payment of such costs in the form of cancelled checks paid by the Developer or wire transfers from accounts controlled by the Developer, copies of construction draw requests submitted by the Developer or General Contractor submitted to its construction lender or other documentation showing proof of payment. The Developer shall submit sufficient information to support its request for reimbursement of Hard Costs and to document its investment or equity match equal to or greater than the Agency Grant at the time application for funding for reimbursement of Hard Costs is submitted.

4.02 Disbursement of Grant Proceeds.

Provided the Developer provides satisfactory proof of payment for eligible Hard Costs and expenses under the Development Incentive Program related to the Project, the Grant shall be disbursed as set forth below. No disbursement shall be made until after the Completion Date and all preconditions for funding have been satisfied or waived in writing by the Agency. No

disbursement shall be made if an Event of Default has been declared under this Agreement. Funding for this Project is subordinate to and subject to funding for operating and administrative costs of the Agency and the debt, hereafter existing or subsequently incurred, of the Agency and will be funded on an equal basis with other obligations of the Agency. No reimbursement shall be made for costs and expenses related to improvements in a public right of way.

Conditions for Disbursements. The Agency shall not be required to disburse the Grant until:

- (a) Executive Director of the Agency has approved the construction loan and lender and Developer has closed on its construction loan;
- (b) Developer has closed on the Agency Parcel;
- (c) Executive Director has approved the Final Site Plan;
- (d) Satisfactory evidence that Developer has invested in the Project an amount equal to the Agency's investment under this Agreement;
- (e) Lender's Title commitment and policy insuring the Agency's interest in the Project and deleting all standard exceptions, Schedule B-1 requirements and providing Florida Form 9 coverage;
- (f) Satisfactory evidence of eligible costs of the Project;
- (g) Satisfactory evidence the Franchise Agreement is in full force and effect and has not been revoked or terminated;
- (h) The Certificate of Completion has been issued;
- (i) Execution of the Grant Documents; and
- (j) Such other reasonable requirements as requested by the Executive Director.
- (k) Provided all conditions for disbursement have been met, the parties anticipate disbursement shall be made in one lump sum after issuance of the Certificate of Completion and provided the Project is open for business.

ARTICLE 5. JOB CREATION

5.01 Job Creation Requirements.

During the Grant Eligibility Period, the Developer shall open, operate and maintain the Project and shall satisfy the Job Creation Requirement. Any employee hired or employed by the Developer or its Affiliates, subject to the approval process set forth in section 6.03 and employed at the Project Site shall be eligible for calculation of FTE Job Hours. The parties anticipate the Job Creation Requirement shall be satisfied within a five-year period starting from the Completion Date. Any disputes regarding the Job Creation Requirement is an Arbitrable Event.

5.02 Job Creation Reports.

To the extent Developer is seeking credit for FTE Job Hours, Developer shall provide to Agency an annual written report ("Job Report") certified by an independent accountant the number of FTE Job Hours created for the preceding year within sixty (60) days of the first anniversary of the Completion Date and within sixty (60) days of each annual anniversary thereafter for four (4) years thereafter for a total of five (5) years. The Job Report shall be substantially in the format attached as Exhibit "D" and shall include the following information for each employee for which FTE Job Hours credit is requested: (i) the name of the employer of the employee; (ii) the internal

identification number for the employee; (iii) the employee's job title; (iv) the dates on which the employee resided in the Redevelopment Area, if any; (v) the employee's annual salary, or if paid hourly, the employee's hourly rate; (vi) the number of FTE Job Hours claimed for the employee. Upon a written request, the Developer shall provide the Agency within five (5) days of the receipt of such a request from the Agency, the name of any employee for which FTE Job Hours credit is sought. Failure to provide the requested information for any employee shall eliminate the FTE Job Hours credit for that employee.

5.03 Approval of Affiliates.

For Affiliates to be qualified Affiliates pursuant to this Agreement, Affiliates must be approved by the Agency. To facilitate such approval Affiliates, Developer shall submit the following information within sixty (60) days after a business of an Affiliate opens for business within the Project and not less than ninety (90) days before submission of the Job Report for which the Developer intends to seek FTE Job Hours credit; (i) the name of the employer; (ii) the estimated number of jobs to be created by the employer; (iii) a description of the business operations of the employer and of the Affiliate; (iv) a certified copy of the written lease, license or other occupancy agreement which governs the occupancy of the employer in the Project which instrument may incorporate preservation of public records and audit rights in favor of the Agency, (v) evidence of controlling interest over the Affiliate by the Developer; and (vi) such other reasonable information requested by the Agency. The Agency shall have forty-five (45) days after the submission of the above referenced information to determine if the Affiliate or business will qualify for FTE Job Hours which approval shall not be unreasonably withheld, conditioned or delayed. Failure to render a decision within the forty-five (45) days shall be considered an approval. The Developer shall not be entitled to receive FTE Job Hours credit originating from prohibited business or uses as described in the Declaration of Restrictive Covenant. Notwithstanding anything set forth in this Agreement to the contrary, in no event shall any construction jobs created which are solely related to construction or renovation of the Project be included in the calculation of Full Time Equivalent (FTE) Job Hours under this Agreement. If Developer or Affiliate fails to: (a) provide the information for the Jobs Report; (b) submit to an audit as required under Section 16.19 or (c) comply with a public record request as required under Section 14.18, then the job hours for that particular Affiliate shall not count towards the Job Creation Requirement.

5.04 Job Creation Penalty.

In the event the Job Creation Requirement for Redevelopment Area residents is not met, the Developer shall pay a penalty of \$100,000 per job (i.e. 4160 FTE Job Hours). Failure to pay the penalty or to failure to provide the requested information regarding payroll and employment data shall be deemed an event of default. In addition, the Agency mortgage shall not be released until the penalty has been paid to the Agency. During the disbursement period, the Agency reserves the right to withhold the penalty from a disbursement.

ARTICLE 6. INDEMNIFICATION.

6.01 Indemnification.

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

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

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

6.02 Limitation of Indemnification.

Notwithstanding anything to the contrary contained herein, with respect to the indemnification by Developer the following shall apply:

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

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

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

ARTICLE 7. REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEVELOPER.

7.01 Representations and Warranties of Developer.

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

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

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

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

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

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

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

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

(g) The principal place of business and principal executive offices of Developer is in Broward County, Florida.

(h) At the time of submitting its Proposal, Developer had, and will continue to have and at all times through the expiration of the Grant Eligibility Period, 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.

(i) The Developer holds all right, title and interest in the Property free and clear of any liens, encumbrances and other adverse matters except as previously disclosed to the Agency.

ARTICLE 8. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AGENCY.

8.01 Representations and Warranties.

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

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

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

1. requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted herein,
2. contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the Agency, or
3. contravenes or results in any breach of, or default under or, other than as contemplated by this Agreement, results in the creation of any lien or encumbrance upon any property of the Agency under any indenture, mortgage, deed of trust, bank loan or credit agreement, applicable

ordinances, resolutions or, on the date of this Agreement, any other agreement or instrument to which the Agency is a party, specifically including any covenants of any bonds, notes, or other forms of indebtedness of the Agency outstanding on the Effective Date.

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

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

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

8.02 Covenants.

The Agency covenants with Developer that until the earlier of the Termination Date or expiration of the Grant Eligibility Period, as the case may be:

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

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

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

ARTICLE 9. RESTRICTIONS ON ASSIGNMENT AND TRANSFER

9.01 Representations as to Development.

Developer represents and agrees that its undertaking pursuant to this Agreement, are, and will be used, for development of the Project Site as set forth in the Agreement, operation and maintenance of the Project, creation of Jobs and not for speculation in land holding. Developer further recognizes the importance of creation of jobs and the development of the Project Site for the general welfare of the community, and the substantial financial and other public commitments that have been made available by law and through the assistance of local government for making such development possible. Developer further acknowledges that the qualifications and identity of Developer, the Principal and their respective business experience, reputation, financial capacity to carry out the obligation and responsibilities in connection with the Project and their respective development track record within the community is of particular concern to the community and the Agency because it is by such experience, financial capacity, qualifications, reputation, past performance and identity, now in effect, that the Agency is entering into this Agreement with Developer for the benefit of the community and the Plan and, in so doing, is further willing to accept and rely on the obligations of Developer for the faithful performance of all undertakings and covenants described in this Agreement.

9.02 Restriction on Transfer of Interests Prior to the Expiration of the Grant Eligibility Period.

In reliance upon Section 9.01 above, Developer agrees that prior to the expiration of the Grant Eligibility Period, without the prior approval of the Agency, which such approval shall be governed by the criteria set forth in Section 9.04 below:

1. There shall be no sale or transfer of stock or memberships nor the entry of any voting trusts or shareholder or membership agreements or any other similar devices or arrangements within Developer which would result in the transfer of control of the Developer from the Principal to another Person; and
2. There shall be no sale or transfer of stock or membership nor the entry of any voting trust or shareholder or membership agreements or any other similar devices or arrangements within any corporate member of the Developer which would result in the transfer of control of the Developer from the Principal to another Person.
3. There shall be no transfer rights or interest of Sameet A. Patel in the Franchise Agreement to another Person.

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

9.03 Notification to Agency as to Ownership Changes.

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

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

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

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

In light of Section 9.01 above, Developer represents and agrees for itself and its successors and assigns (except as so authorized by the provisions of this Agreement) that it will not, prior to the Expiration of the Grant Eligibility Period, as to a proposed sale, assignment or transfer of the Project Site, make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or master or any trust or power, sale, transfer, or encumbrance other than construction and permanent financing or (hereinafter, collectively, known as "Transfer") in any other mode or form or with respect to this Agreement or the Project Site, without first obtaining the prior written approval of the Agency, which approval shall not be unreasonably withheld.

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

1. Any proposed successor Developer or proposed successor Principal therein shall have the business experience and reputation, development track record and sufficient financial capacity to carry out the obligations under this Agreement, as determined, in the reasonable discretion of the Agency.
2. Any proposed successor Developer, by instrument in writing satisfactory to the Agency, in its reasonable discretion, shall, for itself and its successors and assigns expressly assume all of the obligations of Developer under the Grant Documents and shall agree to abide by and be subject to all of the terms, conditions, obligations, reservations and restrictions ("terms and conditions") to which Developer is subject.
3. There shall be submitted to the Agency for review all instruments and other legal documents reasonably necessary to assure compliance with Section 9.04(a)(1).

(b) The provisions of this Article respecting restrictions on Transfers shall not be construed in such a manner as to preclude transfer to a construction lender and its successors in

interest. The term “successors in interest” is intended to include not only successors in interest to the construction lender but also any transferee or assignee of the construction lender, including but not limited to purchasers at a foreclosure sale or acquisition by way of deed in lieu of foreclosure.

ARTICLE 10. DEFAULT; TERMINATION.

10.01 Default by the Developer.

(a) On or after the Effective Date through and including the Grant Eligibility Period, there shall be an “event of default” by Developer under this Agreement upon the occurrence of any one or more of the following:

1. Developer shall fail to perform or comply with any material provision, including the Job Creation Requirements (total) or failure to pay the penalty due to failure to satisfy the Job Creation Requirement or Grant Documents applicable to it within the time prescribed therefor; or
2. Developer shall make a general assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts as they become due or shall file a petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation or shall file an answer admitting, or shall fail reasonably to contest, the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Developer of any material part of such entity’s properties; or
3. Within ninety (90) days after the commencement of any proceeding by or against Developer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed or otherwise terminated, or, if within ninety (90) days after the appointment without the consent or acquiescence of Developer of any trustee, receiver or liquidator of any of such entities or of any material part of any of such entity’s properties, then such appointment shall not have been vacated; or
4. Developer fails to continuously operate and maintain the Project as a hotel during the Grant Eligibility Period; or
5. The Developer sells, conveys or transfer a portion or all of its right, title or interest in the Project or the Property, during the Grant Eligibility Period; or
6. Developer defaults under the First Mortgage, if any and the First Mortgagee declares a default thereunder; or

7. Either Developer or Principal or both are in default under the Franchise Agreement and the franchisor has declared a default thereunder; or
8. Any material misrepresentation by the Developer which adversely affects, the rights, duties and obligations of the Agency.

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

- i. if such event of default shall not be cured by Developer within ninety (90) days after receipt of the written notice from the Agency specifying in reasonable detail the event of default by Developer; or
- ii. if, as to non-monetary defaults, such event of default is of such nature that it cannot be completely cured within such ninety day (90) period, then if Developer shall not have commenced to cure such default within such time period and shall not continue to diligently prosecute such cure to completion within such reasonable longer period of time as may be necessary, then the Agency, for events of default described in subsection (a) above, may, pursue any and all legal remedies (excluding therefrom the right to pursue consequential punitive and incidental damages and “loss of projected tax revenue”), equitable remedies of specific performance, injunctive relief or rescission to which the Agency is entitled, including terminating any disbursements of funds by the Agency hereunder. In the event of a default which has not been cured, the Grant, shall be due and payable in full after giving credit for FTE Job Hours created and applied to the Job Creation Requirement (total).

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

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

1. The entire Project Site is taken by the exercise of the power of eminent domain by a governmental authority (other than the City or the Agency) or a Person entitled to exercise such power or benefiting therefrom, or such part of the Project Site is taken by the power of eminent domain so as to render the Project Site unusable for its intended uses or economically

unviable as contemplated by this Agreement, it being the intent of the parties that in the event a dispute arises as to whether a “taking” renders the Project unusable for its intended uses or economically unviable as contemplated by this Agreement, that such dispute shall be an Arbitrable Event;

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

- (i) issue building permits where the application meets all requirements of the codes and the terms of this Agreement,
 - (ii) approve a rezoning of the Project Site to a zoning classification consistent with this Agreement and the Final Site Plan (if applicable), or
 - (iii) approve any other land use approval necessary to commence construction of the Project on the Project Site where the application meets all requirements of the law, and Developer has proceeded diligently, expeditiously and in good faith to obtain such approval, permits or other necessary actions including exhaustion of all administrative remedies applicable thereto through the second level of certiorari review.
- (c) In the event of a termination pursuant to this Subsection 10.01(c) above and provided no disbursements have been made by the Agency, neither Developer nor the Agency shall be obligated or liable one to the other in any way, financially or otherwise for any claim or matter arising from or as a result of this Agreement or any actions taken by Developer and the Agency, or any of them, hereunder or contemplated hereby, and each party shall be responsible for its own costs.

10.02 Agreement Termination.

In the event of a termination of this Agreement pursuant to the terms of Section 10.01(c) above prior to the Completion Date, this Agreement shall no longer be of any force and effect except for those provisions hereof which expressly survive termination, the rights, duties and obligations of the parties hereto shall have been terminated and released (subject to those surviving provisions hereof) and, if the termination is prior to the Completion Date, then the Project Site shall no longer be subject to any restrictions, limitations or encumbrances imposed by this Agreement, except for those reservations, restrictions or limitations encumbering the Agency Parcel which have not been released. Nothing in this Section shall prohibit Developer from completing any Building on which City has issued Building Permits and Developer commenced construction pursuant thereto. Notwithstanding anything contained herein to the contrary, the Agency and the Developer may agree to terminate this Agreement at any time, subject to such terms, conditions and restrictions as agreed to by the parties. In the event of termination after disbursements have been made under the Grant, the Developer shall be obligated repay any and all outstanding sums under the Grant.

Notwithstanding anything set forth in this Agreement to the contrary, nothing herein shall be deemed a pledge or the right to place a lien on the Agency's revenue. This Agreement shall not be construed as a grant or consent to encumber the Redevelopment Trust Fund of the Agency. Further, payments under this Agreement are subordinate and inferior to existing debt service and general operating and overhead payments of the Agency.

ARTICLE 11. ARBITRATION AND MEDIATION

11.01 Mediation Prior to Arbitration.

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

11.02 Agreement to Arbitrate.

Any disagreement or dispute between the parties which has been specifically delineated in this Agreement as arbitrable may be arbitrated in the manner set forth in this Article 11, provided no judicial or administrative action or proceeding is pending with regard to the same matter. Arbitration is limited to those disagreements or disputes which have specifically been delineated as an Arbitrable Event herein or which the parties mutually agree to be an Arbitrable Event. All parties hereby agree such arbitration, once commenced, shall be the exclusive procedure for resolving such disagreement or dispute and agree to be bound by the result of any such arbitration proceeding unless all parties mutually agree to terminate such proceedings prior to decision. If any arbitration proceeding under this Article adversely affects the performance of any party hereunder, then any time periods provided herein for such performance by that party shall be tolled during the pendency of the arbitration proceeding affecting such performance.

11.03 Appointment of Arbitrators.

(a)(1) Unless accelerated arbitration as provided in Section 11.07 hereof is invoked, any party invoking arbitration herewith shall, within five (5) days after giving notice of impasse in the dispute resolution process or upon following the expiration of the time period for such dispute resolution occurrence of the event permitting arbitration to be invoked, give written notice to that effect to the other parties, and shall in such notice appoint a disinterested person who is on the list of qualified arbitrators maintained by the American Arbitration Association or a disinterested person not on such list to whom an objection is not made by any other party hereto within five (5) days of receipt of the notice of such appointment as the arbitrator or, if more than one (1) arbitrator is to be appointed, as one of the arbitrators.

(a)(2) Within ten (10) days after receipt of the notice described in Section 11.03(a)(1), the other parties shall by written notice to the original party acknowledge that arbitration has been invoked as permitted by this Agreement, and shall either accept and approve the appointment of such individual set forth in the original notice as a sole arbitrator or shall appoint one (1) disinterested person per party of recognized competence in such field as an arbitrator.

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

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

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

11.04 General Procedures.

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

11.05 Decision of Arbitrators.

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

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

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

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

11.06 Expense of Arbitration.

The expenses of any arbitration proceeding pursuant to this Article shall be borne equally by the parties to such proceeding, provided, however, for the purpose of this Section 11.06 "expenses" shall include the fees and expenses of the arbitrators and the American Arbitration Association with respect to such proceedings, but shall not include attorneys' fees or expert witness fees, or any costs incurred by attorneys or expert witnesses, unless (and to the extent) agreed to by the parties to such proceeding, which in the absence of such Agreement shall be the responsibility of the party incurring such fees or costs.

11.07 Accelerated Arbitration.

(a)(1) If any of the parties to any arbitration proceeding under this Article determines the matter for arbitration should be decided on an expedited basis, then after an initial election to invoke arbitration pursuant to Section 11.02 hereof has been made, either party to such proceeding may invoke accelerated arbitration by giving notice thereof to the other parties no later than three (3) days after arbitration has been initially invoked and the other parties do not object within three (3) days thereafter.

(a)(2) Accelerated arbitration, for purposes of this Section 11.07, shall be accomplished by either party notifying the American Arbitration Association (or any successor organization thereto) that the parties have agreed to use a single arbitrator, qualified to decide the matter for arbitration, to be appointed by the American Arbitration Association (or any successor organization thereto) with the consent of the parties to such proceeding within three (3) days after receipt of the request and to decide such matter within five (5) days after such appointment.

(a)(3) If an arbitrator is not so appointed with consent of the parties to the proceeding within three (3) days after the notice referred to in Paragraph (2) is received by the American Arbitration Association, the accelerated proceeding under this Section 11.07 shall terminate and the procedures otherwise set forth in this Article 11 shall apply, unless the parties mutually agree to an extension of such time period.

(b) Developer and the Agency hereby agree to use such accelerated procedure only when reasonably necessary, to not contest the appointment of the arbitrator or his or her decision except as may be permitted by law, and that all other provisions of this Article, except as are in conflict with this Section 11.07, remain in effect and applicable to an accelerated arbitration proceeding.

11.08 Applicable Law.

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

11.09 Arbitration Proceedings and Records.

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

ARTICLE 12. FIRE OR OTHER CASUALTY; CONDEMNATION.

12.01 Loss or Damage to Project.

Subject to the terms of the any financing documents, Developer shall diligently commence and complete the reconstruction or repair of any loss or damage caused by fire or other casualty to each and every part of the Project in substantial conformance with the Final Site Plan for such reconstruction or repairs, provided the Project or portion thereof can be restored and be commercially feasible for its intended use as contemplated by this Agreement after the loss or damage

12.02 Partial Condemnation of Project or Project Site; Application of Proceeds.

Subject to the terms of the construction first lien financing documents, in the event that part, but not all, of the Project Site shall be taken by the exercise of the power of eminent domain at any time during the term set forth in Section 12.01 above, the compensation awarded to and received by Developer shall be applied first to the restoration of the Project or portion thereof, provided the Project or portion thereof can be restored and be commercially feasible for its intended use as contemplated by this Agreement after the taking, and, if not, can be retained by Developer. The Agency reserves the right to apply the Agency Grant directly towards restoration of the Project in the event all or a part of the Project Site is taken under the exercise of the power of eminent domain.

ARTICLE 13. PROJECT INSURANCE PROCEEDS.

13.01 Project Insurance Proceeds.

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

(b) Subject to the terms of any financing documents, Developer agrees that all proceeds of property or casualty insurance, for casualty suffered during the Term received by Developer as a result of such loss or damage shall be used for payment of the costs of the reconstruction or repair of the Project to the extent necessary to repair or reconstruct the Project. The Agency reserves the right to apply the Agency Grant directly towards restoration of the Project in the event all or a part of the Project is damaged or destroyed.

13.02 Notice of Loss or Damage to Project.

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

ARTICLE 14. MISCELLANEOUS

14.01 Notices.

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

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

DEVELOPER:

Minesh Patel
404 NW Hall of Fame Drive
Lake City, Florida 32055
Email: drpatel@primarycaremedic.com

WITH COPIES TO:

Sachs Sax Caplan, P.L.
Attn: Daniel A. Kaskel, Esq.
6111 Broken Sound Parkway NW
Suite 200
Boca Raton, Fl 33487
Email: dkaskel@ssclawfirm.com

AGENCY:

Fort Lauderdale Community Redevelopment
Agency
Attn: Executive Director,
100 North Andrews Avenue
Fort Lauderdale, Florida 33301
e-mail: clagerbloom@fortlauderdale.gov

WITH COPIES TO:

Lynn Solomon
Fort Lauderdale CRA
914 Sistrunk Blvd., Suite 200
Fort Lauderdale, FL 33311
lsolomon@fortlauderdale.gov

Or to such other addresses as the parties may by writing designate to the other party from time to time. All notices, demands, deliveries, or other communications hereunder shall be deemed to

have been given or served for all purposes hereunder on the day a facsimile is sent with confirmation of its sending, forty-eight (48) hours after the time that such communication was deposited in the United States mails (Saturdays, Sundays and legal holidays excluded), postage prepaid, in the manner aforesaid, one (1) day after delivery to a recognized overnight courier service, or upon delivery, whichever event shall first occur.

(b) Refusal by any person to accept delivery of any notice delivered to the office at the address indicated above (or as it may be changed) shall be deemed to have been an effective delivery as provided in this Section 14.01.

14.02 Severability.

If any term, provision or condition contained in this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14.03 Applicable Law and Construction.

The laws of the State of Florida shall govern the validity, performance and enforcement of this Agreement. This Agreement has been negotiated by the Agency and Developer, and the Agreement, including without limitation, the Exhibits, shall not be deemed to have been prepared by the Agency or Developer, but by all equally.

14.04 Venue; Submission to Jurisdiction.

(a) For purposes of any suit, action or other proceeding arising out of or relating to this Agreement, the parties hereto do acknowledge, consent, and agree that venue thereof is Broward County, Florida.

(b) Each party to this Agreement hereby submits to the jurisdiction of the State of Florida, Broward County and the courts thereof and to the jurisdiction of the United States District Court for the Southern District of Florida, for the purposes of any suit, action or other proceeding arising out of or relating to this Agreement and hereby agrees not to assert by way of a motion as a defense or otherwise that such action is brought in an inconvenient forum or that the venue of such action is improper or that the subject matter thereof may not be enforced in or by such courts.

(c) If at any time during the term of this Agreement, Developer is not a resident of the State of Florida or has no office, employee, agency or general partner thereof available for service of process as a resident of the State of Florida, or if any permitted assignee thereof shall be a foreign corporation, partnership or other entity or shall have no officer, employee, agent or general partner available for service of process in the State of Florida, Developer hereby designates the Secretary of State, State of Florida, its agent for, the service of process in any court.

14.05 Captions.

The article and section headings and captions of this Agreement and the table of contents preceding this Agreement are for convenience and reference only and in no way define, limit, describe the scope or intent of this Agreement or any part thereof, or in any way affect this Agreement or construe any article, section, subsection, paragraph or provision hereof.

14.06 Holidays.

It is hereby agreed and declared that whenever a notice or performance under the terms of this Agreement is to be made or given on a Saturday or Sunday or on a legal holiday observed in the City, it shall be postponed to the next following business day.

14.07 Exhibits and Attachment.

Each Exhibit and Attachment referred to and attached to this Agreement is an essential part of this Agreement. The Exhibits and any amendments or revisions thereto, even if not physically attached hereto shall be treated as if they are part of this Agreement.

14.08 No Brokers.

The Agency and Developer hereby represent, agree and acknowledge that no real estate broker or other person is entitled to claim or to be paid a commission as a result of the execution and delivery of this Agreement, including any of the Exhibits and Attachment. Developer hereby indemnifies the Agency against any loss, damage, fee, expense or cost arising as a result of a claim by any third party for a broker or finder's fee or commission.

14.09 Not an Agent of City or Agency.

During the term of this Agreement, neither Principal nor Developer hereunder shall be an agent of the City or the Agency, with respect to any and all services to be performed by Principal or Developer (and any of its agents, assigns, or successors) with respect to the Project.

14.10 No Recording. The Agency reserves the right to record this Agreement in the Public Records of Broward County, Florida, at Developer's expense.

14.11 Public Purpose.

The parties acknowledge and agree that this Agreement satisfies, fulfills and is pursuant to and for a public purpose and municipal purpose and is in the public interest, and is a proper exercise of the Agency's power and authority under the Act.

14.12 No General Obligation.

In no event shall any obligation of the Agency under this Agreement be or constitute a general obligation or indebtedness of the City or the Agency, a pledge of the ad valorem taxing

power of the City or the Agency or a general obligation or indebtedness of the City or the Agency within the meaning of the Constitution of the State of Florida or any other applicable laws, but shall be payable solely from legally available revenues and funds. Neither Developer nor any other party under or beneficiary of this Agreement shall ever have the right to compel the exercise of the ad valorem taxing power of the City, the Agency or any other governmental entity or taxation in any form on any real or personal property to pay the City's or the Agency's obligations or undertaking hereunder.

14.13 Disclaimer As To Governmental Authority.

Nothing in this Agreement shall be construed, interpreted or applied in such a manner as will constitute an undelegatable contracting away or waiver of any governmental power by the Agency or the City.

14.14 Term; Expiration.

Except as may be expressly specified otherwise herein, if not earlier terminated as provided in Article 10.01(c), this Agreement shall expire upon the Expiration of the Grant Eligibility Period. Thereafter, this Agreement shall no longer be of any force and effect, except as to such provisions of the Agreement which expressly survive expiration or termination thereof and subject to such statute of limitations of Florida.

14.15 Approvals Not Unreasonably Withheld.

The parties hereto represent that it is their respective intent as of the Effective Date and do covenant and agree in the future that all approvals, consents, and reviews will be undertaken and completed as expeditiously as possible, in good faith, and will not be arbitrarily or unreasonably withheld, unless otherwise expressly authorized by the terms of this Agreement. If a matter to be consented to or approved by the Agency, requires the consideration of the Agency's Board of Commissioners (whether pursuant to this Agreement or the written opinion of the Agency's General Counsel), then, provided Agency gives Developer notice of such requirement within the time period provided for such consent or approval, such matter shall not be deemed approved or consented to unless the Agency shall fail to respond to Developer's request by the date which is fifteen (15) days after the next Regular Scheduled Meeting of the Agency's Board of Director's which occurs no later than the next Regular Scheduled Meeting following receipt of such request (but in no event not later than forty five days following such request).

14.16 Time of the Essence.

Time is of the essence in the performance of all obligations and all approvals or reviews contemplated by this Agreement.

14.17 Standing and Enforceability.

The parties stipulate and agree that for enforcement purposes during the term of this Agreement only Developer, Agency, and, if specifically permitted by this Agreement, their

successors and assigns, shall have standing. No rights of enforcement of this Agreement shall accrue to or vest in any other person, entity or governmental body.

14.18 Audit Right and Retention of Records.

Agency shall have the right to audit the books, records, and accounts of Developer that are related to this Agreement. Developer shall keep, and maintain such books, records, and accounts as may be necessary to record complete and correct entries related to this Agreement. 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 City 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 has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida public records law is determined by Agency to be applicable to Developer shall comply with all requirements thereof; however, Developer shall violate no confidentiality or non-disclosure requirement of either federal or state law. 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.

Developer shall maintain during the term of the Agreement all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract.

14.19 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. 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.

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

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

(b) 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.

(c) 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.

(d) 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.

(e) **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.**

14.20 Non-Action on Failure to Observe Provisions of this Agreement.

The failure of the Agency or Developer to promptly or continually insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any Exhibits or Attachments hereto, or any other agreement, instrument or document of whatever form or nature contemplated hereby shall not be deemed a waiver of any right or remedy that the Agency or Developer may have, and shall not be deemed a waiver of a subsequent default or non-performance of such term, covenant, condition or provision.

14.21 Insurance to be Carried by the Developer/Contractor.

The Developer/Contractor shall purchase and maintain at its own expense, the following types and amounts of insurance, in forms and companies reasonably satisfactory to the Agency.

(a) During the construction period, the Developer, at its expense, shall keep all of the insurable buildings, property and equipment located on the Project Site insured under a Builder's Risk Insurance policy providing for "all risk property coverage" for loss or damage including the perils of fire, wind, flood, tropical storm or hurricane, theft,

vandalism and malicious mischief. Such insurance shall be in a face amount not less than one hundred percent (100%) of the cost of construction of the Project, as set forth the construction contract for the Project, and the insurer shall be obligated to pay one hundred percent (100%) of the cost of restoring the improvements constructed, from time to time, during the construction period. Each insurance policy shall include the Agency and such project lenders as request it as an additional insured, as the interest of each may appear, and shall provide for loss to be payable to Developer or, to the extent required under the project financing, or by the project lenders.

(b) Following any Completion Date and during the term of this Agreement, the Developer or its successors, at their expense, shall keep all the insurable buildings, structures, property and equipment on the Project Site insured under an All Risk property policy for loss or damage including the perils of fire, wind, flood, tropical storm or hurricane, theft, vandalism, and malicious mischief. Such insurance shall be in an amount of no less than the replacement value of said insurable real property, including structures, property and equipment. As provided in this Article for any loss or damage to the Project, to the extent that insurance proceeds are available, and the necessary or contemplated repairs are feasible, the Developer shall repair any damage or destruction to the Project. Each insurance policy shall name the Agency and such project lenders as request it as additional insured and loss payee, as the interest of each may appear, and provide for the loss to be payable to the Developer or, to the extent provided, the project lenders.

(c) During the construction period, the Developer or Contractor shall secure and maintain or cause to be secured and maintained in full force and effect such commercial general liability insurance including coverage for operations, independent contractors, products, completed operations, broad form property damage and personal injury as will protect the Developer, the Agency, and their agents and employees from any and all claims and damages for injury to persons or death or damage to any property of the Agency, or of the public, which may arise out of or in connection with the performance of any work or operations by the Developer in, on, under, or over the Project Site during the construction of the Project, whether said work or operations shall be by the Developer, the Contractor, or by anyone directly or indirectly contracted, employed or retained by any of them. The amounts of such insurance shall not be less than limits of \$1,000,000.00 per occurrence for injury to persons or death, or for property damage or such larger amount as determined by Developer. The limit of liability for personal injury shall be no less than \$1,000,000.00 and the limit of liability for contractual liability shall be no less than \$1,000,000.00. Each policy shall name the Agency and such project lenders, as request it, as additional insured.

(d) After any Completion Date and during the term of this Agreement, the Developer shall secure and maintain, or cause to be secured and maintained, in full force and effect, commercial general liability insurance, in an amount not less than \$1,000,000 per occurrence, and including coverage for premises, completed operations, independent contractors, broad form property damage and personal injury from any and all claims for damages for injury to persons or death, or for damage to any property of the Agency or the public which may arise out of the Developer's use and occupancy of the Project Site and the operation of the project on the Project Site. Developer shall provide this insurance by

adding the Agency and their agents and employees as an “additional insured” on any and all policies provided.

(e) During the construction period, the Contractor shall secure and maintain or cause to be secured and maintained in full force and effect auto liability insurance in compliance with State law.

(f) The Developer, Contractor and all subcontractors shall each secure and maintain in full force and effect Workers’ Compensation insurance, if applicable, for all their respective personnel, employed at the site of the work or in any way connected with the work or Project that is the subject of this Agreement if such insurance is required by law to be provided. The insurance required by this provision shall comply fully with the Florida Worker’s Compensation law shall include statutory limits on worker’s compensation, as well as Employees Liability Insurance with limits of no less than \$500,000.00 per occurrence.

(g) All insurance and lesser amounts for insurance need to be approved in writing by the City’s risk manager based on City’s insurance requirements for similarly situated developments.

14.22 Non-Cancellation Clause.

All insurance policies or agreements required by this Article hereof shall provide that such policies or agreements cannot be substantially modified, canceled or terminated until after at least thirty (30) days’ notice has been given to the Agency and the Developer, to the effect that such insurance policies or agreements are to be substantially modified (including the terms of such modification), canceled or terminated at a particular stated time thereafter.

14.23 Certificate of Insurance.

The Developer shall provide or cause to be provided to the Agency policies or certificates of insurance or other acceptable proof of compliance with the insurance provisions of this Agreement at such times as shall be reasonably required and shall file replacement certificates thirty (30) days prior to expiration or termination of the required insurance during the term of this Agreement.

14.24 Right of Parties to Obtain Insurance.

In the event the Developer at any time during the term of this Agreement refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required by this Agreement, the Agency may procure or renew such insurance and after notice to the Developer that it must obtain such insurance within thirty (30) days of such notice, all amounts of money paid by the Agency for procurement or renewal of such insurance shall be due and payable forthwith by the Developer to the Agency to the extent either paid the cost of any such insurance together with interest, at the statutory rate, to the date of payment thereof by the Developer. The Agency shall notify the Developer in writing of the date, purposes, and amounts of any such payments

made by it pursuant to this Article.

14.25 Non-Waiver of Developer's Obligations.

No acceptance or approval of any insurance policy or policies by the Agency or the Developer shall relieve or release or be construed to relieve or release any other party from any liability, duty or obligation assumed by or imposed upon it by the provisions of this Agreement.

14.26 Reasonable Deductible.

Any insurance policy required by this Article may contain a reasonable deductible provision provided advanced notice of said deductible provision is given by the Developer to the Agency and approval from the Agency is given in writing, which approval shall not be unreasonably withheld or delayed. In the event that the Agency fails to approve or disapprove such deductible provision pursuant to this Article 14.26, within thirty (30) days of the notice from the Developer as required by this Article 14.26, such failure shall be deemed an approval of such deductible provision by the Agency.

14.27 Sovereign Immunity.

Nothing herein shall be deemed a waiver of sovereign immunity in favor of the Agency.

14.28 Small Businesses.

The Developer shall 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 work on the Project. Bids will be selected based upon competitiveness of the bid and the qualifications and capacity of the bidder. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For purposes of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Developer may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

14.29 Maintenance. The Developer shall, at its own expense and subject to reasonable construction conditions and activities, keep the Project and Project 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 Project Site.

14.30 Sunset Date. The Agency shall have no obligation to make any disbursements after the sunset date of the Agency. Developer shall use commercially reasonable efforts insure that all disbursements are made prior to the sunset date of the Agency.

14.31 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.

14.32 Public Entity Crime.

14.32.1 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.

14.32.2 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.

14.33. IF DEVELOPER FAILS TO CLOSE ON ITS CONSTRUCTION LOAN ON OR BEFORE JUNE 6, 2023, THEN THE AGENCY IN ITS SOLE DISCRETION RESERVES THE RIGHT TO TERMINATE THIS AGREEMENT, TERMINATE THE AWARD OF FUNDING AND THE COMMERCIAL CONTRACT, AS AMENDED AND SHALL BE RELIEVED OF ANY AND ALL LIABILITY UNDER THIS AGREEMENT AND THE CONTRACT. DEVELOPER ACKNOWLEDGES AGENCY HAS MADE AN ACCOMMODATION TO THIS PROJECT BY AMENDING THIS AGREEMENT AND ALLOWING DEVELOPER ADDITIONAL TIME TO COMPLETE THE PROJECT. GIVEN THAT THE AGENCY WILL SOON SUNSET, ANY FURTHER DELAYS WILL SIGNIFICANTLY HINDER AND IMPACT THE AGENCY'S REDEVELOPMENT EFFORTS IN THE REDEVELOPMENT AREA.

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

SIGNATURE PAGES FOLLOW

WITNESSES:

R. McClam
Rebecca McClam
[Witness print or type name]

Donna Varisco
Donna Varisco
[Witness print or type name]

ATTEST:

DRS
David R. Soloman, CRA Secretary



AGENCY:

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

By: Gf
Greg Chavarria
Executive Director

Date: 12/20/22

APPROVED AS TO FORM:
Alain E. Boileau, CRA General Counsel

Lynn Solomon
Lynn Solomon, Assistant General Counsel

WITNESSES:

Lania L. Simmons
[Witness print or type name]

April Reeves
[Witness print or type name]

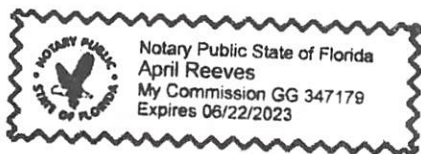
AVENUE D'ARTS FLL, LLC,
a Florida limited liability company

Minesh Patel
Print Name: Minesh Patel
Title: Manager

STATE OF FLORIDA:
COUNTY OF COLUMBIA

The foregoing instrument was acknowledged before me by means of X physical presence or online notarization this 7th day of November, 2022 by Minesh Patel as Manager of AVENUE D'ARTS FLL, LLC, a Florida limited liability company on behalf of the company. He is personally known to me or has produced as identification.

(SEAL)



April Reeves
Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)
April Reeves
Name of Notary Typed,
Printed or Stamped

My Commission Expires:

4/22/23
Commission Number

JOINDER AND CONSENT

The undersigned, as the holder of all right, title and interest in the Franchise Agreement, hereby joins and consents to this Agreement and agrees to bound by the terms and conditions hereof. Further, the undersigned represents and warrants the Franchise Agreement is in full, force and effect and has not been revoked or terminated, amended or annulled.

WITNESSES:

Robert Seiden

[Witness print or type name]



SAMEET A. PATEL, INDIVIDUALLY


Emily Ballenger

Emily Ballenger

[Witness print or type name]

STATE OF FLORIDA:

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of X physical presence or online notarization this 30th day of November, 2022 by SAMEET A. PATEL He is personally known to me or has produced _____ as identification.

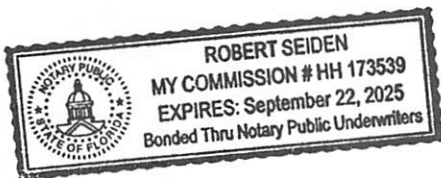
(SEAL)

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

Robert Seiden

Name of Notary Typed,
Printed or Stamped

My Commission Expires:





COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

Today's Date: Dec. 14, 2017

2L

DOCUMENT TITLE: Comfort Suites- Development Incentive Program Agreement

COMM. MTG. DATE: 6/7/2022 CAM #: 22-0342 ITEM #: 13 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 ☐ NO

Date to CCO: 12-19-22 Lynn Solomon
Attorney's Name

LS
Initials

3) City Clerk's Office: # of originals: 2 Routed to: Donna V./Aimee L./CMO Date: 12/19/22

4) City Manager's Office: CMO LOG #: Dec-37 Document received from: 12/19/22

Assigned to: GREG CHAVARRIA ☐
ANTHONY FAJARDO ☐

TARLESHA SMITH ☐
SUSAN GRANT ☐

GREG CHAVARRIA as CRA Executive Director ☐

☐ APPROVED FOR G. CHAVARRIA'S SIGNATURE

☐ N/A FOR G. CHAVARRIA TO SIGN

PER ACM: T. Smith _____ (Initial/Date)
S. Grant _____ (Initial/Date)

PER ACM: A. Fajardo _____ (Initial/Date)

☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward ☒ originals to ☐ Mayor ☒ CCO Date: 12/20/22

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

6) City Clerk: Scan original and forwards 2 originals to: Erica K./ xt. 6088

Attach _____ certified Reso # _____ ☐ YES ☐ NO

Original Route form to Erica K./ 6088