MEMORANDUM Agenda Item No. 8(K)(1)

TO: Honorable Vice Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners

DATE: December 4, 2012

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Resolution authorizing the Deputy Mayor or Deputy Mayor's Designee to execute Master Development Agreements, Amendment No. 3 to Ground Leases, and other necessary mixed-finance contracts, agreements and related documents with RUDG, LLC or its subsidiaries for construction of new public housing developments

The accompanying resolution was prepared by the Public Housing and Community Development and placed on the agenda at the request of Prime Sponsor Economic Development and Social Services Committee.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: December 4, 2012

To: Honorable Vice Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners

From: Alina T. Hudak
Deputy Mayor/County Manager

Subject: Resolution Authorizing the Deputy Mayor or Deputy Mayor's Designee to Execute all Necessary Mixed-finance Agreements and Documents Including Master Development Agreements and Ground Lease Amendments, for Construction of New Public Housing Units and/or Rehabilitation of Public Housing Units

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Recommendation

It is recommended that the Board of County Commissioners (Board) authorize the Deputy Mayor or Deputy Mayor's designee to execute all necessary mixed-finance agreements and documents including but not limited to Master Development Agreements and ground lease amendments, for construction and/or rehabilitation of new or existing public housing units at the Joe Moretti, Dante Fascell, Stirrup Plaza, South Miami Plaza and Jack Orr Plaza developments with the developer, RUDG, LLC (Related Urban). It is further recommended that the Board authorize the Deputy Mayor or Deputy Mayor's designee to execute amendments to the Annual Contribution Contract (ACC), subject to the United States Department of Housing and Urban Development's (HUD) approval. ACC is a contract between public housing agencies (PHA's) and HUD which provides for receipt of subsidy by PHA's from HUD. Finally, it is recommended that the Board waive the requirements of Resolution No. R-130-06, which requires that all contracts must be fully negotiated and executed by the non-County party. Waiver of this resolution's requirements is necessary since HUD must approve the mixed-finance documents, which include the ground leases and Master Development Agreements.

JOE MORETTI:

CONTRACT NO:	RFP No. 794-Joe Moretti, Dante Fascell, Stirrup Plaza, South Miami Plaza and Jack Orr Plaza
CONTRACT TITLE:	RFP No. 794 re-development for Joe Moretti, Dante Fascell, Stirrup Plaza, South Miami Plaza and Jack Orr Plaza
DESCRIPTION:	Related Urban will execute necessary mixed-finance documents, including but not limited to Master Development Agreements, with the County and perform all requirements indicated therein. Related Urban will plan and implement all aspects of the redevelopment of the site in close coordination with Public Housing and Community Development (Department). Related Urban will facilitate and foster continued collaboration with the residents as well as key community stakeholders during the entire development process. The work for each site includes (1) Joe Moretti- 116 new public housing units; (2) Dante Fascell- the preservation (rehabilitation) of 151 existing public housing units; (3) Stirrup Plaza- the preservation (rehabilitation) of 100 existing

	public housing units; (4) South Miami Plaza- the preservation (rehabilitation) of 97 existing public housing units; and (5) Jack Orr Plaza- the preservation (rehabilitation) of 200 existing public housing units.
TERM:	Seventy-five (75) years from the effective date of the Ground Lease.
CONTRACTS AMOUNT:	The total estimated development cost for (1) Joe Moretti is approximately $24,663,913; (2) Dante Fascell is approximately $18,618,106; (3) Stirrup Plaza is approximately $13,427,414; (4) South Miami Plaza is approximately $13,234,361; and (5) Jack Orr Plaza is approximately $24,757,234.
DEVELOPER:	RUDG, LLC (Related Urban) or its subsidiaries: Joe Moretti Phase One Developer, LLC, Dante Fascell Developer, LLC, Stirrup Plaza Phase One Developer, LLC, South Miami Plaza Developer, LLC, and Jack Orr Plaza Phase One Developer, LLC (Local)
USING/MANAGING AGENCY:	Public Housing and Community Development
LIVING WAGE:	The services provided are not covered under the Living Wage Ordinance.
LOCAL PREFERENCE:	Not applicable due to public housing federal subsidy funding restrictions.
ESTIMATED CONTRACT COMMENCEMENT DATE:	Upon the approval of all mixed-finance documents by the United States Department of Housing and Urban Development.
DELEGATED AUTHORITY:	Subject to the approval of this resolution and approval of the mixed-finance documents by the United States Department of Housing and Urban Development, the Deputy Mayor or the Deputy Mayor's designee will have the authority, at Deputy Mayor's or Deputy Mayor designee's discretion, to execute all necessary mixed-finance agreements, contracts, and other related, documents, including but not limited to Master Development Agreements and Amendment No. 3 to the Ground Leases. The Deputy Mayor or the Deputy Mayor's designee will be further authorized to amend the Annual Contribution Contract with the United States Department of Housing and Urban Development, and exercise subsequent amendments and/or extensions in accordance with the terms and conditions of the contract.

SCOPE:

Joe Moretti: The development action contemplated consists of the construction of a new thirteen-story high rise building with 116 new public housing units, which will be built on the existing adjacent parking lot located at 240 SW 9th Street, Miami, Florida. During construction, parking will be provided by the developer in an adjacent property. After the construction of the new building is completed and has obtained appropriate approvals for occupancy, all residents of the existing units will be relocated to the new building, and thereafter, the existing obsolete 96-unit Joe Moretti development located at 201 SW 10th Street, Miami, FL will be demolished and a new parking lot will be built.

Dante Fascell: The development action contemplated consists of the rehabilitation of 151 existing public housing units. The existing building is comprised of one six- story building with 151 apartments, a one-story community center/leasing office and parking. Rehabilitation of existing units will be conducted in phases - 15-20 units will be rehabilitated at a time. Residents will be temporarily relocated for 30-45 days while construction is on-going in their units. Residents will move back upon completion of the units. This approach will be repeated until all units are completed in the building.

Stirrup Plaza: The development action contemplated consists of the rehabilitation of 100 existing public housing units for the elderly. The project is comprised of one six-story residential building. Rehabilitation of existing units will be phased to minimize temporary relocation of residents to 30-45 days during construction.

South Miami Plaza: The development action contemplated consists of the rehabilitation of 97 existing public housing units. The existing building is a six-story residential building. Rehabilitation of existing units will be phased to minimize temporary relocation of residents to 30-45 days during construction.

Jack Orr Plaza: The development action contemplated consists of the rehabilitation of 200 existing public housing units. The existing building is a twelve-story residential building. Rehabilitation of existing units will be phased to minimize temporary relocation of residents to 30-45 days during construction.

COUNTY FUNDING SOURCE/
FISCAL IMPACT

Joe Moretti: The development action for Joe Moretti will have no fiscal impact on the County since no County funding is being provided.

Dante Fascell: The Developer has applied for $2,714,106 in Surtax funding. Determination of approval of this funding will be made at a later date and the Board will be advised accordingly.

Stirrup Plaza: The Developer has applied for $1,981,693 in Surtax funding. Determination of approval of this funding will be made at a later date and the Board will be advised accordingly.

South Miami Plaza: The Developer has applied for $1,887,452 in Surtax funding. Determination of approval of this funding will be made at a later date and the Board will be advised accordingly.

Jack Orr Plaza: The Developer has applied for $2,848,594 in Surtax funding. Determination of approval of this funding will be made at a later date and the Board will be advised accordingly.

TRACK RECORD/MONITORING: Jorge Cibran, Director of Facilities and Development Division, Public Housing and Community Development.

Background:

Request for Proposals No. 794 was issued on July 14, 2011 to solicit offers from developers to maximize and expedite the development potential of over 100 existing public housing sites and vacant land sites administered by Public Housing and Community Development (Department). The solicitation sought to establish partnerships with qualified entities to rehabilitate/upgrade existing public housing units, remove and replace obsolete public housing units, increase the number of units on underutilized sites, develop vacant land owned by the County, and also incorporate commercial and other special purpose uses, where appropriate, at particular public housing sites or vacant land sites. Additionally, the Department sought to replace its older units with new contemporary designs that resemble market-rate units (regardless of whether these are public housing, affordable or market-rate units) and incorporate creative and sustainable design solutions.

Pursuant to Resolution No. R-1026-11, on November 23, 2011, the Board awarded site control through ground leases to six (6) developers for twenty-eight (28) project sites. Subsequently, one additional developer and four additional project sites were awarded by the Board on February 7, 2012 pursuant to Resolution No. R-152-12. Also on February 7, 2012, the Board adopted Resolution No. R-137-12, which approved Amendment No. 1 to each of the ground leases. The resolution further authorized the Deputy Mayor/County Manager or the Deputy Mayor/County Manager's designee to execute any additional amendments to the ground leases that may be required to meet the standards of the Florida Housing Finance Corporation. Following the Board's adoption of Resolution No. R-137-12, the County and the developers executed Amendment No. 2 to each of the ground leases to clarify that the title commitment will reflect the existence of the declarations of Trust held by the County on behalf of the United States Department of Housing and Urban Development. Additionally, the Board adopted Resolution No. R-512-12 on June 19, 2012 to authorize the Deputy Mayor/County Manager or the Deputy Mayor/County Manager's designee to submit demolition and/or disposition applications to the United States Department of Housing and Urban Development for up to nine (9) projects.

Subsequent to the Board's November 23, 2011 award, Related Urban applied for nine percent (9%) Low Income Housing Tax Credit (Tax Credits) from the Florida Housing Finance Corporation (Finance Corporation). Joe Moretti, Dante Fascell, Stirrup Plaza, South Miami Plaza and Jack Orr Plaza developments were awarded 9% Tax Credit funding from the Finance Corporation. The Department and the County Attorney's Office have negotiated the terms and conditions of the Master Development Agreements and Amendments No. 3 of the Ground Leases with Related Urban. Amendments No. # 3 of the Ground Leases is required to reflect the same lease terms which were negotiated and incorporated in the Master Development Agreements. The term of the lease was extended to 75 years. In addition to these documents, the County and Related Urban are working on additional mixed-finance documents that will be required by the United States Department of Housing and Urban Development. All of the construction and rehabilitation projects are required to be completed by December 31st, 2013.

Due to completion deadlines that may be required for some funds contemplated for this development action, time is of the essence.

Attachments

Russell Benford, Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Vice Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners

DATE: December 4, 2012

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(K)(1)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 8(K)(1)
12-4-12

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE DEPUTY MAYOR OR DEPUTY MAYOR'S DESIGNEE TO EXECUTE MASTER DEVELOPMENT AGREEMENTS, AMENDMENT NO. 3 TO GROUND LEASES, AND OTHER NECESSARY MIXED-FINANCE CONTRACTS, AGREEMENTS AND RELATED DOCUMENTS WITH RUDG, LLC OR ITS SUBSIDIARIES FOR CONSTRUCTION AND/OR REHABILITATION OF NEW OR EXISTING PUBLIC HOUSING UNITS AT THE JOE MORETTI, DANTE FASCELL, STIRRUP PLAZA, SOUTH MIAMI PLAZA AND JACK ORR PLAZA PUBLIC HOUSING DEVELOPMENTS SUBJECT TO APPROVAL BY UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AUTHORIZING THE DEPUTY MAYOR OR THE DEPUTY MAYOR'S DESIGNEE TO EXERCISE ANY CANCELLATION, TERMINATION AND RENEWAL PROVISIONS, AND TO EXERCISE ALL OTHER RIGHTS CONTAINED THEREIN; AUTHORIZING AMENDMENT TO ANNUAL CONTRIBUTION CONTRACT, SUBJECT TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S APPROVAL; AND WAIVING THE REQUIREMENTS OF RESOLUTION NO. R-130-06

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. The Board directs the Deputy Mayor or Deputy Mayor's designee to execute the Master Development Agreements and Amendments No. 3 to the Ground Leases, in substantially the form attached hereto and incorporated by reference, with RUDG, LLC or its subsidiaries for the construction and/or rehabilitation of new or existing public housing developments at the Joe Moretti, Dante Fascell, Stirrup Plaza, South Miami Plaza and Jack Orr developments, subject to approval from the United States Department of Housing and Urban

Development. The Board further authorizes the Deputy Mayor or the Deputy Mayor's designee to exercise any cancellation, termination, and renewal provisions, and to exercise all other rights contained therein.

Section 2. The Board further authorizes the Deputy Mayor or the Deputy Mayor's designee to take all necessary action to accomplish and execute any and all necessary mixed-finance contracts, agreements and other related documents, subject to the approval of the United States Department of Housing and Urban Development.

Section 3. The Board also authorizes the Deputy Mayor or the Deputy Mayor's designee to amend, subject to the approval of the United States Department of Housing and Urban Development, the Annual Contribution Contract.

Section 4. The Board hereby waives the requirements of Resolution No. R-130-06.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	Juan C. Zapata

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of December, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Terrance A. Smith

MASTER DEVELOPMENT AGREEMENT

BETWEEN

MIAMI-DADE COUNTY

AND

JOE MORETI PHASE ONE DEVELOPER, LLC

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MASTER DEVELOPMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND JOE MORETTI PHASE ONE DEVELOPER, LLC

Joe Moretti Phase One Developer, LLC ("**Developer**") and MIAMI-DADE COUNTY, a political subdivision of the State of Florida and a "public housing agency" as defined in the United States Housing Act of 1937, as am ended (the "**County**"), hereby enter into this Master Development Agreement (the "**Agreement**") to memorialize certain business terms, conditions and agreements regarding futu re rehabilitation and redevelopm ent of Joe Moretti, a public housing development, in Miami Dade County, Florida (the "**Development**").

1. Definitions.

(a) "Act" shall have the meaning set forth in Section 4(b)(v).

(b) "Agreement" shall mean this Master Development Agreement.

(c) "Authority Affiliate" shall have the meaning set forth in Section 3(c).

(d) "County" shall mean Miami-Dade County.

(e) "Default Notice" shall have the meaning set forth in Section 10.

(f) "Developer" shall mean Joe Moretti Phase One Developer, LLC.

(g) "Developer Affiliate" shall have the meaning set forth in Section 3(c).

(h) "Development" shall mean the redevelopment of Joe Moretti, as further described in Section 3.

(i) "Effective Termination Date" shall have the meaning set forth in Section 8(e)(i).

(j) "FHFC" shall have the meaning set forth in Section 3(b).

(k) "Financial Closing" shall mean closing on construction financing.

(l) "Force Majeure Event" shall have the meaning set forth in Section 9(c).

(m) "HUD Safe Harbor Standards" shall have the meaning set forth in Section 5(a).

(n) "IPSIG" shall have the meaning set forth in Section 26.

(o) "LIHTC" shall have the meaning set forth in Section 3(b).

(p) "Management Agent" shall have the meaning set forth in Section 7(a).

(q) "Management Agreement" shall have the meaning set forth in Section 7(a).

(r) "Material Changes" shall have the meaning set forth in Section 3(b).

(s) "Owner Entity" shall have the meaning set forth in Section 3(c).

(t) "PHA-Assisted Units" shall have the meaning set forth in Section 3(b).

(u) "Partner" shall have the meaning set forth in Section 3(a).

(v) "Project Stabilization" shall have the meaning set forth in Section 3(c).

(w) "Proper Invoice" shall mean (insert)

(x) "RFP" shall have the meaning set forth in Section 3.

(y) "Redevelopment Budget" shall have the meaning set forth in Section 3(b).

(z) "Redevelopment Schedule" shall have the meaning set forth in Section 3(b).

(aa) "Relocation Plan" shall have the meaning set forth in Section 4(a)(ix)(4).

(bb) "Section 42" shall have the meaning set forth in Section 3(b).

(cc) "Sub Management Agreement" shall have the meaning set forth in Section 8(c).

(dd) "Termination for Cause" shall have the meaning set forth in Section 8(b).

2. **Nature of Agreement.** This Agreement sets forth the principal terms that have been agreed to by the parties concerning the Development (as defined below). It is anticipated that this agreement will constitute the "Master Development Agreement" for the Development. The parties are executing this Agreement to establish the principal terms of the transaction in order to enable both parties to proceed with an understanding of their obligations and agreements with regard to the Development.

3. **Development Feasibility and Structure.**

(a) Request for Proposals and Developer's Response. On July 14, 2011, the County sought proposals under Request for Proposals No. 794 (the "**RFP**") for the Development from qualified housing developers. An affiliate of Developer, RUDG, LLC, submitted a response to the RFP and County selected RUDG, LLC's proposal as the most qualified response to the RFP. The County approved RUDG, LLC's assignment of development rights to Developer and approved the designation of the Developer as the developer for the development of the Joe Moretti site, and as the County's "**Partner**," as described in 24 CFR § 941.604, for the mixed-finance development of public housing units (and potentially other units in later phases, as described herein), subject to and in accordance with the terms and conditions provided herein.

(b) Development Overview: The Parties hereby agree that the first phase ("Phase I") of the Development shall be a mixed finance development, consisting of the new construction of one hundred sixteen (116) public housing units in a rental phase owned by the Owner Entity (as hereinafter defined). All units shall continue to be set aside as 'public housing', as that term is defined in the U.S. Housing Act of 1937 (the "**PHA-Assisted Units**"), and will be operated and maintained as qualified Low Income Housing Tax Credit ("**LIHTC**") Units under Section 42 of the Internal Revenue Code of 1986 ("**Section 42**"), as amended, for a period of not less than the Tax Credit Compliance Period and any applicable extended use period (as such term is defined in Section 42 and required by the Florida Housing Finance Corporation ("**FHFC**")). Upon construction completion of Phase I, the Developer and County will relocate the residents living in the current Joe Moretti building to Phase I, and Developer will then demolish the current Joe Moretti building.

A scope of work is attached hereto as Exhibit A (hereinafter referred to as the "Scope of Work"), a development budget (including uses funded by undefined sources) is attached hereto as Exhibit B (hereinafter referred to as the "**Redevelopment Budget**"). A development schedule is attached hereto as Exhibit C (hereinafter referred to as the "Redevelopment Schedule"). A description of the unit types, sizes and targeted income levels (the "**Unit Mix**") is attached as Exhibit D. A list of key development team members is attached as Exhibit H. As development proceeds, the parties may mutually agree to supplement such exhibits with a more refined budget containing achievable sources, which budget shall be tied to a redevelopment schedule and realistic timeframes for securing development sources. Developer will submit proposed updates to the Redevelopment Schedule, the Redevelopment Budget and the Unit Mix for the County's review and comment, and Developer shall be required to obtain County's approval, such approval not to be unreasonably withheld, with respect to "**Material Changes**" and as changes become necessary. The following shall be considered "**Material Changes**":

i. Changes to the Unit Mix;

ii. An increase in the Redevelopment Budget by more than 10%; or

iii. Changes to the Redevelopment Schedule that delay completion or lease-up by more than ninety (90) calendar days.

References to the Development in this Agreement shall initially refer to Phase I. In the Developer's Response to the RFP, the Developer proposed the new construction of additional phases of development, which are anticipated to be negotiated in a separate Master Development Agreement. The County and Developer acknowledge and agree that such supplemental development will require County and HUD approval of the same and the release of certain excess property that is encumbered by the Ground Lease.

(c) Ownership Entities for Rental Phase and Selection of Investor. The Developer has formed Joe Moretti Phase One Preservation, LLC (the "**Owner Entity**") to own the Development. The Owner Entity will have a managing member that will be a limited liability company controlled by the Developer. The principal equity interest in the Owner Entity will be owned by a low income housing tax credit investor that is selected by the Developer in its sole discretion.

The County agrees to take all reasonably necessary action to assist Developer in obtaining an identity of interest waiver from HUD to utilize Developer's affiliated general contractor.

4. **Redevelopment Responsibilities.**

(a) Developer Responsibilities: As more specifically set forth herein, Developer shall be responsible for development services in connection with the construction of Phase I (and the subsequent phases, when applicable) and continued occupancy of the current Joe Moretti site until demolition thereof, as well as carrying out all other work for which Developer is responsible, as such responsibilities are detailed in this Agreement. The actual services delivered shall include all development services reasonably required to complete the construction of the Development and, except as otherwise provided herein, to cause each Owner Entity to facilitate the construction of the Development, including, but not limited to:

i. establishing phasing and timetables, structuring and securing financing and obtaining necessary city and county approvals, and hiring a general contractor or construction manager;

ii. providing financing to the project and identifying and securing additional financing as needed;

iii. providing all required third-party guarantees including investor and completion guarantees;

iv. assisting in preparing the Mixed-Finance Proposal; assisting in preparing or coordinating all documents necessary for closing of the financing in accordance with, as applicable, public housing, mixed-finance requirements; collaborating with the County to finalize documents and assist in the preparation of the evidentiary submission to HUD; and scheduling the Financial Closing;

v. entering into contracts or agreements, consistent with the terms of this Agreement, necessary or convenient for completion of the Development, which contracts or agreements may be assigned, as appropriate, by the Developer to the related Owner Entity at or prior to the financial closings. Awards shall be made to the bidder or offeror whose bid or offer is most advantageous to the Development, taking into consideration price, quality

and other factors deemed by the Developer to be relevant; Developer shall not employ or contract with any third party contractor which has been debarred by HUD or the County and shall promptly terminate any contracts with any third party contractor that is subsequently debarred;

vi. determining all necessary governmental approvals for such plans;

vii. carrying out pre-construction and construction activities, including design, engineering, and rehabilitation of the Development, guaranteeing completion of same without Material Changes to the Redevelopment Budget or Schedule, and ensuring compliance with all applicable laws, rules and regulations;

viii. carrying out property management of the Development, including resident relocation and subsequent re-occupancy of the Development, maintaining all applicable occupancy standards and maintaining all requisite reports, certifications and data in accordance with applicable requirements;

ix. maintaining regular communication with County regarding its development activities; and

x. Design, Construction and accessibility requirements:

(1) Developer shall conduct value engineering reviews during design and construction document phases to minimize construction cost and maximize scope of work to be done with allocated funding. The County will have access to design drawings and may provide comments and requests to changes in design, finishes and all aspects of the design development process.

(2) The Developer will provide the County with all cost certifications and reports from the investor and lender and the County will have the opportunity to review and comment on such certifications and reports.

(3) The County will have the opportunity to approve all change orders that require the approval of the investor and the lender (i.e. in excess of those minimum thresholds per occurrence and in the aggregate that do not require the approval of the investor and lender), such approvals not to be unreasonably withheld or delayed.

(4) Developer shall meet or exceed federal accessibility requirements including those indicated herein. Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794 and 24 CFR, Parts 8 and 9, prohibits discrimination against persons with disabilities in any program or activity receiving Federal Financial assistance. 24 CFR

§ 40.4 established the Uniform Federal Accessibility Standards (UFAS) as the standard design, construction, or alteration of residential structures. UFAS became effective July 11, 1988. For new construction and/or rehabilitation projects, the Developer shall provide at a minimum (unless more stringent requirements apply) five percent (5%) or at least one (1) unit (whichever is greater) for mobility, impaired persons. An additional minimum of two percent (2%) or at least one (1) unit (whichever is greater) is required for people with hearing or vision impairments. UFAS compliance is required for all areas required by UFAS including interior and exterior of units, common areas, site, etc. A third party certification of UFAS Compliance is required in a form and format reasonably acceptable to the County. On-going information concerning UFAS units and its occupants may also be required by the County. Developer shall provide required UFAS – related information as reasonably required by the County. In addition, developers are highly encouraged to provide units that are easily "adaptable" to UFAS units.

(5) Davis-Bacon wage requirements: Developer shall meet all applicable Davis-Bacon wage requirements and shall monitor and ensure Davis-Bacon wage compliance by general contractor(s), sub-contractors, sub – sub contractors, etc. (contractors), and shall ensure that all contracts and sub-contracts issued to any contractor on the project include Davis-Bacon requirements. Developers shall carefully review Davis-Bacon requirements with all contractors and sub-contractors on site on an on-going basis, shall appoint a Davis-Bacon compliance officer to ensure compliance during the entire construction duration, and shall provide Davis-Bacon compliance reporting to County as it may require. Any costs incurred by the County due to Davis-Bacon non-compliance by the Developer and/or any of its contractors, shall be reimbursable to the County by the Developer.

(6) For preservation/rehabilitation projects, maximize the storage capacity (kitchen cabinets, closets, pantry, vanity, etc.) for existing units as to not reduce existing capacity, whenever possible.

(7) The County has retained an Energy Performance Contractor (EPC) to conduct an energy audit on all public housing sites and provide recommendations to implement energy efficient systems, components, etc. The Developer shall coordinate its work with the EPC, attend meetings with EPC and the County as necessary, submit its drawings and specifications for EPC review and incorporate EPC comments received into the design documents, unless this requirement is waived by the County.

xi. County Approvals:

(1) On preservation/rehabilitation projects, Developers shall not reduce the size of existing units in any material respect to obtain more units within the same building envelope or change the unit designation (family, elderly, mixed-population, etc.) without a written request and written approval from PHCD, provided that PHCD has provided Developer a written description of such unit designation.

(2) Developer shall forward the drawings for preservation/rehabilitation and/or new construction to PHCD as these are developed for review, comment and approval, such approval not to be unreasonably withheld, withdrawn, or deleted.

(3) Developer shall closely coordinate with PHCD and attend meetings with public housing residents as reasonably required to inform and receive input from residents on all aspects of the development plans. Developer shall give good faith consideration to incorporate input received from residents, in coordination with PHCD, as feasible and consistent with applicable codes, zoning, federal requirements, etc. PHCD will coordinate and schedule meetings with residents.

(4) Developer shall submit a detailed relocation plan ("**Relocation Plan**") for review and approval by PHCD, such approval not be unreasonably withheld, withdrawn, or deleted. The Relocation Plan shall include appropriate notification and minimum disruption/convenience for residents, safety and provision of temporary housing as major considerations. Developer shall provide a "relocation coordinator" to plan, organize, implement and monitor all aspects of the Relocation Plan, closely coordinate all aspects required for relocation including phasing and duration, moving and storage of furnishings, transportation, meals, pets, mail, etc.

xii. The Developer and its consultants shall carefully review all change orders, contingency adjustments and/or any other additional costs (herein change orders) to confirm that these are appropriate and to minimize said costs whenever possible. Such review shall include but not be limited to compliance with contract documents, the party requesting the change order, and the reason for such request (justification), hidden or unforeseen conditions, A/E error and/or omissions, critical path analysis for time extensions and other contract requirements.

xiii. Consultant Coordination

(1) Developer shall carefully review and coordinate the works of its consultants to minimize architect/engineer errors and omissions and minimize any change orders, including additional costs and time extensions on the project.

(b) County's Responsibilities. As more specifically described herein, County is responsible for the following activities related to the Development (such list is not intended to be exhaustive):

i. Developing and submitting all necessary property disposition applications to HUD (provided that Developer shall have an opportunity to review and comment on the same prior to submission);

ii. Approving Owner Entity admissions and occupancy criteria and related property management documents such as the Public Housing lease and Community Policies, which approvals shall not be unreasonably withheld, delayed or conditioned;

iii. Reviewing, approving, and submitting the mixed finance proposal and evidentiaries to HUD;

iv. Providing all of the operating subsidy received from HUD relative to the PHA-Assisted Units on an annual basis and subject to any HUD pro-Ration or other HUD-generated subsidy adjustment (including those "add-ons," as described at 24 CFR Part 990), except that the Developer shall pay to the County an amount equal to five percent (5%) of subsidy received;

v. Providing the PHA-Assisted Units' share of those funds appropriated to the County under Section 9(d) of the United States Housing Act of 1937, as amended (the "Act") that are permitted to be utilized as operating subsidy in accordance with Section 9(g)(1) of the Act. The percent amount to be provided shall be determined by (i) dividing the total amount of Capital Funds awarded to the County by the total number of public housing units in the County's portfolio; and (iii) multiplying the resulting per unit amount by twenty percent (20%). Additionally, the County will give good faith consideration to providing the remaining pro-rata share of Capital Funds for purposes of ongoing capital assistance if requested by Developer and approved by HUD;

vi. Coordinating with the residents, other stakeholders in the County and other stakeholders on Development-related issues; and

vii. Obtaining all necessary HUD approvals (including as related to disposition approvals, environmental approvals in accordance with 24

CFR Part 50 or Part 58, mixed finance approvals), providing reports and maintaining communications with HUD. Notwithstanding the foregoing, the County will provide copies of all items to Developer prior to submission to HUD in order to permit the Developer to provide input and comment with respect to the same.

5. **Fees.**

(a) Developer Fee. The parties agree to seek approval from HUD of the maximum allowable developer fee permitted by the Florida Housing Finance Corporation for the Development of sixteen percent (16%) in the budgeted amount set forth at Exhibit B hereto, based upon satisfying the factors outlined by HUD in order to exceed the Cost Control and Safe Harbor Standards for Rental Mixed Finance Development (the "**HUD Safe Harbor Standards**").

(b) Ground Lease Payment. The Developer covenants and agrees to pay to County as pre-paid rent under the Ground Lease a lump sum payment of Four Hundred Twenty Thousand and No/100 Dollars ($420,000.00) upon Financial Closing. No additional amounts shall be due after such lump sum payment. The Ground Lease shall be for a term of Seventy-Five (75) years.

6. **Payment Provisions For County Funds (if applicable).** Developer shall submit to the County, not more often than monthly, a payment request for County funds in a form and format acceptable to the County, for expenditures for the work completed and incurred.

Each payment request shall be carefully reviewed and evaluated for accuracy, completeness and compliance with this agreement by Developer prior to its submission to the County. Each payment request shall identify, by line item and by reference to the corresponding element of the Budget, (a) the total costs to date incurred, (b) the corresponding portion of the compensation due to developer, if applicable (c) the amounts, if any, of previous payments, (d) the portion, if any, of such costs and/or fee for which a payment is requested under the payment request and any other provisions reasonably required (with reasonable advance notice) by the County. Each payment request shall be accompanied by separate billing statements or invoices from each consultant, sub-consultant, contractor or sub-contractor (herein vendors) to which payment has been made or will be made. The County shall not be required to make advance payments or deposits.

Payment requests shall not be processed until a proper payment request (herein proper invoice) has been received by the County from the Developer. Proper invoice means an invoice which conforms to the payment requirements of the County. A proper invoice shall include a statement by Developer waiving claims for extra direct and indirect costs or time associated with work preceding the date of the invoice, or a statement in sufficient detail containing all rights reserved for work already performed. All present requirements or future rules pertaining to the execution of a proper invoice will be made available to Developer in a timely manner. Developer shall make payments to all vendors included in each respective payment request within five (5) business days of receipt of funds from the County. Developer shall include the provisions of this

section in all sub-contracts, and require all vendors to include this provision in their contracts with other vendors.

The time at which payment for service is due from the County shall be calculated from the date on which a proper invoice is received by the County. The time at which payment shall be due from the County to Developer shall be forty (45) days from receipt by the County of a proper invoice from the Developer (provided that the County shall make every effort to make such payment within thirty (30) days). The time at which payment shall be due from the County to a small businesses (as defined in Section 2-222 of the County Code) developer shall be thirty (30) days from receipt of proper invoice by the County. In any case in which an improper invoice is submitted by the developer, the County shall, within ten (10) days after the improper invoice is received, notify the Developer that the invoice is improper and indicate what corrective action on the part of the Developer is needed to make the invoice proper.

For non-County funds, Developer shall provide a report, in a form and format acceptable to County, indicating payment requests and approved amounts received by the developer for all funding sources and percentage of overall project completion. In addition, the Developer shall provide, on a monthly basis, a constructions schedule and construction budget, anticipating anticipated changes to the budget and schedule, along with a change order log, and Developer will meet with the County at the County's request, at reasonable times and frequency, to review and discuss the monthly report. Any proposed changes will be subject to the approval provisions set forth in this Agreement.

7. **Property Management Responsibilities.**

(a) Designation of Property Manager. The initial property manager for the Development shall be TRG Management Company of Florida, an affiliate of Developer (the "**Management Agent**"). The Management Agent shall be responsible for the day to day operation of the Development including but not limited to compliance, collections, leasing, payment of invoices and maintenance. Specific duties shall be further detailed in the initial agreement between the Management Agent and the Owner Entity, such agreements subject to the County's reasonable approval (the "**Management Agreement**").

(b) Existing Residents and Admissions Policies. The parties agree that the occupancy will be carried out with respect to the Development as follows:

i. The existing residents of Joe Moretti (the "Existing Residents") shall have the right of first refusal to occupy public housing units in the Development once the scope of work described in this Agreement is complete, subject to screening by the Management Agent for low-income housing tax credit compliance.

ii. Any vacancies not filled by Existing Residents (either at initial occupancy or thereafter) will be filled by applicants who are referred from the County's waiting list, subject to screening by the Management Agent for

low-income housing tax credit compliance. The parties agree that a site-based waiting list will not be used. The parties acknowledge and agree that the County's Admissions and Continued Occupancy Policy will be revised, as necessary, to reflect the foregoing and that a referral process will be formulated by the parties to ensure that lease-up occurs in a timely manner.

(c) Property Management Fee. The Management Agent shall receive a management fee equal to the maximum fee permitted under HUD Safe Harbor Standards (which is currently Fifty-Six and 95/100 Dollars ($56.95) per unit, per month). The Management Agent will also receive a bookkeeping fee in the amount of $7.50 per unit, per month.

(d) Sub-Management Agreement. It is anticipated that the Management Agent will enter into a sub-management agreement (the "**Sub Management Agreement**") with the County, pursuant to which the County's management staff will carry out certain frontline management services on behalf of the Management Agent on terms and conditions to be agreed to between the parties. The Sub Management Agreement will be for a one (1) year term and will be subject to termination for cause or upon the termination of the Management Agreement.

8. **Termination.**

(a) Termination for Convenience. The County reserves the right to terminate this Agreement, in whole or in part, at any time for the convenience of the County if the County shall determine in good faith that it is infeasible, in the County's best interest, or contrary to that interest to proceed with the Development. In the event of a termination for convenience under this Agreement, the County shall deliver to the Developer a Notice of Termination within thirty (30) days specifying the extent to which the performance of the work under this Agreement is terminated, and the date upon which such termination becomes effective. If the performance of the work under this Agreement is terminated in whole or in part, the County shall be liable to the Developer for reasonable and proper costs resulting from such termination. Within thirty (30) days of receipt of the Notice of Termination, the Developer shall present a proper claim setting out in detail: (i) the total cost of all third-party costs incurred to date of termination (including any loans from third parties); (ii) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, or for settling other liabilities of Developer incurred in performance of its obligations hereunder; (iii) the cost of preserving and protecting the work already performed until the County or its assignee takes possession thereof or assumes responsibility therefore; (iv) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the County; and (v) fair compensation to Developer for all tasks performed to date (including, at a minimum, fifty percent (50%) of projected developer fee if a nine percent (9%) tax credit award has been made).

Within ninety (90) days of receipt of the claim from the Developer, the County shall make a final payment to the Developer. Furthermore, the Developer may terminate this Agreement for infeasibility, but only to the extent the Developer first made good faith efforts to pursue an alternative course of action, and in such event, shall be limited to reimbursement for those costs as set forth in (i)-(iv) of this Article 6(a) and reimbursement of Developer's reasonable overhead. In an event of a dispute regarding the claim, the parties hereto shall avail themself of the dispute resolution process more fully described in Exhibit F, Paragraph 1.

(b) Termination for Cause. Either Party may terminate this Agreement for cause, at any time, on the giving of notice to the other party of the grounds asserted for such termination and failure of the other Party to cure such grounds within thirty (30) days from receipt of such notice ("**Termination for Cause**"). Notwithstanding anything to the contrary contained herein, suspension from participation in any government programs, which suspensions, for the purposes hereof, are defined to include but not be limited to any sanctions imposed by HUD pursuant to 24 CFR Part 24, shall be grounds for termination of this Agreement for cause without opportunity for cure. By execution of this Agreement, Developer hereby certifies to the County that it is not suspended, debarred or otherwise prohibited from participation in any government programs.

In the event of a termination of this Agreement by the County or the Developer which is determined to constitute a breach hereof by the County or the Developer, the party in breach shall be liable to the non-breaching party in accordance with applicable law for all actual damages caused thereby.

(c) Fraud, Misrepresentation or Material Misstatement. The County may terminate this Agreement if Developer attempts to meet its contractual obligations hereunder with the County through fraud, misrepresentation or material misstatement.

(d) Debarment. The foregoing notwithstanding, any individual, corporation or other entity that attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Developer may be subject to debarment for those reasons set forth in Section 10-38 of the County Code.

(e) Remedies. In the event that the County exercises its right to terminate this Agreement following an Event of Default, the Developer shall, upon receipt of such notice, unless otherwise directed by the County:

i. Stop work on the date specified in the notice (the "**Effective Termination Date**");

ii. Take such actions as may be necessary for the protection and preservation of the County's materials and property;

iii. Cancel orders;

iv. Upon payment by the County for such work product and payment of other amounts due in accordance with this Article 6, assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services; and

v. Take no voluntary action (unless otherwise required by legal obligations) which will increase the amounts payable by the County under this Agreement.

(f) Developer Shall Deliver Work Product in Event of Termination. In the event that this Agreement is terminated under this Article 6, Developer agrees that it shall promptly deliver to County, or cause to be delivered to County, any concrete, transferable, and useable third party work product generated in connection with the Development, and will assign to County all of its right, title, and interest to such work product, without reservation in exchange for County's payment of funds paid by Developer (including funds borrowed from third parties) for such work product, along with amounts due to the Developer hereunder. Developer shall be under no obligation to deliver any work product in its possession unless the County shall have reimbursed it for the cost thereof (and paid to the Developer any other amounts due hereunder) or shall have agreed to offset the cost thereof against any indebtedness owing from the Developer to the County.

9. Event of Default.

(a) An Event of Default shall mean a breach of this Agreement by the Developer after expiration of any applicable notice and cure period without such cure. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:

i. the Developer has not delivered Deliverables on a timely basis;

ii. the Developer has made a Material Change to the Project Schedule without the County's approval;

iii. the Developer has refused or failed to supply enough properly skilled staff personnel;

iv. the Developer has failed to make prompt payment to subcontractors or suppliers for any Services;

v. the Developer has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of

the Developer's creditors, or the Developer has taken advantage of any insolvency statute or debtor/creditor law or if the Developer's affairs have been put in the hands of a receiver;

vi. the Developer has failed to obtain the approval of the County where required by this Agreement;

vii. the Developer has failed in the representation of any warranties stated herein.

viii. The Developer has made a Material Change to the Project Budget without the County's approval.

(b) In the event the County shall terminate this Agreement for default, the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, and reports after payment.

(c) Notwithstanding the foregoing, this Agreement shall not be terminated for default if the delay in completing the work arises from unforeseeable causes beyond the reasonable control of the Developer (any such failure or other cause or event being referred to herein as a "**Force Majeure Event**"). Examples of such causes include (a) acts of God or the public enemy, (b) material acts or failure to act, or delays in action, of the County, HUD, or other governmental entity in either its sovereign or contractual capacity, (c) material acts or failure to act of another contractor (other than a contractor or subcontractor to the Developer or the Owner Entity) in the performance of a contract with the County, (d) fires, (e) floods, (f) strikes or labor disputes, (g) freight embargoes, (h) unavailability of materials, (i) unusually severe weather, (j) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without fault or negligence of both the Developer and the subcontractors or suppliers, or (k) delay caused by litigation that is not between the County and the Developer.

10. **Notice of Default – Opportunity to Cure.** Notwithstanding anything in this Agreement to the contrary, if an Event of Default occurs in the determination of the County and the County wishes to declare an Event of Default or otherwise terminate this Agreement for cause to the extent, as provided under this Agreement, the County shall notify the Developer ("**Default Notice**"), specifying the basis for such default and the extent to which performance of work under this Agreement is terminated, and advising the Developer that such default must be cured immediately or this Agreement with the County may be terminated. If the termination is stated to be for default, the Default Notice thereof shall specify the nature of the claimed default and, if such default shall be reasonably subject to adequate cure, the Default Notice shall state (i) the actions required to be taken by the Developer to cure the default, and (ii) the reasonable time (up to sixty (60) days) within which Developer shall respond with a showing that all required actions have been taken, provided that the Developer shall have, subject to the County's approval, not to be unreasonably withheld conditioned or delayed, such additional time as is reasonably necessary to cure such default so long as the Developer has diligently commenced and is proceeding in a reasonable diligent matter toward curing such default. During any cure period so

provided, the Developer shall proceed diligently with performance of any work required by this Agreement which is not the subject of the claimed default. Following expiration of the stated cure period, the Authority shall deliver a second notice stating either that the default has been adequately cured or that the Agreement is terminated. The County shall grant an additional period of such duration as the County shall reasonably deem appropriate without waiver of any of the County's rights hereunder, so long as the Developer has commenced curing such default and is effectuating a cure with diligence and continuity during such sixty (60) day period or any other period which the County prescribes. The Default Notice shall specify the date the Developer shall discontinue the Services upon the Termination Date.

11. **Remedies in the Event of Default.** If an Event of Default occurs and remains uncured pursuant to Article 8 herein, the Developer shall be liable for all direct damages to the County resulting from such Event of Default. The Developer shall also remain liable for any liabilities and claims related to the Developer's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

12. **Lien Waivers.** Developer agrees that it will not permit any mechanic's, materialmen's or other liens to stand against the Premises for work or materials furnished to Developer it being provided, however, that Developer shall have the right to contest the validity thereof. Developer shall not have any right, authority or power to bind the County, the Premises or any other interest of the County in the Premises and will pay or cause to be paid all costs and charges for work done by it or caused to be done by it, in or to the Premises, for any claim for labor or material or for any other charge or expense, lien or security interest incurred in connection with the development, construction or operation of the Improvements or any change, alteration or addition thereto. IN THE EVENT THAT ANY MECHANIC'S LIEN SHALL BE FILED, DEVELOPER SHALL BOND OVER, PROCURE THE RELEASE OR DISCHARGE THEREOF WITHIN NINETY (90) DAYS EITHER BY PAYMENT OR IN SUCH OTHER MANNER AS MAY BE PRESCRIBED BY LAW. NOTICE IS HEREBY GIVEN THAT THE COUNTY SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO THE DEVELOPER OR TO ANYONE HOLDING ANY OF THE PREMISES THROUGH OR UNDER THE DEVELOPER, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE COUNTY IN AND TO ANY OF THE PREMISES. THE COUNTY SHALL BE PERMITTED TO POST ANY NOTICES ON THE PREMISES REGARDING SUCH NON-LIABILITY OF THE COUNTY.

Developer shall promptly pay all persons or entities furnishing labor and material with respect to any work performed by Developer or its contractor on or about the Premises, and shall obtain and deliver to Landlord "releases" or waivers of liens from all parties doing work on or about the Premises, along with an affidavit from Developer stating that all bills have been paid with regard to such work and that there are no outstanding obligations, except in th e ordinary course of business, owed with respect to any such work performed on the Premises.

13. **Indemnification**

(a) Developer Indemnity. The Developer shall indemnify and hold harmless the

County and its officers, employees, agents and instrumentalities from any and all liability, losses, or damages, including attorney fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Developer or its employees, agents, servants, partners, principals or subcontractors. The Developer shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Developer expressly understands and agrees that any insurance protection required by the Agreement or otherwise provided by the Developer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided. Notwithstanding anything to the contrary herein, such indemnification by Developer shall not cover claims or losses to the extent caused solely by the County's gross negligence or intentional wrongful acts or omissions.

(b) County Responsibility. The County shall indemnify and hold harmless the Developer and its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns from any and all liability, losses, or damages, including attorney fees and costs of defense, which the Developer or its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the County or officers, employees, agents and instrumentalities. The County shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the Developer, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The County's indemnification obligations in this Article 12(b) shall be subject to the provisions of Section 768.28, Fla. Stat., whereby the County shall not be liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of Two Hundred Thousand and No/100 Dollars ($200,000.00), or any claim or judgments or portion thereof, which when totaled with all other occurrence, exceeds the sum of Three Hundred Thousand and No/100 Dollars ($300,000.00), but only to the extent the limitations set forth in that Statute are applicable. Notwithstanding anything to the contrary herein, such indemnification by Miami-Dade County shall not cover claims or losses to the extent caused solely by the Developer's gross negligence or intentional wrongful acts or omissions.

14. **Insurance.** The Developer shall furnish to the Public Housing and Community Development Department, Facilities and Development Division at 701 NW 1 Court, 16th Floor, Miami, Florida 33136-3914, Certificates of Insurance that indicate that insurance coverage has

been obtained, which meets the requirements as outlined below:

(a) Worker's Compensation Insurance for all employees of the Developer as required by Florida Statute 440.

(b) Commercial General Liability Insurance on a comprehensive basis in an amount not less than One Million and No/100 Dollars ($1,000,000.00) combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

(c) Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the work, in an amount not less than Five Hundred Thousand and No/100 Dollars ($500,000.00) combined single limit per occurrence for bodily injury and property damage.

(d) Professional Liability Insurance shall be carried by architects and engineers in an amount not less than One Million and No/100 Dollars ($1,000,000.00) with a deductible per claim not to exceed ten percent (10%) of the limit-liability.

All insurance coverage required above shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Developer. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to do Business in Florida", issued by the State of Florida Department of Financial Services and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Developer hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Developer of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days after notification of recommendation to award. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Developer shall have an additional five (5) business days from notification to submit a corrected certificate to the County. If the Developer fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Developer shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such time frame for submission has been extended by the County.

The Developer shall be responsible for ensuring that the insurance certificates required in conjunction with this Article remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Developer shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

15. **Agreement Security.** Upon request by the County, but in no event earlier than the Financial Closing, the Developer shall cause its General Contractor to deliver to the County an executed Performance and Payment Bond on the prescribed form or in Cash (with the County as an additional obligee). The Performance and Payment Bond shall be in the amount of 100% of the construction cost of the Project, as security for the performance of this Agreement and for the payment of all persons performing labor or furnishing materials in connection therewith. If Cash is used in lieu of the bonds, all terms and conditions stipulated in the bonds shall be just as applicable. The Performance and Payment Bonds shall have as the surety thereon only such surety company or companies as are acceptable to the County and are authorized to write bonds of such character and amount in accordance with the following qualifications:

(a) All bonds shall be written through surety insurers authorized to do business in the State of Florida as surety, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

Bond Amount	Best Rating
i. 500,001 to 1,500,000	B V
ii. 1,500,001 to 2,500,000	A VI
iii. 2,500,001 to 5,000,000	A VII
iv. 5,000,001 to 10,000,000	A VIII
v. Over 10,000,000	A IX

(b) On contract amounts of 500,000 or less, the bond provisions of Section 287.0935, Florida Statutes shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:

i. Providing evidence that the Surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

ii. Certifying that the Surety is otherwise in compliance with the Florida Insurance Code, and;

iii. Providing a copy of the currently valid Certificate of Authority issued by the United States Department of the Treasury under ss. 31 U.S.C. §§ 9304-9308.

(c) Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.

(d) For contracts in excess of 500,000 the provision of Section (b) will be adhered to plus the company must have been listed for at least three consecutive years, or holding a valid Certificate of Authority of at least 1.5 million dollars and on the Treasury List.

(e) Surety Bonds guaranteed through U.S. Government Small Business Administration or Developers Training and Development Inc. will also be acceptable.

(f) The attorney-in-fact or other officer who signs performance and payment bonds for a surety company must file with such bond a certified copy of his power of attorney authorizing him to do so. The performance and payment bonds must be counter signed by the surety's resident Florida agent.

The Performance Bond or Cash us ed in lieu of the Performance Bond shall rem ain in force for one (1) year from the date of final acceptance of the work to protect the County against losses resulting from defects in m aterials or im proper performance of work under the Agreem ent; provided however, that this lim itation does not apply to suits seeking dam ages for latent defects in materials or workm anship, such actions be ing subject to the lim itations found in Section 95.11(3)(c), Florida Statutes.

16. **Compliance with Public Housing Requirements.**

(a) Treatment of HUD Funds. Any transfer of public housing funds pursuant to this

Agreement will not be an assignment of public housing funds or be deemed an assignment of public housing funds. Developer will not succeed to any rights or benefits County may have under the applicable grant agreements or contracts with HUD or attain any privilege, authority, interest, or right under applicable grant agreements or contracts between the County and HUD. Nothing contained in this Agreement will be construed to create any relationship of third party beneficiary or otherwise with HUD.

(b) Development Obligations. Developer shall provide development services in accordance with this Agreement. Developer shall perform the duties and undertake the responsibilities herein set forth in a competent and professional manner using good faith reasonable efforts. The Developer is an independent contractor and not an agent of the County. Therefore, except as may be expressly set forth herein, Developer shall have no authority to bind County. Except as expressly set forth herein, Developer will provide all services, equipment, and materials for Developer and will furnish, directly or through contractors, subcontractors, professional expertise, management, labor, materials, supplies, fixtures, equipment, tools and machinery, testing, supervision, facilities, and other services required for the completion of the Development.

(c) Reporting Requirements. Pursuant to Sections 2-8.1, 2-8.8 and 10.34 of the Code of Miami-Dade County (as amended by Ordinance No. 11-90), the Developer must report to the County the race, gender and ethnic origin of the owners and employees of its first tier subcontractors using the Subcontractor/Supplier Listing form, attached hereto as Exhibit E. In the event that the Developer demonstrates to the County that the race, gender and ethnic information is not reasonably available at that time, the Developer shall be obligated by this Agreement to exercise commercially reasonable efforts to obtain that information and to provide the same to the County not later than ten (10) business days after it becomes available and, in any event, prior to final payment this Agreement.

(d) Compliance with Laws and other Requirements. Developer shall fully comply with all applicable laws and regulations applicable to Developer with respect to workers' compensation, social security, unemployment insurance, hours of labor, wages, working conditions, licensing and other employer-employee related matters, including, without limitation, all laws, rules and regulations with respect to non-discrimination based on race, sex or otherwise, and MBE/WBE, and Section 3 of the Housing and Urban Redevelopment Act of 1968, as more fully described in Exhibit F, Applicable HUD General Conditions for Construction Contracts, which is incorporated herein by reference. Developer will further comply with all applicable public housing requirements.

17. **Warranties.**

(a) Developer's Warranties. Developer represents and warrants to the County that (a) Developer is and will continue to be duly organized, and is in good standing

under the laws of and qualified to do business in the State of Florida, (b) Developer has and will have all necessary power, authority, licenses and staff resources for the undertaking of its obligations under this Agreement, (c) this Agreement has been duly entered into and is the legally binding obligation of Developer, (d) this Agreement will not violate any judgment, law, or agreement to which Developer is a party or is subject, and (e) there is no claim pending, or to the best knowledge of Developer, threatened, that would impede Developer's ability to perform its obligation hereunto. Developer shall not hereafter enter into any agreement which would, or modify any existing agreement in a manner that would, impair its ability to perform its obligations hereunder, and will notify the County if any suit is threatened or law proposed which would impair its ability to perform its obligations hereunder.

(b) County's Warranties. The County represents and warrants to Developer that (a) the County has and will have all necessary power and authority under Florida law for the undertaking of its obligations under this Agreement, (b) this Agreement has been duly entered into and is the legally binding obligation of the County, (c) this Agreement will not violate any judgment, law, consent decree, or agreement to which the County is a party or is subject to and will not violate any law or ordinance under which the County is organized, (d) the County is, or has an affiliate who is, qualified to participate as co-managing member of a tax credit limited liability company to the extent requested by the Developer, (e) there is no claim pending, or to the best knowledge of the County, threatened, that is likely to materially impede the County's ability to perform its obligation hereunto. The County shall not hereafter enter into any agreement or consent decree which would, or modify any existing agreement or consent decree in a manner that would impair its ability to perform its obligations hereunder, and will notify Developer if any suit is threatened or law proposed which would materially impair its ability to perform its obligations hereunder.

18. **Term.** This Agreement shall begin upon execution hereof, and shall expire (except for obligations identified as continuing beyond the term of the Agreement) upon the completion of all the activities described herein, unless sooner terminated in accordance with the terms provided herein. This Agreement shall terminate upon Financial Closing and the closing documents for the Development will govern the relationship between the parties to the extent described in such documents, unless this Agreement expressly provides that such subject matter with survive the termination of this Agreement. The parties acknowledge that certain subject matter of this Agreement relates to activities that are intended to survive the term hereof, and so the parties acknowledge and agree to effectuate such matters in the closing documents with respect to each phase.

19. **County's Sovereignty.** It is expressly understood that, subject to the other provisions of this Agreement:

(a) The County retains all of its sovereign prerogatives and rights as a county under Florida laws and shall in no way be estopped from reasonably withholding or

refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the planning, design, construction and development of the Development or the operation thereof, or be liable for the same; and

(b) The County shall not by virtue of this Agreement be obligated to grant the Developer any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Development.

20. **Option and Right of First Refusal.** The County shall have the option and right of first refusal to purchase the Development at the end of the tax credit compliance period for the greater of: (i) the fair market value of the property; and (ii) the lowest price that is permitted under Section 42(i)(7) of the Internal Revenue Code of 1986, as amended plus any operating deficit loans of any member and any taxes that are projected to be owed by any member as a result of such sale.

21. **No Liability for Exercise of Police Power.** Subject to any contrary provision in this Agreement, or any County covenant or obligation that may be contained in this Agreement, the County shall have no obligation, including but not limited to the following:

(a) To assist the Developer in applying for any county, city or third party perm it or needed approval; or

(b) To contest, defend against, or assist the Developer in contesting or defending against any challenge of any nature; and, except as otherwise set forth in this Agreement, this Agreement shall not bind the County Board, the Permitting, Environment and Regulatory Affairs Department, other applicable County departments, or their successor departments, or any other county, city, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the County or any other applicable governmental agencies in the exercise of its police power; and, except as otherwise set forth in this Agreement, the County shall be released and held harmless, by the Developer from and against any liability, responsibility, claims, consequential or other damages, or losses to the Developer or to any third parties resulting from denial, withholding or revocation (in whole or in part) of any zoning or other changes, variances, permits, waivers, amendments, or approvals of any kind or nature whatsoever. Without limiting the foregoing, the parties recognize that the approval of any building permit and/or certificate of occupancy will require the County to exercise its quasi-judicial or police powers. Without limiting any other provision of this Agreement, the County shall have no obligation to approve, in whole or in part, any application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver. The County's obligation to use reasonable good

faith efforts in the permitting of the use of County owned property regarding the Premises shall not extend to any exercise of quasi-judicial or police powers, and shall be limited solely to ministerial actions, including the timely acceptance and processing of any requests or inquiries by the Developer as authorized by this Agreement. Moreover, in no event shall a failure of the County to adopt any of the Developer or Owner Entity's request or application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver be construed a breach or default of this Agreement, unless such failure was unreasonable or untimely or in direct contravention to another provision of this Agreement.

22. Vendor Registration and Forms/Conflict of Interest.

(a) Vendor Registration. The Developer shall be a registered vendor with the County's Internal Services Department, Procurement Management Division, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Developer confirms its knowledge of and commitment to comply with the following:

i. *Miami-Dade County Ownership Disclosure Affidavit* (Section 2-8.1 of the County Code)

ii. *Miami-Dade County Employment Disclosure Affidavit (Section 2.8-1(d)(2) of the County Code)*

iii. *Miami-Dade Employment Drug-free Workplace Certification (Section 2-8.1.2(b) of the County Code)*

iv. *Miami-Dade Disability and Nondiscrimination Affidavit (Section 2-8.1.5* of the County Code*)*

v. *Miami-Dade County Debarment Disclosure Affidavit (Section 10.38 of the County Code)*

vi. *Miami-Dade County Vendor Obligation to County Affidavit (Section 2-8.1 of the County Code)*

vii. *Miami-Dade County Code of Business Ethics Affidavit (Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)*

viii. *Miami-Dade County Family Leave Affidavit(Article V of Chapter 11 of the County Code)*

ix. *Miami-Dade County Living Wage Affidavit (Section 2-8.9 of the County Code)*

x. *Miami-Dade County Domestic Leave and Reporting Affidavit(Article 8, Section 11A-60 11A-67 of the County Code)*

xi. *Subcontracting Practices(Ordinance 97-35)*

xii. *Subcontractor /Supplier Listing (Section 2-8.8 of the County Code)*

xiii. *Environmentally Acceptable Packaging(Resolution R-738-92)*

xiv. *W-9 and 8109 Forms* (as required by the Internal Revenue Service)

xv. *FEIN Number or Social Security Number.* In order to establish a file, the Developer's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Developer's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

(1) Identification of individual account records

(2) To make payments to individual/Developer for goods and services provided to Miami-Dade County

(3) Tax reporting purposes

(4) To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

xvi. *Office of the Inspector General* (Section 2-1076 of the County Code)

xvii. *Small Business Enterprises.* The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

xviii. *Antitrust Laws.* By acceptance of any contract, the Developer agrees to comply with all antitrust laws of the United States and the State of Florida.

(1) Conflict of Interest. Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate

family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593. Further the Developer shall comply with Section 1352 of Title 31 of the United States Code, which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, loan, or cooperative agreement. The Developer further agrees to comply with the requirement of such legislation to furnish a disclosure (OMB Standard Form LLQ) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, in connection with a Federal contract, grant, loan, or cooperative agreement, which payment would be prohibited if made from Federal appropriated funds. The Developer represents that:

- No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.

- There are no undisclosed persons or entities interested with the Developer in this Agreement. This Agreement is entered into by the Developer without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government),

or a member of the immediate family or household of any of the aforesaid;

- is interested on behalf of or through the Developer directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or

- is an employee, agent, advisor, or consultant to the Developer or to the best of the Developer's knowledge any subcontractor or supplier to the Developer.

  - Neither the Developer nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Developer shall have an interest which is in conflict with the Developer's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Developer provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

  - The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

(2) In the event Developer has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Developer shall promptly bring such information to the attention of the County's Project Manager. Developer shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Developer receives from the Project Manager in regard to remedying the situation.

23. **Interest of Members of Congress.** No Member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

24. **Interest of Member, Officer, or Employee and Former Member, Officer, or staff** and elected officials to ensure compliance with contract specifications and to detect fraud and

corruption.

25. **Upon Written Notice to the Developer from the Inspector General or IPSIG Retained by the Inspector Employee of the County.** No member, officer, or employee of the County, no member of the governing body of the County, no member of the governing body by which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Development shall, during his or her tenure, or for two year thereafter or such longer time as the County's Code of Ethics may reasonably require, have any interest, direct or indirect, in this Agreement or the proceeds thereof, unless the conflict of interest is waived by the County and by HUD.

26. **Inspector General Reviews.** Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "**IPSIG**"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Developer shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Developer's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Developer, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Developer in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Developer or any third party.

(a) ***Miami-Dade County Inspector General Review.*** According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Developer. The audit cost shall also be included in all change orders and all contract renewals and extensions.

i. Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (I) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade***

County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.

Nothing contained above shall in any way lim it the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miam i-Dade County Inspector Gene ral is authorized and empowered to review past, present a nd proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena w itnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on tim e, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonablenes s of proposed change orders to the Agr eement. The Inspec tor General is empowered to re tain the se rvices of independent private sector insp ectors general (IPSIG) to a udit, investigate, m onitor, oversee, inspect and review operations, activities, performance and procurement process, including but not lim ited to project d esign, specifications, proposal submittals, activities of the Developer, its officers, agents an d employees, lobbyists, County General, the Developer shall m ake all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG s hall have the right to inspect and copy all doc uments and records in the Develo per's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, work sheets, proposals and agreem ents form and which successful and unsuccessful subcontractor s and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction docum ents, proposal and contract docum ents, back-charge docum ents, all docum ents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or div idends received, payroll and personnel records, and supporting docu mentation for the aforesaid documents and records.

27. **Notices.** All notices, requests, approvals, demands and other communications given hereunder or in connection with this Agreement shall be in writing and shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows (provided, that any time period for responding to any such communication shall not begin to run until such communication is actually received or delivery is refused):

If to County: Miami-Dade County
c/o Miami-Dade Public Housing and Community Development
701 N.W. 1st Court, 16th Floor
Miami, FL 33136
Attn: Executive Director

With a Copy to: Miami-Dade County Attorney's Office

	111 N.W. 1st Street, Suite 2810
Miam	i, FL 33128
Attn:	Terrence A. Smith, Esq.
If to Developer:	Joe Moretti Phase One Developer, LLC
c/o	Related Urban
	315 S. Biscayne Blvd., 4th Floor
	Miami, FL 33131
Attn:	Albert Milo, Jr., Principal/Senior Vice President
With a Copy to:	Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
	150 W. Flagler Street, Suite 2200
Miam	i, FL 33130
Attn:	Brian McDonough, Esq.

28. **Further Assurances.** Each party shall execute such other and further documents as may be reasonably necessary or proper for the consummation of the transaction contemplated by this Agreement as mutually agreed by the Parties hereto.

29. **Assignment.** This Agreement shall not be assignable by either party, except by the Developer to the Owner Entities as contemplated herein or upon written consent of the other party.

30. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed original, but all of which, together, shall constitute one instrument.

31. **Interpretation and Governing Law.** This Agreement shall not be construed against the party who prepared it but shall be construed as though prepared by both Parties. This Agreement shall be construed, interpreted, and governed by the laws of the State of Florida.

32. **Severability.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable such portion shall be deemed severed from this Agreement and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Agreement.

33. **Parties Bound.** No officer, director, shareholder, employee, agent, or other person authorized to act for and on behalf of any party hereto shall be personally liable for any obligation, express or implied.

34. **Final Agreement.** Unless otherwise provided herein, this Agreement constitutes the final understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the Parties, and except for those agreements contemplated herein. This Agreement may be amended, supplemented or changed only by a writing signed or authorized by or on behalf of the party to be bound thereby. Notwithstanding the foregoing, the parties acknowledge that Ground Lease made as of December 5, 2011, by and between the County and Joe Moretti Phase One Preservation, LLC,

which expressly survives the terms hereof.

35. **Modification of Agreement.** This Agreement may be amended by mutual agreement of the County and Owner, not to be unreasonably withheld, subject to prior written approval by HUD (if required) and provided that all amendments must be in writing and signed by both parties and that no amendment shall impair the obligations of the County or Owner to develop and operate the Public Housing Units in accordance with all Applicable Public Housing Requirements and the Ground Lease. This Agreement may not be altered, modified, rescinded, or extended orally.

36. **Waivers.** The failure of any party to insist in any one or more cases upon the strict performance of any of the obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by any party of any provision of this Agreement shall be deemed to have been made unless set forth in writing and signed by the party to be charged.

37. **Successors.** The terms, covenants, agreements, provisions, and conditions contained herein shall bind and inure to the benefit of the Parties hereto, their successors and assigns.

38. **Certain Approvals and Reasonableness Standard.** Unless otherwise stated, all approvals or consents required of either party hereunder shall not be unreasonably withheld, conditioned or delayed and each party shall endeavor to act reasonably with respect to activities under this Agreement.

39. **Headings.** The headings in this Agreement are inserted for convenience only and shall not be used to define, limit or describe the scope of this Agreement or any of the obligations herein.

40. **Construction.** Whenever in this A greement a pronoun is used, it shall be construed to represent either the singular or the plural, either the masculine or the feminine, as the case shall demand.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have caused this Agreem ent to be executed this _____ day of _____, 2012.

JOE MORETTI PHASE ONE DEVELOPER, LLC

By:_____

MIAMI-DADE COUNTY

By:_____

Attest:_____
Deputy Clerk

Approved as to form and legal sufficiency

By:_____
Name: Terrence A. Smith
Its: Assistant County Attorney

Exhibit A

Scope of Work

(see attached)

Joe Moretti Scope of Work

13 Stories 116 Units New Construction

Shell

Concrete Footings
Post Tension Concrete Slabs
Poured in place Concrete Colums and Beams
Concrete Block Exterior Envelope
Post Tension Concrete Roof Slab
Lightweight Insulating Concrete Roof System
Energy Efficient Roof Coating

Exterior

Surface Parking
Covered Drop Off
Gated Parking Area
Community Greeen Area with Lighting and Seating
Hurricane Impact Windows
Energy Efficient Cooling Tower
Stucco
Paint
Landscaping
Site Lighting
Site Access Control
Benches

Interior

Kitchen Cabinets
Kitchen Appliances
Interior Doors
Energy Efficient Light Fixtures
Bathroom Cabinet
Bathroom Fixtures
Roll in Showers
Bathroom Tile
Flooring in Unit
Wood Baseboards
Interior Paint
Centarl Boiler
Exhaust Fans in Kitchen and Bathroom
Door Hardware
Cable, Phone, and Internet in Each Unit
Emergency Call System
Corridor Flooring
Corridor Ceilings
Corridor Energy Efficient Lighting
Window Coverings in Each Unit

Joe Moretti Scope of Work

13 Stories 116 Units New Construction

Energy Efficient Ceiling Fans

Common Areas

Community Center
Fitness Center
Library / Computer Room
Laundry
Doors
Door Hardware
Lobby
Mail Room
Energy Efficient Lighting
Tile Flooring
Wood Baseboards
Elevators

Building Systems

Fire Alarm
Fire Pump
Sprinkled Building
Domestic Water Pumps
Emergency Generator
Security Camera System
Access Control System

Exhibit B

Redevelopment Budget

(see attached)

Exhibit B

Joe Moretti

		DEVELOPMENT BUDGET
Acquisition Costs		
Land:	100%	420,000
Subtotal:		**420,000**
Construction Costs	PDU	
Residential:	100,822	11,695,338
Parking	7,759	900,000
Site Work:	6,681	775,000
Demolition / Abatement	2,155	250,000
Other: Amenities		100,000
FF&E		100,000
General Requirements:	6%	829,220
Overhead:	2%	276,407
Profit:	6%	829,220
Hard Cost Contingency:	5%	674,767
Subtotal:	141,638	**16,429,952**
Project Soft Costs		
Accountant Cost Cert:		50,000
Appraisal:		15,000
Market Study:		10,000
Enviromental Studies/Soil Tests:		38,000
Physical Needs Assessment:		10,000
Architect - Design&Supervision:		400,000
Survey:		25,000
Title Insurance		150,000
Marketing & Advertising		20,000
Management Transition		90,000
P&P Bonds:		177,138
Building Permits:		250,000
Engineering Fee		190,000
Inspection Fees:		25,000
Tenant Relocation:		411,400
Builders Risk Insurance		140,153
Impact fees		120,000
Liability Insurance		25,000
Utility Connection Fees		122,000
Property Taxes		0
Subtotal:	19,558	**2,268,691**
Developer Legal Costs		
Acquisition Counsel:		30,000
Debt Counsel:		55,000
HUD Counsel:		30,000
Local Counsel:		15,000
Legal Contingency		50,000
Subtotal:	1,552	**180,000**

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Joe Moretti

			DEVELOPMENT BUDGET
Financing Issuance Costs			
Closing Costs - Construction			170,000
Lender Origination Fees:		1%	160,000
Underwriter Fees:			16,000
	Subtotal:	2,983	**346,000**
Financing Legal Costs			
Lender Counsel:			20,000
	Subtotal:	172	**20,000**
Equity Syndication Costs			
Up-Front LIHTC Admin Fees (FHF			204,880
LIHTC Application Fees:			3,000
FHFC Compliance Fee			53,957
Syndicator Costs			75,000
	Subtotal:	2,904	**336,837**
Reserves and Escrows			
Replacement Reserve:			58,000
Insurance Escrow:			81,200
Capitalized Asset Management Fee			75,000
Construction Interest			500,000
Operating Expense Reserve			255,366
Operating Subsidy Reserve			305,831
	Subtotal:		**1,275,396**
Soft Cost Contingency			**150,000**
Developer Fee			**3,237,037**
Total Development Budget:			**24,663,913**

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Exhibit C

Redevelopment Schedule

(see attached)

Joe Moretti

Project Schedule

Milestone	Start	Complete
PLANS & SPECS	6/1/2012	10/8/2012
PERMITTING	10/12/2012	12/15/2012
BIDDING	10/15/2012	11/30/2012
FINAL CLOSING	12/20/2012	12/20/2012
CONSTRUCTION COMMENCEMENT	1/2/2013	-
TENANT RELOCATION	12/18/2013	1/15/2014
CONSTRUCTION COMPLETION	-	12/17/2013
LEASE UP STABILIZATION	12/1/2013	12/31/2013
PROJECT FORM 8609 COMPLETION	1/30/2014	2/15/2014
TOTAL	6/1/2012	2/15/2014

Exhibit D

Unit Mix

(see attached)

Exhibit D

Joe Moretti Unit Mix		
# of Bedrooms	# of Units	Sq. Ft. of Living Area
1	116	583
Total	116	

Exhibit E

Subcontractor/Supplier Listing Form

(see attached)

SUBCONTRACTOR/SUPPLIER LISTING

(Miami-Dade County Code Sections 2-8.1, 2-8.8 and 10-34)

Firm Name of Prime Contractor/Respondent _____ FEIN # _____

Project/Contract Number _____

In accordance with Sections 2-8.1, 2-8.8 and 10.34 of the Miami-Dade County Code, this form must be submitted as a condition of award by all bidders/respondents on County contracts for purchase of supplies, materials or services, including professional services which involve expenditures of $100,000 or more, and all bidders/respondents on County or Public Health Trust construction contracts which involve expenditures of $100,000 or more. The bidder/respondent who is awarded this bid/contract shall not change or substitute first tier subcontractors or direct suppliers or the portions of the contract work to be performed or materials to be supplied from those identified, except upon written approval of the County. The bidder/respondent should enter the word "NONE" under the appropriate heading of this form if no subcontractors or suppliers will be used on the contract and sign the form below.

In accordance with Ordinance No. 11-90, an entity contracting with the County shall report the race, gender and ethnic origin of the owners and employees of all first tier subcontractors/suppliers. In the event that the successful bidder demonstrates to the County prior to award that the race, gender, and ethnic information is not reasonably available at that time, the successful bidder shall be obligated to exercise diligent efforts to obtain that information and provide the same to the County not later than ten (10) days after it becomes available and, in any event, prior to final payment under the contract.

(Please duplicate this form if additional space is needed.)

Business Name and Address of First Tier Subcontractor/ Subconsultant	Principal Owner	Scope of Work to be Performed by Subcontractor/ Subconsultant	Principal Owner (Enter the number of male and female owners by race/ethnicity)								Employee(s) (Enter the number of male and female employees and the number of employees by race/ethnicity)							
			Gender		Race/Ethnicity						Gender		Race/Ethnicity					
			M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other	M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other

Business Name and Address of First Tier Direct Supplier	Principal Owner	Supplies/Materials/ Services to be Provided by Supplier	Principal Owner (Enter the number of male and female owners by race/ethnicity)								Employee(s) (Enter the number of male and female employees and the number of employees by race/ethnicity)							
			Gender		Race/Ethnicity						Gender		Race/Ethnicity					
			M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other	M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other

☐ Mark here if race, gender and ethnicity information is not available and will be provided at a later date. This data may be submitted to Contracting/User department or on-line to the Small Business Development Division of the Regulatory and Economic Resources Department at http://new.miamidade.gov/business/business-development.asp.

I certify that the representations contained in this Subcontractor/Supplier listing are to the best of my knowledge true and accurate.

Signature of Bidder/Respondent _____ Print Name _____ Print Title _____ Date _____

SUB 100 Rev. 6/12

Exhibit F

Applicable HUD General Conditions for Construction Contracts

Conduct of Work

1. Disputes

(a) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(b) Except for disputes arising under the clauses entitled *Labor Standards and Labor Standards- Nonroutine Maintenance,* herein, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.

(c) All claims by the Developer shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the County against the Developer shall be subject to a written decision by the Contracting Officer.

(d) _____ shall be the "Contracting Officer." The Contracting Officer shall, within 60 (unless otherwise indicated) days after receipt of the request, decide the claim or notify the Developer of the date by which the decision will be made.

(e) The Contracting Officer's decision shall be final unless the Developer (I) appeals in writing to a higher level in the County in accordance with the County' s policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the Contracting Officer's decision.

(f) The Developer shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

2. Lead-Based Paint

The Developer shall comply with the requirements concerning lead-based painted contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

3. Health, Safety, and Accident Prevention

(a) In performing this contract, the Developer shall:

i. Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;

ii. Protect the lives, health, and safety of other persons;

iii. Prevent damage to property, materials, supplies, and equipment; and

iv. Avoid work interruptions.

(b) For these purposes, the Developer shall:

i. Comply with regulations and standards issued by the Secretary of Labor at 29 CFR Part 1926. Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96), 40 U.S.C. 3701 et seq.; and

ii. Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.

(c) The Developer shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR Part 1904.

(d) The Contracting Officer shall notify the Developer of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Developer or the Developer's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Developer shall immediately take corrective action (unless Developer disputes the notification in accordance with Section 1). If the Developer fails or refuses to take corrective action promptly, the

Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Developer shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.

(e) The Developer shall be responsible for its subcontractors' compliance with the provisions of this clause. The Developer shall take such action with respect to any subcontract as Miami-Dade County (the "County"), the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

4. Royalties and Patents

The Developer shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the County harmless from loss on account thereof; except that the County shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and the Developer has no reason to believe that the specified design, process, or product is an infringement. If, however, the Developer has reason to believe that any design, process or product specified is an infringement of a patent, the Developer shall promptly notify the Contracting Officer. Failure to give such notice shall make the Developer responsible for resultant loss.

5. Clean Air and Water

The contactor shall comply with the Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Water Act, as amended, 33 U.S.C. 1251 et seq., and standards issued pursuant thereto in the facilities in which this contract is to be performed.

6. Energy Efficiency

The Developer shall comply with mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under the contract is performed.

7. Subcontracts

(a) Definitions. As used in this contract:

i. "Subcontract" means any contract, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and services for the performance of the prime contract or a subcontract.

ii. "Subcontractor" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for the Developer or

another subcontractor.

(b) The Developer shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the state in which the work under this contract is to be performed.

(c) The Developer shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Developer.

(d) The Developer shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.

(e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the County or between the subcontractor and HUD.

8. Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms.

The Developer shall take the following steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority firms, women's business enterprises, and labor surplus area firms:

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;

(d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business enterprises; and

(e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

9. Equal Employment Opportunity.

During the performance of this contract, the Developer agrees as follows:

(a) The Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation.

(b) The Developer shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation. Such action shall include, but not be limited to, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.

(c) The Developer shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(d) The Developer shall, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation.

(e) The Developer shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Developer's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The Developer shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(g) The Developer shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Developer shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(h) In the event of a determination that the Developer is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Developer may be declared ineligible for further Government contracts, or Federally assisted construction contracts under the procedures authorized in Executive Order 11246,

as amended. In addition, sanctions may be imposed and remedies invoked against the Developer as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(i) The Developer shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Developer shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Developer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Developer may request the United States to enter into the litigation to protect the interests of the United States.

(j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.

10. Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

(a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s)

taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b)agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

11. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

12. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or e mployee of the Co unty, no m ember of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the County was activated, and no other public official of such locality or localities who exercises any functions or respons ibilities with resp ect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or i ndirect, in this con tract or th e proceeds thereof.

13. Limitations on Payments made to Influence Certain Federal Financial Transactions.

(a) The Developer agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(b) The Developer further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

14. Examination and Retention of Developer's Records

(a) The County, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Developer's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

(b) The Developer agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding $10,000.

(c) The periods of access and examination in paragraphs (a) and (b) above for records relating to (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the County, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

(d) Lunches, dinners, etc. are not acceptable reimbursable expenses.

(e) Acceptable reimbursable expenses are defined as:

(f) Payments to Developer shall be based on services rendered/work completed, not costs incurred for deposits/retainers.

15. Labor Standards - Davis-Bacon and Related Acts.

If the total amount of this contract exceeds $2,000, the Federal labor standards set forth in the clause below shall apply to the development or construction work to be performed under the contract.

(a) Minimum Wages.

i. All laborers and mechanics employed under this contract in the development or construction of the project(s) involved will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Developer and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the regular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Developer and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met: (A) The work to be performed by the classification requested is not performed by a

classification in the wage determination; and (B) The classification is utilized in the area by the construction industry; and (C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

iii. If the Developer and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

iv. In the event the Developer, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

v. The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in classification.

vi. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Developer shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

vii. If the Developer does not make payments to a trustee or other third person, the Developer may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Developer, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Developer to set aside in a separate

account assets for the meeting of obligations under the plan or program.

(b) Withholding of funds. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Developer under this contract or any other Federal contract with the same prime Developer, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Developer, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Developer or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working in the construction or development of the project, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Developer, disburse such amounts withheld for and on account of the Developer or subcontractor to the respective employees to whom they are due.

(c) Payrolls and basic records.

i. Payrolls and basic records relating thereto shall be maintained by the Developer during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Developer shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Developers employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

ii. The Developer shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Developer is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)

iii. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Developer or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under paragraph (c) (1) of this clause and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

iv. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.

v. The falsification of any of the above certifications may subject the Developer or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

vi. The Developer or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives

to interview employees during working hours on the job. If the Developer or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) Apprentices.

i. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Developer as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Developer's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency

recognized by OATELS, withdraws approval of an apprenticeship program, the Developer will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

ii. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Developer will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

iii. Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(e) Compliance with Copeland Act requirements. The Developer shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

(f) Contract termination; debarment. A breach of this contract clause may be grounds for termination of the contract and for debarment as a Developer and a

subcontractor as provided in 29 CFR 5.12.

(g) Compliance with Davis-Bacon and related Act requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(h) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Developer (or any of its subcontractors) and the County, HUD, the U.S. Department of Labor, or the employees or their representatives.

(i) Certification of eligibility.

i. By entering into this contract, the Developer certifies that neither it (nor he or she) nor any person or firm who has an interest in the Developer's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

iii. The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

(j) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

i. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

ii. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in subparagraph (j)(1) of this clause, the Developer and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Developer and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to

such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic (including watchmen and guards) employed in violation of the provisions set forth in subparagraph (j)(1) of this clause, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in subparagraph (j)(1) of this clause.

iii. Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Developer or subcontractor under any such contract or any Federal contract with the same prime Developer, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Developer, such sums as may be determined to be necessary to satisfy any liabilities of such Developer or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in subparagraph (j)(2) of this clause.

(k) Subcontracts. The Developer or subcontract or shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as H UD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisi ons in any lower tie r subcontracts. The prime Developer shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

16. Non-Federal Prevailing Wage Rates

(a) Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State or tribal law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Developer or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:

i. The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;

(b) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or

(c) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

17. Procurement of Recovered Materials.

(a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Developer shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Developer shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Developer determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

(b) Paragraph (a) of this clause shall apply to item s purchased under this contract where: (1) the Developer purchases in excess of $10,000 of the item under this contract; or (2) du ring the preced ing Federal fiscal y ear, the Developer: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; a nd (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.

Exhibit G

Vacancy Preparation Work

(Required to prepare existing vacant Public Housing units for temporary relocations of residents affected by the work covered by this MDA)

Should the County provide vacant units to the developer for its use for temporary relocation, the developer shall provide vacancy preparation;

1. Prior to being occupied by first relocated residents.
2. Perform maintenance and/or repairs to units during temporary occupancy period.
3. Perform a final vacancy preparation of unit after final resident(s) have been relocated back and prior to turn-over back to PHCD for its use.

Developer agrees to perform vacancy preparation work in accordance with PHCD requirements that will be provided when this vacant unit option is used for temporary relocation.

Exhibit H

Key Development Team Members

(see attached)

Joe Moretti Preservation Phase One

Key Development Team Members

Name:	Role:
Jorge M. Perez	President & Principal
Alberto Milo Jr.	Senior Vice President & Principal
Matthew J. Allen	Vice President
Jeffery Hoyos	Vice President & Secretary
Tony Del Pozzo	Vice President & Director of Finance
Luis Castellon	Project Manager
Brian Latta	Project Manager
Larry Lennon	President - TRG Management Company of Florida
Marilyn Pascual	Regional Manager - TRG Management Company of Florida

MASTER DEVELOPMENT AGREEMENT

BETWEEN

MIAMI-DADE COUNTY

AND

STIRRUP PLAZA PHASE ONE DEVELOPER, LLC

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MASTER DEVELOPMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND STIRRUP PLAZA PHASE ONE DEVELOPER, LLC

STIRRUP PLAZA PHASE ONE DEVELOPER, LLC ("**Developer**") and MIAMI-DADE COUNTY, a political subdivision of the State of Florida and a "public housing agency" as defined in the United States Housing Act of 1937, as amended (the "**County**"), hereby enter into this Master Development Agreement (the "**Agreement**") to memorialize certain business terms, conditions and agreements regarding future rehabilitation and redevelopment of Stirrup Plaza, a public housing development, in Miami Dade County, Florida (the "**Development**").

1. Definitions.

(a) "Act" shall have the meaning set forth in Section 4(b)(v).

(b) "Agreement" shall mean this Master Development Agreement.

(c) "Authority Affiliate" shall have the meaning set forth in Section 3(c).

(d) "County" shall mean Miami-Dade County.

(e) "Default Notice" shall have the meaning set forth in Section 10.

(f) "Developer" shall mean Stirrup Plaza Phase One Developer, LLC.

(g) "Developer Affiliate" shall have the meaning set forth in Section 3(c).

(h) "Development" shall mean the redevelopment of Stirrup Plaza, as further described in Section 3.

(i) "Effective Termination Date" shall have the meaning set forth in Section 8(e)(i).

(j) "FHFC" shall have the meaning set forth in Section 3(b).

(k) "Financial Closing" shall mean closing on construction financing.

(l) "Force Majeure Event" shall have the meaning set forth in Section 9(c).

(m) "HUD Safe Harbor Standards" shall have the meaning set forth in Section 5(a).

(n) "IPSIG" shall have the meaning set forth in Section 26.

(o) "LIHTC" shall have the meaning set forth in Section 3(b).

(p) "Management Agent" shall have the meaning set forth in Section 7(a).

(q) "Management Agreement" shall have the meaning set forth in Section 7(a).

(r) "Material Changes" shall have the meaning set forth in Section 3(b).

(s) "Owner Entity" shall have the meaning set forth in Section 3(c).

(t) "PHA-Assisted Units" shall have the meaning set forth in Section 3(b).

(u) "Partner" shall have the meaning set forth in Section 3(a).

(v) "Project Stabilization" shall have the meaning set forth in Section 3(c).

(w) "Proper Invoice" shall mean (insert)

(x) "RFP" shall have the meaning set forth in Section 3.

(y) "Redevelopment Budget" shall have the meaning set forth in Section 3(b).

(z) "Redevelopment Schedule" shall have the meaning set forth in Section 3(b).

(aa) "Relocation Plan" shall have the meaning set forth in Section 4(a)(ix)(4).

(bb) "Section 42" shall have the meaning set forth in Section 3(b).

(cc) "Sub Management Agreement" shall have the meaning set forth in Section 8(c).

(dd) "Termination for Cause" shall have the meaning set forth in Section 8(b).

2. **Nature of Agreement.** This Agreement sets forth the principal terms that have been agreed to by the parties concerning the Development (as defined below). It is anticipated that this agreement will constitute the "Master Development Agreement" for the Development. The parties are executing this Agreement to establish the principal terms of the transaction in order to enable both parties to proceed with an understanding of their obligations and agreements with regard to the Development.

3. **Development Feasibility and Structure.**

(a) Request for Proposals and Developer's Response. On July 14, 2011, the County sought proposals under Request for Proposals No. 794 (the "**RFP**") for the Development from qualified housing developers. An affiliate of Developer, RUDG, LLC, submitted a response to the RFP and County selected RUDG, LLC's proposal as the most qualified response to the RFP. The County approved RUDG, LLC's assignment of development rights to Developer and approved the designation of the Developer as the developer for the development of the Stirrup Plaza site, and as the County's "**Partner**," as described in 24 CFR § 941.604, for the mixed-finance rehabilitation of public housing units (and potentially other units in later phases, as described herein), subject to and in accordance with the terms and conditions provided herein.

(b) Development Overview: The Parties hereby agree that the first phase ("**Phase 1**") of the Development shall be a mixed finance development, consisting of the rehabilitation of one hundred (100) public housing units in a rental phase owned by the Owner Entity (as hereinafter defined). All units shall continue to be set aside as 'public housing', as that term is defined in the U.S. Housing Act of 1937 (the "**PHA-Assisted Units**"), and will be operated and maintained as qualified Low Income Housing Tax Credit ("**LIHTC**") Units under Section 42 of the Internal Revenue Code of 1986 ("**Section 42**"), as amended, for a period of not less than the Tax Credit Compliance Period and any applicable extended use period (as such term is defined in Section 42 and required by the Florida Housing Finance Corporation ("**FHFC**")).

A scope of work is attached hereto as Exhibit A (hereinafter referred to as the "Scope of Work"), a development budget (including uses funded by undefined sources) is attached hereto as Exhibit B (hereinafter referred to as the "**Redevelopment Budget**"). A development schedule is attached hereto as Exhibit C (hereinafter referred to as the "Redevelopment Schedule"). A description of the unit types, sizes and targeted income levels (the "**Unit Mix**") is attached as Exhibit D. A list of key development team members is attached as Exhibit H. As development proceeds, the parties may mutually agree to supplement such exhibits with a more refined budget containing achievable sources, which budget shall be tied to a redevelopment schedule and realistic timeframes for securing development sources. Developer will submit proposed updates to the Redevelopment Schedule, the Redevelopment Budget and the Unit Mix for the County's review and comment, and Developer shall be required to obtain County's approval, such approval not to be unreasonably withheld, with respect to "**Material Changes**" and as changes become necessary. The following shall be considered "**Material Changes**":

i. Changes to the Unit Mix;

ii. An increase in the Redevelopment Budget by more than 10%; or

iii. Changes to the Redevelopment Schedule that delay completion or lease-up by more than ninety (90) calendar days.

References to the Development in this Agreement shall initially refer to Phase 1. In the Developer's Response to the RFP, the Developer proposed the new construction of additional phases of development, which are anticipated to be negotiated in a separate Master Development Agreement. The County and Developer acknowledge and agree that such supplemental development will require County and HUD approval of the same and the release of certain excess property that is encumbered by the Ground Lease.

(c) Ownership Entities for Rental Phase and Selection of Investor. The Developer has formed Stirrup Plaza Preservation Phase One, LLC (the "**Owner Entity**") to own the Development. The Owner Entity will have a managing member that will be a

limited liability company controlled by the Developer. The principal equity interest in the Owner Entity will be owned by a low income housing tax credit investor that is selected by the Developer in its sole discretion.

The County agrees to take all reasonably necessary action to assist Developer in obtaining an identity of interest waiver from HUD to utilize Developer's affiliated general contractor.

4. **Redevelopment Responsibilities.**

(a) Developer Responsibilities: As more specifically set forth herein, Developer shall be responsible for development services in connection with the rehabilitation and continued occupancy of the Development, as well as carrying out all other work for which Developer is responsible, as such responsibilities are detailed in this Agreement. The actual services delivered shall include all development services reasonably required to complete the rehabilitation of the Development and, except as otherwise provided herein, to cause each Owner Entity to facilitate the rehabilitation of the Development, including, but not limited to:

i. establishing phasing and timetables, structuring and securing financing and obtaining necessary city and county approvals, and hiring a general contractor or construction manager;

ii. providing financing to the project and identifying and securing additional financing as needed;

iii. providing all required third-party guarantees including investor and completion guarantees;

iv. assisting in preparing the Mixed-Finance Proposal; assisting in preparing or coordinating all documents necessary for closing of the financing in accordance with, as applicable, public housing, mixed-finance requirements; collaborating with the County to finalize documents and assist in the preparation of the evidentiary submission to HUD; and scheduling the Financial Closing;

v. entering into contracts or agreements, consistent with the terms of this Agreement, necessary or convenient for completion of the Development, which contracts or agreements may be assigned, as appropriate, by the Developer to the related Owner Entity at or prior to the financial closings. Awards shall be made to the bidder or offeror whose bid or offer is most advantageous to the Development, taking into consideration price, quality and other factors deemed by the Developer to be relevant; Developer shall not employ or contract with any third party contractor which has been debarred by HUD or the County and shall promptly terminate any

contracts with any third party contractor that is subsequently debarred;

vi. determining all necessary governmental approvals for such plans;

vii. carrying out pre-construction and construction activities, including design, engineering, and rehabilitation of the Development, guaranteeing completion of same without Material Changes to the Redevelopment Budget or Schedule, and ensuring compliance with all applicable laws, rules and regulations;

viii. carrying out property management of the Development, including resident relocation and subsequent re-occupancy of the Development, maintaining all applicable occupancy standards and maintaining all requisite reports, certifications and data in accordance with applicable requirements;

ix. maintaining regular communication with County regarding its development activities; and

x. Design, Construction and accessibility requirements:

(1) Developer shall conduct value engineering reviews during design and construction document phases to minimize construction cost and maximize scope of work to be done with allocated funding. The County will have access to design drawings and may provide comments and requests to changes in design, finishes and all aspects of the design development process.

(2) The Developer will provide the County with all cost certifications and reports from the investor and lender and the County will have the opportunity to review and comment on such certifications and reports.

(3) The County will have the opportunity to approve all change orders that require the approval of the investor and the lender (i.e. in excess of those minimum thresholds per occurrence and in the aggregate that do not require the approval of the investor and lender), such approvals not to be unreasonably withheld or delayed.

(4) Developer shall meet or exceed federal accessibility requirements including those indicated herein. Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794 and 24 CFR, Parts 8 and 9, prohibits discrimination against persons with disabilities in any program or activity receiving Federal Financial assistance. 24 CFR § 40.4 established the Uniform Federal Accessibility Standards (UFAS) as the standard design, construction, or alteration of residential structures. UFAS became effective July 11, 1988. For

new construction and/or rehabilitation projects, the Developer shall provide at a minimum (unless more stringent requirements apply) five percent (5%) or at least one (1) unit (whichever is greater) for mobility, impaired persons. An additional minimum of two percent (2%) or at least one (1) unit (whichever is greater) is required for people with hearing or vision impairments. UFAS compliance is required for all areas required by UFAS including interior and exterior of units, common areas, site, etc. A third party certification of UFAS Compliance is required in a form and format reasonably acceptable to the County. On-going information concerning UFAS units and its occupants may also be required by the County. Developer shall provide required UFAS – related information as reasonably required by the County. In addition, developers are highly encouraged to provide units that are easily "adaptable" to UFAS units.

(5) Davis-Bacon wage requirements: Developer shall meet all applicable Davis-Bacon wage requirements and shall monitor and ensure Davis-Bacon wage compliance by general contractor(s), sub-contractors, sub – sub contractors, etc. (contractors), and shall ensure that all contracts and sub-contracts issued to any contractor on the project include Davis-Bacon requirements. Developers shall carefully review Davis-Bacon requirements with all contractors and sub-contractors on site on an on-going basis, shall appoint a Davis-Bacon compliance officer to ensure compliance during the entire construction duration, and shall provide Davis-Bacon compliance reporting to County as it may require. Any costs incurred by the County due to Davis-Bacon non-compliance by the Developer and/or any of its contractors, shall be reimbursable to the County by the Developer.

(6) For preservation/rehabilitation projects, maximize the storage capacity (kitchen cabinets, closets, pantry, vanity, etc.) for existing units as to not reduce existing capacity, whenever possible.

(7) The County has retained an Energy Performance Contractor (EPC) to conduct an energy audit on all public housing sites and provide recommendations to implement energy efficient systems, components, etc. The Developer shall coordinate its work with the EPC, attend meetings with EPC and the County as necessary, submit its drawings and specifications for EPC review and incorporate EPC comments received into the design documents, unless this requirement is waived by the County.

xi. County Approvals:

(1) On preservation/rehabilitation projects, Developers shall not reduce the size of existing units in any material respect to obtain more units within the same building envelope or change the unit designation (family, elderly, etc.) without a written request and written approval from PHCD, provided that PHCD has provided Developer a written description of such unit designation.

(2) Developer shall forward the drawings for preservation/rehabilitation and/or new construction to PHCD as these are developed for review, comment and approval, such approval not to be unreasonably withheld, withdrawn, or deleted.

(3) Developer shall closely coordinate with PHCD and attend meetings with public housing residents as reasonably required to inform and receive input from residents on all aspects of the development plans. Developer shall give good faith consideration to incorporate input received from residents, in coordination with PHCD, as feasible and consistent with applicable codes, zoning, federal requirements, etc. PHCD will coordinate and schedule meetings with residents.

(4) Developer shall submit a detailed relocation plan ("**Relocation Plan**") for review and approval by PHCD, such approval not be unreasonably withheld, withdrawn, or deleted. The Relocation Plan shall include appropriate notification and minimum disruption/convenience for residents, safety and provision of temporary housing as major considerations. Developer shall provide a "relocation coordinator" to plan, organize, implement and monitor all aspects of the Relocation Plan, closely coordinate all aspects required for relocation including phasing and duration, moving and storage of furnishings, transportation, meals, pets, mail, etc.

xii. The Developer and its consultants shall carefully review all change orders, contingency adjustments and/or any other additional costs (herein change orders) to confirm that these are appropriate and to minimize said costs whenever possible. Such review shall include but not be limited to compliance with contract documents, the party requesting the change order, and the reason for such request (justification), hidden or unforeseen conditions, A/E error and/or omissions, critical path analysis for time extensions and other contract requirements.

xiii. Consultant Coordination

(1) Developer shall carefully review and coordinate the works of its consultants to minimize architect/engineer errors and omissions and minimize any change orders, including additional costs and

time extensions on the project.

(b) County's Responsibilities. As more specifically described herein, County is responsible for the following activities related to the Development (such list is not intended to be exhaustive):

i. Developing and submitting all necessary property disposition applications to HUD (provided that Developer shall have an opportunity to review and comment on the same prior to submission);

ii. Approving Owner Entity admissions and occupancy criteria and related property management documents such as the Public Housing lease and Community Policies, which approvals shall not be unreasonably withheld, delayed or conditioned;

iii. Reviewing, approving, and submitting the mixed finance proposal and evidentiaries to HUD;

iv. Providing all of the operating subsidy received from HUD relative to the PHA-Assisted Units on an annual basis and subject to any HUD pro-Ration or other HUD-generated subsidy adjustment (including those "add-ons," as described at 24 CFR Part 990), except that the Developer shall pay to the County an amount equal to five percent (5%) of subsidy received;

v. Providing the PHA-Assisted Units' share of those funds appropriated to the County under Section 9(d) of the United States Housing Act of 1937, as amended (the "Act") that are permitted to be utilized as operating subsidy in accordance with Section 9(g)(1) of the Act. The percent amount to be provided shall be determined by (i) dividing the total amount of Capital Funds awarded to the County by the total number of public housing units in the County's portfolio; and (iii) multiplying the resulting per unit amount by twenty percent (20%). Additionally, the County will give good faith consideration to providing the remaining pro-rata share of Capital Funds for purposes of ongoing capital assistance if requested by Developer and approved by HUD;

vi. Coordinating with the residents, other stakeholders in the County and other stakeholders on Development-related issues; and

vii. Obtaining all necessary HUD approvals (including as related to disposition approvals, environmental approvals in accordance with 24 CFR Part 50 or Part 58, mixed finance approvals), providing reports and maintaining communications with HUD. Notwithstanding the foregoing, the County will provide copies of all items to Developer prior to submission to HUD in order to permit the Developer to provide input and comment with respect to the same.

5. **Fees.**

(a) Developer Fee. The parties agree to seek approval from HUD of the maximum allowable developer fee permitted by the Florida Housing Finance Corporation for the Development of sixteen percent (16%) in the budgeted amount set forth at Exhibit B hereto, based upon satisfying the factors outlined by HUD in order to exceed the Cost Control and Safe Harbor Standards for Rental Mixed Finance Development (the "**HUD Safe Harbor Standards**").

(b) Ground Lease Payment. The Developer covenants and agrees to pay to County as pre-paid rent under the Ground Lease a lump sum payment of Seven Hundred Fifty Thousand and No/100 Dollars ($750,000.00) upon Financial Closing. No additional amounts shall be due after such lump sum payment. The Ground Lease shall be for a term of Seventy-Five (75) years.

6. **Payment Provisions For County Funds (if applicable).** Developer shall submit to the County, not more often than monthly, a payment request for County funds in a form and format acceptable to the County, for expenditures for the work completed and incurred.

Each payment request shall be carefully reviewed and evaluated for accuracy, completeness and compliance with this agreement by Developer prior to its submission to the County. Each payment request shall identify, by line item and by reference to the corresponding element of the Budget, (a) the total costs to date incurred, (b) the corresponding portion of the compensation due to developer, if applicable (c) the amounts, if any, of previous payments, (d) the portion, if any, of such costs and/or fee for which a payment is requested under the payment request and any other provisions reasonably required (with reasonable advance notice) by the County. Each payment request shall be accompanied by separate billing statements or invoices from each consultant, sub-consultant, contractor or sub-contractor (herein vendors) to which payment has been made or will be made. The County shall not be required to make advance payments or deposits.

Payment requests shall not be processed until a proper payment request (herein proper invoice) has been received by the County from the Developer. Proper invoice means an invoice which conforms to the payment requirements of the County. A proper invoice shall include a statement by Developer waiving claims for extra direct and indirect costs or time associated with work preceding the date of the invoice, or a statement in sufficient detail containing all rights reserved for work already performed. All present requirements or future rules pertaining to the execution of a proper invoice will be made available to Developer in a timely manner. Developer shall make payments to all vendors included in each respective payment request within five (5) business days of receipt of funds from the County. Developer shall include the provisions of this section in all sub-contracts, and require all vendors to include this provision in their contracts with other vendors.

The time at which payment for service is due from the County shall be calculated from the date on which a proper invoice is received by the County. The time at which payment shall be due from the County to Developer shall be forty (45) days from receipt by the County of a proper

invoice from the Developer (provided that the County shall make every effort to make such payment within thirty (30) days. The time at which payment shall be due from the County to a small businesses (as defined in Section 2-222 of the County Code) developer shall be thirty (30) days from receipt of proper invoice by the County. In any case in which an improper invoice is submitted by the developer, the County shall, within ten (10) days after the improper invoice is received, notify the Developer that the invoice is improper and indicate what corrective action on the part of the Developer is needed to make the invoice proper.

For non-County funds, Developer shall provide a report, in a form and format acceptable to County, indicating payment requests and approved amounts received by the developer for all funding sources and percentage of overall project completion. In addition, the Developer shall provide, on a monthly basis, a constructions schedule and construction budget, anticipating anticipated changes to the budget and schedule, along with a change order log, and Developer will meet with the County at the County's request, at reasonable times and frequency, to review and discuss the monthly report. Any proposed changes will be subject to the approval provisions set forth in this Agreement.

7. **Property Management Responsibilities.**

(a) Designation of Property Manager. The initial property manager for the Development shall be TRG Management Company of Florida, an affiliate of Developer (the "**Management Agent**"). The Management Agent shall be responsible for the day to day operation of the Development including but not limited to compliance, collections, leasing, payment of invoices and maintenance. Specific duties shall be further detailed in the initial agreement between the Management Agent and the Owner Entity, such agreements subject to the County's reasonable approval (the "**Management Agreement**").

(b) Existing Residents and Admissions Policies. The parties agree that the occupancy will be carried out with respect to the Development as follows:

i. The existing residents of Stirrup Plaza (the "Existing Residents") shall have the right of first refusal to occupy public housing units in the Development once the scope of work described in this Agreement is complete, subject to screening by the Management Agent for low-income housing tax credit compliance.

ii. Any vacancies not filled by Existing Residents (either at initial occupancy or thereafter) will be filled by applicants who are referred from the County's waiting list, subject to screening by the Management Agent for low-income housing tax credit compliance. The parties agree that a site-based waiting list will not be used. The parties acknowledge and agree that the County's Admissions and Continued Occupancy Policy will be revised, as necessary, to reflect the foregoing and that a referral process

will be formulated by the parties to ensure that lease-up occurs in a timely manner.

(c) Property Management Fee. The Management Agent shall receive a management fee equal to the maximum fee permitted under HUD Safe Harbor Standards (which is currently Fifty-Six and 95/100 Dollars ($56.95) per unit, per month). The Management Agent will also receive a bookkeeping fee in the amount of $7.50 per unit, per month.

(d) Sub-Management Agreement. It is anticipated that the Management Agent will enter into a sub-management agreement (the "**Sub Management Agreement**") with the County, pursuant to which the County's management staff will carry out certain frontline management services on behalf of the Management Agent on terms and conditions to be agreed to between the parties. The Sub Management Agreement will be for a one (1) year term and will be subject to termination for cause or upon the termination of the Management Agreement.

8. **Termination.**

(a) Termination for Convenience. The County reserves the right to terminate this Agreement, in whole or in part, at any time for the convenience of the County if the County shall determine in good faith that it is infeasible, in the County's best interest, or contrary to that interest to proceed with the Development. In the event of a termination for convenience under this Agreement, the County shall deliver to the Developer a Notice of Termination within thirty (30) days specifying the extent to which the performance of the work under this Agreement is terminated, and the date upon which such termination becomes effective. If the performance of the work under this Agreement is terminated in whole or in part, the County shall be liable to the Developer for reasonable and proper costs resulting from such termination. Within thirty (30) days of receipt of the Notice of Termination, the Developer shall present a proper claim setting out in detail: (i) the total cost of all third-party costs incurred to date of termination (including any loans from third parties); (ii) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, or for settling other liabilities of Developer incurred in performance of its obligations hereunder; (iii) the cost of preserving and protecting the work already performed until the County or its assignee takes possession thereof or assumes responsibility therefore; (iv) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the County; and (v) fair compensation to Developer for all tasks performed to date (including, at a minimum, fifty percent (50%) of projected developer fee if a nine percent (9%) tax credit award has been made). Within ninety (90) days of receipt of the claim from the Developer, the County shall make a final payment to the Developer. Furthermore, the Developer may terminate this Agreement for infeasibility, but only to the extent the Developer

first made good faith efforts to pursue an alternative course of action, and in such event, shall be limited to reimbursement for those costs as set forth in (i)-(iv) of this Article 6(a) and reimbursement of Developer's reasonable overhead. In an event of a dispute regarding the claim, the parties hereto shall avail themself of the dispute resolution process more fully described in Exhibit F, Paragraph 1.

(b) Termination for Cause. Either Party may terminate this Agreement for cause, at any time, on the giving of notice to the other party of the grounds asserted for such termination and failure of the other Party to cure such grounds within thirty (30) days from receipt of such notice (**"Termination for Cause"**). Notwithstanding anything to the contrary contained herein, suspension from participation in any government programs, which suspensions, for the purposes hereof, are defined to include but not be limited to any sanctions imposed by HUD pursuant to 24 CFR Part 24, shall be grounds for termination of this Agreement for cause without opportunity for cure. By execution of this Agreement, Developer hereby certifies to the County that it is not suspended, debarred or otherwise prohibited from participation in any government programs.

In the event of a termination of this Agreement by the County or the Developer which is determined to constitute a breach hereof by the County or the Developer, the party in breach shall be liable to the non-breaching party in accordance with applicable law for all actual damages caused thereby.

(c) Fraud, Misrepresentation or Material Misstatement. The County may terminate this Agreement if Developer attempts to meet its contractual obligations hereunder with the County through fraud, misrepresentation or material misstatement.

(d) Debarment. The foregoing notwithstanding, any individual, corporation or other entity that attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Developer may be subject to debarment for those reasons set forth in Section 10-38 of the County Code.

(e) Remedies. In the event that the County exercises its right to terminate this Agreement following an Event of Default, the Developer shall, upon receipt of such notice, unless otherwise directed by the County:

i. Stop work on the date specified in the notice (the **"Effective Termination Date"**);

ii. Take such actions as may be necessary for the protection and preservation of the County's materials and property;

iii. Cancel orders;

iv. Upon payment by the County for such work product and payment of other amounts due in accordance with this Article 6, assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services; and

v. Take no voluntary action (unless otherwise required by legal obligations) which will increase the amounts payable by the County under this Agreement.

(f) Developer Shall Deliver Work Product in Event of Termination. In the event that this Agreement is terminated under this Article 6, Developer agrees that it shall promptly deliver to County, or cause to be delivered to County, any concrete, transferable, and useable third party work product generated in connection with the Development, and will assign to County all of its right, title, and interest to such work product, without reservation in exchange for County's payment of funds paid by Developer (including funds borrowed from third parties) for such work product, along with amounts due to the Developer hereunder. Developer shall be under no obligation to deliver any work product in its possession unless the County shall have reimbursed it for the cost thereof (and paid to the Developer any other amounts due hereunder) or shall have agreed to offset the cost thereof against any indebtedness owing from the Developer to the County.

9. Event of Default.

(a) An Event of Default shall mean a breach of this Agreement by the Developer after expiration of any applicable notice and cure period without such cure. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:

i. the Developer has not delivered Deliverables on a timely basis;

ii. the Developer has made a Material Change to the Project Schedule without the County's approval;

iii. the Developer has refused or failed to supply enough properly skilled staff personnel;

iv. the Developer has failed to make prompt payment to subcontractors or suppliers for any Services;

v. the Developer has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Developer's creditors, or the Developer has taken advantage of any insolvency statute or debtor/creditor law or if the Developer's affairs have

been put in the hands of a receiver;

vi. the Developer has failed to obtain the approval of the County where required by this Agreement;

vii. the Developer has failed in the representation of any warranties stated herein.

viii. The Developer has made a Material Change to the Project Budget without the County's approval.

(b) In the event the County shall terminate this Agreement for default, the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, and reports after payment.

(c) Notwithstanding the foregoing, this Agreement shall not be terminated for default if the delay in completing the work arises from unforeseeable causes beyond the reasonable control of the Developer (any such failure or other cause or event being referred to herein as a "**Force Majeure Event**"). Examples of such causes include (a) acts of God or the public enemy, (b) material acts or failure to act, or delays in action, of the County, HUD, or other governmental entity in either its sovereign or contractual capacity, (c) material acts or failure to act of another contractor (other than a contractor or subcontractor to the Developer or the Owner Entity) in the performance of a contract with the County, (d) fires, (e) floods, (f) strikes or labor disputes, (g) freight embargoes, (h) unavailability of materials, (i) unusually severe weather, (j) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without fault or negligence of both the Developer and the subcontractors or suppliers, or (k) delay caused by litigation that is not between the County and the Developer.

10. **Notice of Default – Opportunity to Cure.** Notwithstanding anything in this Agreement to the contrary, if an Event of Default occurs in the determination of the County and the County wishes to declare an Event of Default or otherwise terminate this Agreement for cause to the extent, as provided under this Agreement, the County shall notify the Developer ("**Default Notice**"), specifying the basis for such default and the extent to which performance of work under this Agreement is terminated, and advising the Developer that such default must be cured immediately or this Agreement with the County may be terminated. If the termination is stated to be for default, the Default Notice thereof shall specify the nature of the claimed default and, if such default shall be reasonably subject to adequate cure, the Default Notice shall state (i) the actions required to be taken by the Developer to cure the default, and (ii) the reasonable time (up to sixty (60) days) within which Developer shall respond with a showing that all required actions have been taken, provided that the Developer shall have, subject to the County's approval, not to be unreasonably withheld conditioned or delayed, such additional time as is reasonably necessary to cure such default so long as the Developer has diligently commenced and is proceeding in a reasonable diligent matter toward curing such default. During any cure period so provided, the Developer shall proceed diligently with performance of any work required by this Agreement which is not the subject of the claimed default. Following expiration of the stated

cure period, the Authority shall deliver a second notice stating either that the default has been adequately cured or that the Agreement is terminated. The County shall grant an additional period of such duration as the County shall reasonably deem appropriate without waiver of any of the County's rights hereunder, so long as the Developer has commenced curing such default and is effectuating a cure with diligence and continuity during such sixty (60) day period or any other period which the County prescribes. The Default Notice shall specify the date the Developer shall discontinue the Services upon the Termination Date.

11. **Remedies in the Event of Default.** If an Event of Default occurs and remains uncured pursuant to Article 8 herein, the Developer shall be liable for all direct damages to the County resulting from such Event of Default. The Developer shall also remain liable for any liabilities and claims related to the Developer's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

12. **Lien Waivers.** Developer agrees that it will not permit any mechanic's, materialmen's or other liens to stand against the Premises for work or materials furnished to Developer it being provided, however, that Developer shall have the right to contest the validity thereof. Developer shall not have any right, authority or power to bind the County, the Premises or any other interest of the County in the Premises and will pay or cause to be paid all costs and charges for work done by it or caused to be done by it, in or to the Premises, for any claim for labor or material or for any other charge or expense, lien or security interest incurred in connection with the development, construction or operation of the Improvements or any change, alteration or addition thereto. IN THE EVENT THAT ANY MECHANIC'S LIEN SHALL BE FILED, DEVELOPER SHALL BOND OVER, PROCURE THE RELEASE OR DISCHARGE THEREOF WITHIN NINETY (90) DAYS EITHER BY PAYMENT OR IN SUCH OTHER MANNER AS MAY BE PRESCRIBED BY LAW. NOTICE IS HEREBY GIVEN THAT THE COUNTY SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO THE DEVELOPER OR TO ANYONE HOLDING ANY OF THE PREMISES THROUGH OR UNDER THE DEVELOPER, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE COUNTY IN AND TO ANY OF THE PREMISES. THE COUNTY SHALL BE PERMITTED TO POST ANY NOTICES ON THE PREMISES REGARDING SUCH NON-LIABILITY OF THE COUNTY.

Developer shall promptly pay all persons or entities furnishing labor and material with respect to any work performed by Developer or its contractor on or about the Premises, and shall obtain and deliver to Landlord "releases" or waivers of liens from all parties doing work on or about the Premises, along with an affidavit from Developer stating that all bills have been paid with regard to such work and that there are no outstanding obligations, except in the ordinary course of business, owed with respect to any such work performed on the Premises.

13. **Indemnification**

(a) Developer Indemnity. The Developer shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses, or damages, including attorney fees and costs of defense, which

the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Developer or its employees, agents, servants, partners, principals or subcontractors. The Developer shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Developer expressly understands and agrees that any insurance protection required by the Agreement or otherwise provided by the Developer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided. Notwithstanding anything to the contrary herein, such indemnification by Developer shall not cover claims or losses to the extent caused solely by the County's gross negligence or intentional wrongful acts or omissions.

(b) County Responsibility. The County shall indemnify and hold harmless the Developer and its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns from any and all liability, losses, or damages, including attorney fees and costs of defense, which the Developer or its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the County or officers, employees, agents and instrumentalities. The County shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the Developer, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The County's indemnification obligations in this Article 12(b) shall be subject to the provisions of Section 768.28, Fla. Stat., whereby the County shall not be liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of Two Hundred Thousand and No/100 Dollars ($200,000.00), or any claim or judgments or portion thereof, which when totaled with all other occurrence, exceeds the sum of Three Hundred Thousand and No/100 Dollars ($300,000.00), but only to the extent the limitations set forth in that Statute are applicable. Notwithstanding anything to the contrary herein, such indemnification by Miami-Dade County shall not cover claims or losses to the extent caused solely by the Developer's gross negligence or intentional wrongful acts or omissions.

14. **Insurance.** The Developer shall furnish to the Public Housing and Community Development Department, Facilities and Development Division at 701 NW 1 Court, 16th Floor, Miami, Florida 33136-3914, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

(a) Worker's Compensation Insurance for all employees of the Developer as required by Florida Statute 440.

(b) Commercial General Liability Insurance on a comprehensive basis in an amount not less than One Million and No/100 Dollars ($1,000,000.00) combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

(c) Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the work, in an amount not less than Five Hundred Thousand and No/100 Dollars ($500,000.00) combined single limit per occurrence for bodily injury and property damage.

(d) Professional Liability Insurance shall be carried by architects and engineers in an amount not less than One Million and No/100 Dollars ($1,000,000.00) with a deductible per claim not to exceed ten percent (10%) of the limit-liability.

All insurance coverage required above shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Developer. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to do Business in Florida", issued by the State of Florida Department of Financial Services and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Developer hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Developer of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days after notification of recommendation to award. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Developer shall have an additional five (5) business days from notification to submit a corrected certificate to the County. If the Developer fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Developer shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such time frame for submission has been extended by the County.

The Developer shall be responsible for ensuring that the insurance certificates required in conjunction with this Article remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Developer shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

15. **Agreement Security.** Upon request by the County, but in no event earlier than the Financial Closing, the Developer shall cause its General Contractor to deliver to the County an executed Performance and Payment Bond on the prescribed form or in Cash (with the County as an additional obligee). The Performance and Payment Bond shall be in the amount of 100% of the construction cost of the Project, as security for the faithful performance of this Agreement and for the payment of all persons performing labor or furnishing materials in connection therewith. If Cash is used in lieu of the bonds, all terms and conditions stipulated in the bonds shall be just as applicable. The Performance and Payment Bonds shall have as the surety thereon only such surety company or companies as are acceptable to the County and are authorized to write bonds of such character and amount in accordance with the following qualifications:

(a) All bonds shall be written through surety insurers authorized to do business in the State of Florida as surety, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

Bond Amount	Best Rating
i. 500,001 to 1,500,000	B V
ii. 1,500,001 to 2,500,000	A VI
iii. 2,500,001 to 5,000,000	A VII
iv. 5,000,001 to 10,000,000	A VIII
v. Over 10,000,000	A IX

(b) On contract amounts of 500,000 or less, the bond provisions of Section 287.0935, Florida Statutes shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:

i. Providing evidence that the Surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

ii. Certifying that the Surety is otherwise in compliance with the Florida Insurance Code, and;

iii. Providing a copy of the currently valid Certificate of Authority issued by the United States Department of the Treasury under ss. 31 U.S.C. §§ 9304-9308.

(c) Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.

(d) For contracts in excess of 500,000 the provision of Section (b) will be adhered to plus the company must have been listed for at least three consecutive years, or holding a valid Certificate of Authority of at least 1.5 million dollars and on the Treasury List.

(e) Surety Bonds guaranteed through U.S. Government Small Business Administration or Developers Training and Development Inc. will also be acceptable.

(f) The attorney-in-fact or other officer who signs performance and payment bonds for a surety company must file with such bond a certified copy of his power of attorney authorizing him to do so. The performance and payment bonds must be counter-signed by the surety's resident Florida agent.

The Performance Bond or Cash used in lieu of the Performance Bond shall remain in force for one (1) year from the date of final acceptance of the work to protect the County against losses resulting from defects in materials or improper performance of work under the Agreement; provided however, that this limitation does not apply to suits seeking damages for latent defects in materials or workmanship, such actions being subject to the limitations found in Section 95.11(3)(c), Florida Statutes.

16. **Compliance with Public Housing Requirements.**

(a) Treatment of HUD Funds. Any transfer of public housing funds pursuant to this

Agreement will not be an assignment of public housing funds or be deemed an assignment of public housing funds. Developer will not succeed to any rights or benefits County may have under the applicable grant agreements or contracts with HUD or attain any privilege, authority, interest, or right under applicable grant agreements or contracts between the County and HUD. Nothing contained in this Agreement will be construed to create any relationship of third party beneficiary or otherwise with HUD.

(b) Development Obligations. Developer shall provide development services in accordance with this Agreement. Developer shall perform the duties and undertake the responsibilities herein set forth in a competent and professional manner using good faith reasonable efforts. The Developer is an independent contractor and not an agent of the County. Therefore, except as may be expressly set forth herein, Developer shall have no authority to bind County. Except as expressly set forth herein, Developer will provide all services, equipment, and materials for Developer and will furnish, directly or through contractors, subcontractors, professional expertise, management, labor, materials, supplies, fixtures, equipment, tools and machinery, testing, supervision, facilities, and other services required for the completion of the Development.

(c) Reporting Requirements. Pursuant to Sections 2-8.1, 2-8.8 and 10.34 of the Code of Miami-Dade County (as amended by Ordinance No. 11-90), the Developer must report to the County the race, gender and ethnic origin of the owners and employees of its first tier subcontractors using the Subcontractor/Supplier Listing form, attached hereto as Exhibit E. In the event that the Developer demonstrates to the County that the race, gender and ethnic information is not reasonably available at that time, the Developer shall be obligated by this Agreement to exercise commercially reasonable efforts to obtain that information and to provide the same to the County not later than ten (10) business days after it becomes available and, in any event, prior to final payment this Agreement.

(d) Compliance with Laws and other Requirements. Developer shall fully comply with all applicable laws and regulations applicable to Developer with respect to workers' compensation, social security, unemployment insurance, hours of labor, wages, working conditions, licensing and other employer-employee related matters, including, without limitation, all laws, rules and regulations with respect to non-discrimination based on race, sex or otherwise, and MBE/WBE, and Section 3 of the Housing and Urban Redevelopment Act of 1968, as more fully described in Exhibit F, Applicable HUD General Conditions for Construction Contracts, which is incorporated herein by reference. Developer will further comply with all applicable public housing requirements.

17. **Warranties.**

(a) Developer's Warranties. Developer represents and warrants to the County that (a) Developer is and will continue to be duly organized, and is in good standing

under the laws of and qualified to do business in the State of Florida, (b) Developer has and will have all necessary power, authority, licenses and staff resources for the undertaking of its obligations under this Agreement, (c) this Agreement has been duly entered into and is the legally binding obligation of Developer, (d) this Agreement will not violate any judgment, law, or agreement to which Developer is a party or is subject, and (e) there is no claim pending, or to the best knowledge of Developer, threatened, that would impede Developer's ability to perform its obligation hereunto. Developer shall not hereafter enter into any agreement which would, or modify any existing agreement in a manner that would, impair its ability to perform its obligations hereunder, and will notify the County if any suit is threatened or law proposed which would impair its ability to perform its obligations hereunder.

(b) County's Warranties. The County represents and warrants to Developer that (a) the County has and will have all necessary power and authority under Florida law for the undertaking of its obligations under this Agreement, (b) this Agreement has been duly entered into and is the legally binding obligation of the County, (c) this Agreement will not violate any judgment, law, consent decree, or agreement to which the County is a party or is subject to and will not violate any law or ordinance under which the County is organized, (d) the County is, or has an affiliate who is, qualified to participate as co-managing member of a tax credit limited liability company to the extent requested by the Developer, (e) there is no claim pending, or to the best knowledge of the County, threatened, that is likely to materially impede the County's ability to perform its obligation hereunto. The County shall not hereafter enter into any agreement or consent decree which would, or modify any existing agreement or consent decree in a manner that would impair its ability to perform its obligations hereunder, and will notify Developer if any suit is threatened or law proposed which would materially impair its ability to perform its obligations hereunder.

18. **Term.** This Agreement shall begin upon execution hereof, and shall expire (except for obligations identified as continuing beyond the term of the Agreement) upon the completion of all the activities described herein, unless sooner terminated in accordance with the terms provided herein. This Agreement shall terminate upon Financial Closing and the closing documents for the Development will govern the relationship between the parties to the extent described in such documents, unless this Agreement expressly provides that such subject matter with survive the termination of this Agreement. The parties acknowledge that certain subject matter of this Agreement relates to activities that are intended to survive the term hereof, and so the parties acknowledge and agree to effectuate such matters in the closing documents with respect to each phase.

19. **County's Sovereignty.** It is expressly understood that, subject to the other provisions of this Agreement:

(a) The County retains all of its sovereign prerogatives and rights as a county under Florida laws and shall in no way be estopped from reasonably withholding or

refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the planning, design, construction and development of the Development or the operation thereof, or be liable for the same; and

(b) The County shall not by virtue of this Agreement be obligated to grant the Developer any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Development.

20. **Option and Right of First Refusal.** The County shall have the option and right of first refusal to purchase the Development at the end of the tax credit compliance period for the greater of: (i) the fair market value of the property; and (ii) the lowest price that is permitted under Section 42(i)(7) of the Internal Revenue Code of 1986, as amended plus any operating deficit loans of any member and any taxes that are projected to be owed by any member as a result of such sale.

21. **No Liability for Exercise of Police Power.** Subject to any contrary provision in this Agreement, or any County covenant or obligation that may be contained in this Agreement, the County shall have no obligation, including but not limited to the following:

(a) To assist the Developer in applying for any county, city or third party permit or needed approval; or

(b) To contest, defend against, or assist the Developer in contesting or defending against any challenge of any nature; and, except as otherwise set forth in this Agreement, this Agreement shall not bind the County Board, the Permitting, Environment and Regulatory Affairs Department, other applicable County departments, or their successor departments, or any other county, city, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the County or any other applicable governmental agencies in the exercise of its police power; and, except as otherwise set forth in this Agreement, the County shall be released and held harmless, by the Developer from and against any liability, responsibility, claims, consequential or other damages, or losses to the Developer or to any third parties resulting from denial, withholding or revocation (in whole or in part) of any zoning or other changes, variances, permits, waivers, amendments, or approvals of any kind or nature whatsoever. Without limiting the foregoing, the parties recognize that the approval of any building permit and/or certificate of occupancy will require the County to exercise its quasi-judicial or police powers. Without limiting any other provision of this Agreement, the County shall have no obligation to approve, in whole or in part, any application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver. The County's obligation to use reasonable good

faith efforts in the permitting of the use of County owned property regarding the Premises shall not extend to any exercise of quasi-judicial or police powers, and shall be limited solely to ministerial actions, including the timely acceptance and processing of any requests or inquiries by the Developer as authorized by this Agreement. Moreover, in no event shall a failure of the County to adopt any of the Developer or Owner Entity's request or application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver be construed a breach or default of this Agreement, unless such failure was unreasonable or untimely or in direct contravention to another provision of this Agreement.

22. Vendor Registration and Forms/Conflict of Interest.

(a) Vendor Registration. The Developer shall be a registered vendor with the County's Internal Services Department. Procurement Management Division, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Developer confirms its knowledge of and commitment to comply with the following:

i. *Miami-Dade County Ownership Disclosure Affidavit* (Section 2-8.1 of the County Code)

ii. *Miami-Dade County Employment Disclosure Affidavit (Section 2.8-1(d)(2) of the County Code)*

iii. *Miami-Dade Employment Drug-free Workplace Certification (Section 2-8.1.2(b) of the County Code)*

iv. *Miami-Dade Disability and Nondiscrimination Affidavit (Section 2-8.1.5* of the County Code*)*

v. *Miami-Dade County Debarment Disclosure Affidavit (Section 10.38 of the County Code)*

vi. *Miami-Dade County Vendor Obligation to County Affidavit (Section 2-8.1 of the County Code)*

vii. *Miami-Dade County Code of Business Ethics Affidavit (Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)*

viii. *Miami-Dade County Family Leave Affidavit(Article V of Chapter 11 of the County Code)*

ix. *Miami-Dade County Living Wage Affidavit (Section 2-8.9 of the County Code)*

x. *Miami-Dade County Domestic Leave and Reporting Affidavit(Article 8, Section 11A-60 11A-67 of the County Code)*

xi. *Subcontracting Practices(Ordinance 97-35)*

xii. *Subcontractor /Supplier Listing (Section 2-8.8 of the County Code)*

xiii. *Environmentally Acceptable Packaging(Resolution R-738-92)*

xiv. *W-9 and 8109 Forms* (as required by the Internal Revenue Service)

xv. *FEIN Number or Social Security Number.* In order to establish a file, the Developer's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Developer's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

(1) Identification of individual account records

(2) To make payments to individual/Developer for goods and services provided to Miami-Dade County

(3) Tax reporting purposes

(4) To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

xvi. *Office of the Inspector General* (Section 2-1076 of the County Code)

xvii. *Small Business Enterprises.* The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

xviii. *Antitrust Laws.* By acceptance of any contract, the Developer agrees to comply with all antitrust laws of the United States and the State of Florida.

(1) Conflict of Interest. Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate

family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593. Further the Developer shall comply with Section 1352 of Title 31 of the United States Code, which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, loan, or cooperative agreement. The Developer further agrees to comply with the requirement of such legislation to furnish a disclosure (OMB Standard Form LLQ) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, in connection with a Federal contract, grant, loan, or cooperative agreement, which payment would be prohibited if made from Federal appropriated funds. The Developer represents that:

- No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.

- There are no undisclosed persons or entities interested with the Developer in this Agreement. This Agreement is entered into by the Developer without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government),

or a member of the immediate family or household of any of the aforesaid:

- is interested on behalf of or through the Developer directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or

- is an employee, agent, advisor, or consultant to the Developer or to the best of the Developer's knowledge any subcontractor or supplier to the Developer.

  - Neither the Developer nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Developer shall have an interest which is in conflict with the Developer's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Developer provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

  - The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

(2) In the event Developer has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Developer shall promptly bring such information to the attention of the County's Project Manager. Developer shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Developer receives from the Project Manager in regard to remedying the situation.

23. **Interest of Members of Congress.** No Member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

24. **Interest of Member, Officer, or Employee and Former Member, Officer, or staff** and elected officials to ensure compliance with contract specifications and to detect fraud and

corruption.

25. **Upon Written Notice to the Developer from the Inspector General or IPSIG Retained by the Inspector Employee of the County.** No member, officer, or employee of the County, no member of the governing body of the County, no member of the governing body by which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Development shall, during his or her tenure, or for two year thereafter or such longer time as the County's Code of Ethics may reasonably require, have any interest, direct or indirect, in this Agreement or the proceeds thereof, unless the conflict of interest is waived by the County and by HUD.

26. **Inspector General Reviews.** Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "**IPSIG**"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Developer shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Developer's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Developer, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Developer in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Developer or any third party.

(a) ***Miami-Dade County Inspector General Review.*** According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Developer. The audit cost shall also be included in all change orders and all contract renewals and extensions.

i. Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (I) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade***

County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Agreement. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Developer, its officers, agents and employees, lobbyists, County General, the Developer shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Developer's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

27. **Notices.** All notices, requests, approvals, demands and other communications given hereunder or in connection with this Agreement shall be in writing and shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows (provided, that any time period for responding to any such communication shall not begin to run until such communication is actually received or delivery is refused):

If to County: Miami-Dade County
c/o Miami-Dade Public Housing and Community Development
701 N.W. 1st Court, 16th Floor
Miami, FL 33136
Attn: Executive Director

With a Copy to: Miami-Dade County Attorney's Office

111 N.W. 1st Street, Suite 2810
Miami, FL 33128
Attn: Terrence A. Smith, Esq.

If to Developer: Stirrup Plaza Phase One Developer, LLC
c/o Related Urban
315 S. Biscayne Blvd., 4th Floor
Miami, FL 33131
Attn: Albert Milo, Jr., Principal/Senior Vice President

With a Copy to: Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
150 W. Flagler Street, Suite 2200
Miami, FL 33130
Attn: Brian McDonough, Esq.

28. **Further Assurances.** Each party shall execute such other and further documents as may be reasonably necessary or proper for the consummation of the transaction contemplated by this Agreement as mutually agreed by the Parties hereto.

29. **Assignment.** This Agreement shall not be assignable by either party, except by the Developer to the Owner Entities as contemplated herein or upon written consent of the other party.

30. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed original, but all of which, together, shall constitute one instrument.

31. **Interpretation and Governing Law.** This Agreement shall not be construed against the party who prepared it but shall be construed as though prepared by both Parties. This Agreement shall be construed, interpreted, and governed by the laws of the State of Florida.

32. **Severability.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable such portion shall be deemed severed from this Agreement and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Agreement.

33. **Parties Bound.** No officer, director, shareholder, employee, agent, or other person authorized to act for and on behalf of any party hereto shall be personally liable for any obligation, express or implied.

34. **Final Agreement.** Unless otherwise provided herein, this Agreement constitutes the final understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the Parties, and except for those agreements contemplated herein. This Agreement may be amended, supplemented or changed only by a writing signed or authorized by or on behalf of the party to be bound thereby. Notwithstanding the foregoing, the parties acknowledge that Ground Lease made as of December 5, 2011, by and between the County and Stirrup Plaza Preservation Phase One, LLC,

which expressly survives the terms hereof.

35. **Modification of Agreement.** This Agreement may be amended by mutual agreement of the County and Owner, not to be unreasonably withheld, subject to prior written approval by HUD (if required) and provided that all amendments must be in writing and signed by both parties and that no amendment shall impair the obligations of the County or Owner to develop and operate the Public Housing Units in accordance with all Applicable Public Housing Requirements and the Ground Lease. This Agreement may not be altered, modified, rescinded, or extended orally.

36. **Waivers.** The failure of any party to insist in any one or more cases upon the strict performance of any of the obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by any party of any provision of this Agreement shall be deemed to have been made unless set forth in writing and signed by the party to be charged.

37. **Successors.** The terms, covenants, agreements, provisions, and conditions contained herein shall bind and inure to the benefit of the Parties hereto, their successors and assigns.

38. **Certain Approvals and Reasonableness Standard.** Unless otherwise stated, all approvals or consents required of either party hereunder shall not be unreasonably withheld, conditioned or delayed and each party shall endeavor to act reasonably with respect to activities under this Agreement.

39. **Headings.** The headings in this Agreement are inserted for convenience only and shall not be used to define, limit or describe the scope of this Agreement or any of the obligations herein.

40. **Construction.** Whenever in this Agreement a pronoun is used, it shall be construed to represent either the singular or the plural, either the masculine or the feminine, as the case shall demand.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed this _____ day of _____, 2012.

STIRRUP PLAZA PHASE ONE DEVELOPER, LLC

By:_____

MIAMI-DADE COUNTY

By:_____

Attest: _____
Deputy Clerk

Approved as to form and legal sufficiency

By:_____
Name: Terrence A. Smith
Its: Assistant County Attorney

Exhibit A

Scope of Work

(see attached)

Stirrup Plaza Scope of Work

6 Stories 100 Units Rehab

Exterior

Re-Roof with energy efficient roof
New Hurricane Impact Windows
New Energy Efficient Air Conditioning Units
Repair Condensate drains for the A/C Units
New Exterior Paint
Repair Concrete Walkways
Repair Building Stucco
New Benches
Repair Covered Seating Area
Landscaping Upgrades
New Garbage Enclosure Area
Patch, Seal, and Restripe Parking area
Site Lighting Upgrades
New Covered Seating Area

New Interior Features in each Unit

New Kitchen Cabinets
New Kitchen Appliances
New Interior Doors
New Energy Efficient Light Fixtures
New Bathroom Cabinet
New Bathroom Fixtures
New Roll in Showers
New Bathroom Tile
New Flooring in Unit
New Wood Baseboards
New Interior Paint
New Exhaust Fans in Kitchen and Bathroom
New Door Hardware
Cable, Phone, and Internet in Each Unit
Window Coverings in Each Unit
New Emergency Call System
Energy Efficient Ceiling Fans
Re-Texture Interior Walls
Adjustable Shelves Inside Closets

Common Areas

New Community Center Flooring
New Community Center Ceilings
New Community Energy Efficient Lighting
New Fitness Center
New Library / Computer Room
New Laundry Flooring

Stirrup Plaza Scope of Work

6 Stories 100 Units Rehab

New Laundry Ceilings
New Laundry Energy Efficient Lighting
New Laundry Energy Efficient Washers and Dryers
New Doors
New Door Hardware
New Lobby Flooring
New Lobby Doors
New Corridor Flooring
New Corridor Ceiling Tiles
New Corridor Energy Efficient Lighting
Elevator Upgrades

Building Systems
Upgrade Fire Alarm
Upgrade Fire Sprinkler System
New Domestic Water Pumps
New Generator
New Boiler and Boiler Room
Upgraded Security Camera System
Upgraded Access Control System

Exhibit B

Redevelopment Budget

(see attached)

Exhibit B

Stirrup Plaza

			DEVELOPMENT BUDGET
Acquisition Costs			
Land:			750,000
	Subtotal:		**750,000**
Construction Costs		PDU	
Residential:		57,016	5,701,612
Other: Amenities			175,000
FF&E			100,000
General Requirements:		6%	352,597
Overhead:		2%	117,532
Profit:		6%	352,597
Hard Cost Contingency:			578,911
	Subtotal:	73,782	**7,378,250**
Project Soft Costs			
Accountant Cost Cert:			50,000
Appraisal:			15,000
Market Study:			10,000
Enviromental Studies/Soil Tests:			25,000
Pre-Constr. Analysis/Existing Prop. Eval			10,000
Architect - Design&Supervision:			225,000
Survey:			25,000
Title Insurance			150,000
Marketing & Advertising			20,000
Management Transition:			96,217
P&P Bonds:			89,175
Building Permits:			150,000
Engineering Fee			100,000
Inspection Fees:			30,000
Tenant Relocation:			800,000
Builders Risk Insurance			40,682
Liability Insurance			20,000
	Subtotal:	18,561	**1,856,074**
Developer Legal Costs			
Acquisition Counsel:			30,000
Debt Counsel:			55,000
HUD Counsel:			30,000
Local Counsel:			15,000
Tax Counsel:			0
Legal Contingency			50,000
Other:			0
	Subtotal:	1,800	**180,000**
Financing Issuance Costs			
Closing Costs - Construction			110,000
Lender Origination Fees:			90,000
Underwriter Fees:			16,000
	Subtotal:	2,160	**216,000**

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Stirrup Plaza

		DEVELOPMENT BUDGET
Financing Legal Costs		
Bond Counsel:		0
Lender Counsel:		20,000
Subtotal:	200	**20,000**
Equity Syndication Costs		
Up-Front LIHTC Admin Fees:		87,000
LIHTC Application Fees:		3,000
FHFC Compliance Fee		46,757
Syndicator Costs		75,000
Investor Due Diligence		15,000
Subtotal:		**226,757**
Reserves and Escrows		
Replacement Reserve:		50,000
Insurance Escrow:		70,000
Capitalized Asset Management Fee:		75,000
Construction Interest		240,000
Operating Expense Reserve:		287,000
Operating Subsidy Reserve		332,000
Subtotal:		**1,054,000**
Soft Cost Contingency	5%	**110,000**
Developer Fee		**1,636,333**
Total Development Budget:		**13,427,414**

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Exhibit C

Redevelopment Schedule

(see attached)

Stirrup Plaza

Project Schedule

Milestone	Start	Complete
PLANS & SPECS	6/1/2012	8/10/2012
PERMITTING	8/20/2012	10/26/2012
BIDDING	10/2/2012	11/30/2012
FINAL CLOSING	12/1/2012	12/1/2012
CONSTRUCTION COMMENCMENT	1/2/2013	-
TENANT RELOCATION	1/2/2013	12/23/2013
CONSTRUCTION COMPLETION	-	12/17/2013
LEASE UP STABILIZATION	12/1/2013	12/31/2013
PROJECT FORM 8609 COMPLETION	1/30/2014	2/15/2014
TOTAL	6/1/2012	2/15/2014

Exhibit D

Unit Mix

(see attached)

Exhibit D

Stirrup Plaza Unit Mix		
# of Bedrooms	# of Units	Sq. Ft. of Living Area
1	60	420
1	40	540
Total	100	

Exhibit E

Subcontractor/Supplier Listing Form

(see attached)

SUBCONTRACTOR/SUPPLIER LISTING
(Miami-Dade County Code Sections 2-8.1, 2-8.8 and 10-34)

Firm Name of Prime Contractor/Respondent _____ FEIN # _____

Project/Contract Number _____

In accordance with Sections 2-8.1, 2-8.8 and 10.34 of the Miami-Dade County Code, this form must be submitted as a condition of award by all bidders/respondents on County contracts for purchase of supplies, materials or services, including professional services which involve expenditures of $100,000 or more, and all bidders/respondents on County or Public Health Trust construction contracts which involve expenditures of $100,000 or more. The bidder/respondent who is awarded this bid/contract shall not change or substitute first tier subcontractors or direct suppliers or the portions of the contract work to be performed or materials to be supplied from those identified, except upon written approval of the County. The bidder/respondent should enter the word "NONE" under the appropriate heading of this form if no subcontractors or suppliers will be used on the contract and sign the form below.

In accordance with Ordinance No. 11-90, an entity contracting with the County shall report the race, gender and ethnic origin of the owners and employees of all first tier subcontractors/suppliers. In the event that the successful bidder demonstrates to the County prior to award that the race, gender, and ethnic information is not reasonably available at that time, the successful bidder shall be obligated to exercise diligent efforts to obtain that information and provide the same to the County not later than ten (10) days after it becomes available and, in any event, prior to final payment under the contract.

(Please duplicate this form if additional space is needed.)

Business Name and Address of First Tier Subcontractor/ Subconsultant	Principal Owner	Scope of Work to be Performed by Subcontractor/ Subconsultant	Principal Owner (Enter the number of male and female owners by race/ethnicity)								Employee(s) (Enter the number of male and female employees and the number of employees by race/ethnicity)							
			Gender		Race/Ethnicity						Gender		Race/Ethnicity					
			M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other	M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other

Business Name and Address of First Tier Direct Supplier	Principal Owner	Supplies/Materials/ Services to be Provided by Supplier	Principal Owner (Enter the number of male and female owners by race/ethnicity)								Employee(s) (Enter the number of male and female employees and the number of employees by race/ethnicity)							
			Gender		Race/Ethnicity						Gender		Race/Ethnicity					
			M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other	M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other

☐ Mark here if race, gender and ethnicity information is not available and will be provided at a later date. This data may be submitted to Contracting/User department or on-line to the Small Business Development Division of the Regulatory and Economic Resources Department at http://new.miamidade.gov/business/business-development.asp.

I certify that the representations contained in this Subcontractor/Supplier listing are to the best of my knowledge true and accurate.

Signature of Bidder/Respondent _____ Print Name _____ Print Title _____ Date _____

Exhibit F

Applicable HUD General Conditions for Construction Contracts

Conduct of Work

1. Disputes

(a) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(b) Except for disputes arising under the clauses entitled *Labor Standards and Labor Standards- Nonroutine Maintenance,* herein, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.

(c) All claims by the Developer shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the County against the Developer shall be subject to a written decision by the Contracting Officer.

(d) _____shall be the "Contracting Officer." The Contracting Officer shall, within 60 (unless otherwise indicated) days after receipt of the request, decide the claim or notify the Developer of the date by which the decision will be made.

(e) The Contracting Officer's decision shall be final unless the Developer (I) appeals in writing to a higher level in the County in accordance with the County' s policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the Contracting Officer's decision.

(f) The Developer shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

2. Lead-Based Paint

The Developer shall comply with the requirements concerning lead-based painted contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

3. Health, Safety, and Accident Prevention

(a) In performing this contract, the Developer shall:

i. Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;

ii. Protect the lives, health, and safety of other persons;

iii. Prevent damage to property, materials, supplies, and equipment; and

iv. Avoid work interruptions.

(b) For these purposes, the Developer shall:

i. Comply with regulations and standards issued by the Secretary of Labor at 29 CFR Part 1926. Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96), 40 U.S.C. 3701 et seq.; and

ii. Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.

(c) The Developer shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR Part 1904.

(d) The Contracting Officer shall notify the Developer of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Developer or the Developer's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Developer shall immediately take corrective action (unless Developer disputes the notification in accordance with Section 1). If the Developer fails or refuses to take corrective action promptly, the

Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Developer shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.

(e) The Developer shall be responsible for its subcontractors' compliance with the provisions of this clause. The Developer shall take such action with respect to any subcontract as Miami-Dade County (the "County"), the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

4. Royalties and Patents

The Developer shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the County harmless from loss on account thereof; except that the County shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and the Developer has no reason to believe that the specified design, process, or product is an infringement. If, however, the Developer has reason to believe that any design, process or product specified is an infringement of a patent, the Developer shall promptly notify the Contracting Officer. Failure to give such notice shall make the Developer responsible for resultant loss.

5. Clean Air and Water

The contactor shall comply with the Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Water Act, as amended, 33 U.S.C. 1251 et seq., and standards issued pursuant thereto in the facilities in which this contract is to be performed.

6. Energy Efficiency

The Developer shall comply with mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under the contract is performed.

7. Subcontracts

(a) Definitions. As used in this contract:

i. "Subcontract" means any contract, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and services for the performance of the prime contract or a subcontract.

ii. "Subcontractor" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for the Developer or

another subcontractor.

(b) The Developer shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the state in which the work under this contract is to be performed.

(c) The Developer shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Developer.

(d) The Developer shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.

(e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the County or between the subcontractor and HUD.

8. Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms.

The Developer shall take the following steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority firms, women's business enterprises, and labor surplus area firms:

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;

(d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business enterprises; and

(e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

9. Equal Employment Opportunity.

During the performance of this contract, the Developer agrees as follows:

(a) The Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation.

(b) The Developer shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation. Such action shall include, but not be limited to, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.

(c) The Developer shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(d) The Developer shall, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation.

(e) The Developer shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Developer's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The Developer shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(g) The Developer shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Developer shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(h) In the event of a determination that the Developer is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Developer may be declared ineligible for further Government contracts, or Federally assisted construction contracts under the procedures authorized in Executive Order 11246,

as amended. In addition, sanctions may be imposed and remedies invoked against the Developer as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(i) The Developer shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Developer shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Developer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Developer may request the United States to enter into the litigation to protect the interests of the United States.

(j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.

10. Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

(a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s)

taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b)agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

11. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

12. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the County, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

13. Limitations on Payments made to Influence Certain Federal Financial Transactions.

(a) The Developer agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(b) The Developer further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

14. Examination and Retention of Developer's Records

(a) The County, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Developer's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

(b) The Developer agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding $10,000.

(c) The periods of access and examination in paragraphs (a) and (b) above for records relating to (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the County, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

(d) Lunches, dinners, etc. are not acceptable reimbursable expenses.

(e) Acceptable reimbursable expenses are defined as:

(f) Payments to Developer shall be based on services rendered/work completed, not costs incurred for deposits/retainers.

15. Labor Standards - Davis-Bacon and Related Acts.

If the total amount of this contract exceeds $2,000, the Federal labor standards set forth in the clause below shall apply to the development or construction work to be performed under the contract.

(a) Minimum Wages.

i. All laborers and mechanics employed under this contract in the development or construction of the project(s) involved will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Developer and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the regular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Developer and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met: (A) The work to be performed by the classification requested is not performed by a

classification in the wage determination; and (B) The classification is utilized in the area by the construction industry; and (C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

iii. If the Developer and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

iv. In the event the Developer, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

v. The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in classification.

vi. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Developer shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

vii. If the Developer does not make payments to a trustee or other third person, the Developer may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Developer, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Developer to set aside in a separate

account assets for the meeting of obligations under the plan or program.

(b) Withholding of funds. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Developer under this contract or any other Federal contract with the same prime Developer, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Developer, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Developer or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working in the construction or development of the project, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Developer, disburse such amounts withheld for and on account of the Developer or subcontractor to the respective employees to whom they are due.

(c) Payrolls and basic records.

i. Payrolls and basic records relating thereto shall be maintained by the Developer during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Developer shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Developers employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

ii. The Developer shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Developer is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)

iii. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Developer or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under paragraph (c) (1) of this clause and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

iv. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.

v. The falsification of any of the above certifications may subject the Developer or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

vi. The Developer or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives

to interview employees during working hours on the job. If the Developer or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) Apprentices.

i. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Developer as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Developer's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency

recognized by OATELS, withdraws approval of an apprenticeship program, the Developer will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

ii. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Developer will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

iii. Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(e) Compliance with Copeland Act requirements. The Developer shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

(f) Contract termination; debarment. A breach of this contract clause may be grounds for termination of the contract and for debarment as a Developer and a

subcontractor as provided in 29 CFR 5.12.

(g) Compliance with Davis-Bacon and related Act requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(h) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Developer (or any of its subcontractors) and the County, HUD, the U.S. Department of Labor, or the employees or their representatives.

(i) Certification of eligibility.

i. By entering into this contract, the Developer certifies that neither it (nor he or she) nor any person or firm who has an interest in the Developer's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

iii. The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

(j) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

i. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

ii. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in subparagraph (j)(1) of this clause, the Developer and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Developer and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to

such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic (including watchmen and guards) employed in violation of the provisions set forth in subparagraph (j)(1) of this clause, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in subparagraph (j)(1) of this clause.

iii. Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Developer or subcontractor under any such contract or any Federal contract with the same prime Developer, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Developer, such sums as may be determined to be necessary to satisfy any liabilities of such Developer or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in subparagraph (j)(2) of this clause.

(k) Subcontracts. The Developer or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Developer shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

16. Non-Federal Prevailing Wage Rates

(a) Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State or tribal law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Developer or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:

i. The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;

(b) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or

(c) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

17. Procurement of Recovered Materials.

(a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Developer shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Developer shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Developer determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

(b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Developer purchases in excess of $10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Developer: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.

Exhibit G

Vacancy Preparation Work

(Required to prepare existing vacant Public Housing units for temporary relocations of residents affected by the work covered by this MDA)

Should the County provide vacant units to the developer for its use for temporary relocation, the developer shall provide vacancy preparation;

1. Prior to being occupied by first relocated residents.
2. Perform maintenance and/or repairs to units during temporary occupancy period.
3. Perform a final vacancy preparation of unit after final resident(s) have been relocated back and prior to turn-over back to PHCD for its use.

Developer agrees to perform vacancy preparation work in accordance with PHCD requirements, that will be provided when this vacant unit option is used for temporary relocation.

Exhibit H

Key Development Team Members

(see attached)

Stirrup Plaza Preservation Phase One

Key Development Team Members

Name:	Role:
Jorge M. Perez	President & Principal
Alberto Milo Jr.	Senior Vice President & Principal
Matthew J. Allen	Vice President
Jeffery Hoyos	Vice President & Secretary
Tony Del Pozzo	Vice President & Director of Finance
Luis Castellon	Project Manager
Brian Latta	Project Manager
Larry Lennon	President - TRG Management Company of Florida
Marilyn Pascual	Regional Manager - TRG Management Company of Florida

MASTER DEVELOPMENT AGREEMENT

BETWEEN

MIAMI-DADE COUNTY

AND

DANTE FASCELL DEVELOPER, LLC

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MASTER DEVELOPMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND DANTE FASCELL DEVELOPER, LLC

Dante Fascell Developer, LLC ("**Developer**") and MIAMI-DADE COUNTY, a political subdivision of the State of Florida and a "public housing agency" as defined in the United States Housing Act of 1937, as amended (the "**County**"), hereby enter into this Master Development Agreement (the "**Agreement**") to memorialize certain business terms, conditions and agreements regarding future rehabilitation and redevelopment of Dante Fascell, a public housing development, in Miami Dade County, Florida (the "**Development**").

1. Definitions.

(a) "Act" shall have the meaning set forth in Section 4(b)(v).

(b) "Agreement" shall mean this Master Development Agreement.

(c) "Authority Affiliate" shall have the meaning set forth in Section 3(c).

(d) "County" shall mean Miami-Dade County.

(e) "Default Notice" shall have the meaning set forth in Section 10.

(f) "Developer" shall mean Dante Fascell Developer, LLC.

(g) "Developer Affiliate" shall have the meaning set forth in Section 3(c).

(h) "Development" shall mean the redevelopment of Dante Fascell, as further described in Section 3.

(i) "Effective Termination Date" shall have the meaning set forth in Section 8(c)(i).

(j) "FHFC" shall have the meaning set forth in Section 3(b).

(k) "Financial Closing" shall mean closing on construction financing.

(l) "Force Majeure Event" shall have the meaning set forth in Section 9(c).

(m) "HUD Safe Harbor Standards" shall have the meaning set forth in Section 5(a).

(n) "IPSIG" shall have the meaning set forth in Section 26.

(o) "LIHTC" shall have the meaning set forth in Section 3(b).

(p) "Management Agent" shall have the meaning set forth in Section 7(a).

(q) "Management Agreement" shall have the meaning set forth in Section 7(a).

(r) "Material Changes" shall have the meaning set forth in Section 3(b).

(s) "Owner Entity" shall have the meaning set forth in Section 3(c).

(t) "PHA-Assisted Units" shall have the meaning set forth in Section 3(b).

(u) "Partner" shall have the meaning set forth in Section 3(a).

(v) "Project Stabilization" shall have the meaning set forth in Section 3(c).

(w) "Proper Invoice" shall mean (insert)

(x) "RFP" shall have the meaning set forth in Section 3.

(y) "Redevelopment Budget" shall have the meaning set forth in Section 3(b).

(z) "Redevelopment Schedule" shall have the meaning set forth in Section 3(b).

(aa) "Relocation Plan" shall have the meaning set forth in Section 4(a)(ix)(4).

(bb) "Section 42" shall have the meaning set forth in Section 3(b).

(cc) "Sub Management Agreement" shall have the meaning set forth in Section 8(c).

(dd) "Termination for Cause" shall have the meaning set forth in Section 8(b).

2. **Nature of Agreement.** This Agreement sets forth the principal terms that have been agreed to by the parties concerning the Development (as defined below). It is anticipated that this agreement will constitute the "Master Development Agreement" for the Development. The parties are executing this Agreement to establish the principal terms of the transaction in order to enable both parties to proceed with an understanding of their obligations and agreements with regard to the Development.

3. **Development Feasibility and Structure.**

(a) Request for Proposals and Developer's Response. On July 14, 2011, the County sought proposals under Request for Proposals No. 794 (the "**RFP**") for the Development from qualified housing developers. An affiliate of Developer, RUDG, LLC, submitted a response to the RFP and County selected RUDG, LLC's proposal as the most qualified response to the RFP. The County approved RUDG, LLC's assignment of development rights to Developer and approved the designation of the Developer as the developer for the development of the Dante Fascell site, and as the County's "**Partner**," as described in 24 CFR § 941.604, for the mixed-finance rehabilitation of public housing units (and potentially other units in later phases, as described herein), subject to and in accordance with the terms and conditions provided herein.

(b) Development Overview: The Parties hereby agree that the first phase ("Phase I") of the Development shall be a mixed finance development, consisting of the rehabilitation of one hundred fifty-one (151) public housing units in a rental phase owned by the Owner Entity (as hereinafter defined). All units shall continue to be set aside as 'public housing', as that term is defined in the U.S. Housing Act of 1937 (the "**PHA-Assisted Units**"), and will be operated and maintained as qualified Low Income Housing Tax Credit ("**LIHTC**") Units under Section 42 of the Internal Revenue Code of 1986 ("**Section 42**"), as amended, for a period of not less than the Tax Credit Compliance Period and any applicable extended use period (as such term is defined in Section 42 and required by the Florida Housing Finance Corporation ("**FHFC**")).

A scope of work is attached hereto as Exhibit A (hereinafter referred to as the "Scope of Work"), a development budget (including uses funded by undefined sources) is attached hereto as Exhibit B (hereinafter referred to as the "**Redevelopment Budget**"). A development schedule is attached hereto as Exhibit C (hereinafter referred to as the "Redevelopment Schedule"). A description of the unit types, sizes and targeted income levels (the "**Unit Mix**") is attached as Exhibit D. A list of key development team members is attached as Exhibit H. As development proceeds, the parties may mutually agree to supplement such exhibits with a more refined budget containing achievable sources, which budget shall be tied to a redevelopment schedule and realistic timeframes for securing development sources. Developer will submit proposed updates to the Redevelopment Schedule, the Redevelopment Budget and the Unit Mix for the County's review and comment, and Developer shall be required to obtain County's approval, such approval not to be unreasonably withheld, with respect to "**Material Changes**" and as changes become necessary. The following shall be considered "**Material Changes**":

i. Changes to the Unit Mix;

ii. An increase in the Redevelopment Budget by more than 10%; or

iii. Changes to the Redevelopment Schedule that delay completion or lease-up by more than ninety (90) calendar days.

References to the Development in this Agreement shall initially refer to Phase I. In the Developer's Response to the RFP, the Developer proposed the new construction of additional phases of development, which are anticipated to be negotiated in a separate Master Development Agreement. The County and Developer acknowledge and agree that such supplemental development will require County and HUD approval of the same and the release of certain excess property that is encumbered by the Ground Lease.

(c) Ownership Entities for Rental Phase and Selection of Investor. The Developer has

formed Dante Fascell Preservation Phase One, LLC (the "**Owner Entity**") to own the Development. The Owner Entity will have a managing member that will be a limited liability company controlled by the Developer. The principal equity interest in the Owner Entity will be owned by a low income housing tax credit investor that is selected by the Developer in its sole discretion.

The County agrees to take all reasonably necessary action to assist Developer in obtaining an identity of interest waiver from HUD to utilize Developer's affiliated general contractor.

4. **Redevelopment Responsibilities.**

(a) Developer Responsibilities: As more specifically set forth herein, Developer shall be responsible for development services in connection with the rehabilitation and continued occupancy of the Development, as well as carrying out all other work for which Developer is responsible, as such responsibilities are detailed in this Agreement. The actual services delivered shall include all development services reasonably required to complete the rehabilitation of the Development and, except as otherwise provided herein, to cause each Owner Entity to facilitate the rehabilitation of the Development, including, but not limited to:

i. establishing phasing and timetables, structuring and securing financing and obtaining necessary city and county approvals, and hiring a general contractor or construction manager;

ii. providing financing to the project and identifying and securing additional financing as needed;

iii. providing all required third-party guarantees including investor and completion guarantees;

iv. assisting in preparing the Mixed-Finance Proposal; assisting in preparing or coordinating all documents necessary for closing of the financing in accordance with, as applicable, public housing, mixed-finance requirements; collaborating with the County to finalize documents and assist in the preparation of the evidentiary submission to HUD; and scheduling the Financial Closing;

v. entering into contracts or agreements, consistent with the terms of this Agreement, necessary or convenient for completion of the Development, which contracts or agreements may be assigned, as appropriate, by the Developer to the related Owner Entity at or prior to the financial closings. Awards shall be made to the bidder or offeror whose bid or offer is most advantageous to the Development, taking into consideration price, quality and other factors deemed by the Developer to be relevant; Developer shall not employ or contract with any third party contractor which has been debarred by HUD or the County and shall promptly terminate any

contracts with any third party contractor that is subsequently debarred;

vi. determining all necessary governmental approvals for such plans;

vii. carrying out pre-construction and construction activities, including design, engineering, and rehabilitation of the Development, guaranteeing completion of same without Material Changes to the Redevelopment Budget or Schedule, and ensuring compliance with all applicable laws, rules and regulations;

viii. carrying out property management of the Development, including resident relocation and subsequent re-occupancy of the Development, maintaining all applicable occupancy standards and maintaining all requisite reports, certifications and data in accordance with applicable requirements;

ix. maintaining regular communication with County regarding its development activities; and

x. Design, Construction and accessibility requirements:

(1) Developer shall conduct value engineering reviews during design and construction document phases to minimize construction cost and maximize scope of work to be done with allocated funding. The County will have access to design drawings and may provide comments and requests to changes in design, finishes and all aspects of the design development process.

(2) The Developer will provide the County with all cost certifications and reports from the investor and lender and the County will have the opportunity to review and comment on such certifications and reports.

(3) The County will have the opportunity to approve all change orders that require the approval of the investor and the lender (i.e. in excess of those minimum thresholds per occurrence and in the aggregate that do not require the approval of the investor and lender), such approvals not to be unreasonably withheld or delayed.

(4) Developer shall meet or exceed federal accessibility requirements including those indicated herein. Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794 and 24 CFR, Parts 8 and 9, prohibits discrimination against persons with disabilities in any program or activity receiving Federal Financial assistance. 24 CFR § 40.4 established the Uniform Federal Accessibility Standards (UFAS) as the standard design, construction, or alteration of residential structures. UFAS became effective July 11, 1988. For

new construction and/or rehabilitation projects, the Developer shall provide at a minimum (unless more stringent requirements apply) five percent (5%) or at least one (1) unit (whichever is greater) for mobility, impaired persons. An additional minimum of two percent (2%) or at least one (1) unit (whichever is greater) is required for people with hearing or vision impairments. UFAS compliance is required for all areas required by UFAS including interior and exterior of units, common areas, site, etc. A third party certification of UFAS Compliance is required in a form and format reasonably acceptable to the County. On-going information concerning UFAS units and its occupants may also be required by the County. Developer shall provide required UFAS – related information as reasonably required by the County. In addition, developers are highly encouraged to provide units that are easily "adaptable" to UFAS units.

(5) Davis-Bacon wage requirements: Developer shall meet all applicable Davis-Bacon wage requirements and shall monitor and ensure Davis-Bacon wage compliance by general contractor(s), sub-contractors, sub – sub contractors, etc. (contractors), and shall ensure that all contracts and sub-contracts issued to any contractor on the project include Davis-Bacon requirements. Developers shall carefully review Davis-Bacon requirements with all contractors and sub-contractors on site on an on-going basis, shall appoint a Davis-Bacon compliance officer to ensure compliance during the entire construction duration, and shall provide Davis-Bacon compliance reporting to County as it may require. Any costs incurred by the County due to Davis-Bacon non-compliance by the Developer and/or any of its contractors, shall be reimbursable to the County by the Developer.

(6) For preservation/rehabilitation projects, maximize the storage capacity (kitchen cabinets, closets, pantry, vanity, etc.) for existing units as to not reduce existing capacity, whenever possible.

(7) The County has retained an Energy Performance Contractor (EPC) to conduct an energy audit on all public housing sites and provide recommendations to implement energy efficient systems, components, etc. The Developer shall coordinate its work with the EPC, attend meetings with EPC and the County as necessary, submit its drawings and specifications for EPC review and incorporate EPC comments received into the design documents, unless this requirement is waived by the County.

xi. County Approvals:

(1) On preservation/rehabilitation projects, Developers shall not reduce the size of existing units in any material respect to obtain more units within the same building envelope or change the unit designation (family, elderly, etc.) without a written request and written approval from PHCD, provided that PHCD has provided Developer a written description of such unit designation.

(2) Developer shall forward the drawings for preservation/rehabilitation and/or new construction to PHCD as these are developed for review, comment and approval, such approval not to be unreasonably withheld, withdrawn, or deleted.

(3) Developer shall closely coordinate with PHCD and attend meetings with public housing residents as reasonably required to inform and receive input from residents on all aspects of the development plans. Developer shall give good faith consideration to incorporate input received from residents, in coordination with PHCD, as feasible and consistent with applicable codes, zoning, federal requirements, etc. PHCD will coordinate and schedule meetings with residents.

(4) Developer shall submit a detailed relocation plan ("**Relocation Plan**") for review and approval by PHCD, such approval not be unreasonably withheld, withdrawn, or deleted. The Relocation Plan shall include appropriate notification and minimum disruption/convenience for residents, safety and provision of temporary housing as major considerations. Developer shall provide a "relocation coordinator" to plan, organize, implement and monitor all aspects of the Relocation Plan, closely coordinate all aspects required for relocation including phasing and duration, moving and storage of furnishings, transportation, meals, pets, mail, etc.

xii. The Developer and its consultants shall carefully review all change orders, contingency adjustments and/or any other additional costs (herein change orders) to confirm that these are appropriate and to minimize said costs whenever possible. Such review shall include but not be limited to compliance with contract documents, the party requesting the change order, and the reason for such request (justification), hidden or unforeseen conditions, A/E error and/or omissions, critical path analysis for time extensions and other contract requirements.

xiii. Consultant Coordination

(1) Developer shall carefully review and coordinate the works of its consultants to minimize architect/engineer errors and omissions and minimize any change orders, including additional costs and

time extensions on the project.

(b) County's Responsibilities. As more specifically described herein, County is responsible for the following activities related to the Development (such list is not intended to be exhaustive):

i. Developing and submitting all necessary property disposition applications to HUD (provided that Developer shall have an opportunity to review and comment on the same prior to submission);

ii. Approving Owner Entity admissions and occupancy criteria and related property management documents such as the Public Housing lease and Community Policies, which approvals shall not be unreasonably withheld, delayed or conditioned;

iii. Reviewing, approving, and submitting the mixed finance proposal and evidentiaries to HUD;

iv. Providing all of the operating subsidy received from HUD relative to the PHA-Assisted Units on an annual basis and subject to any HUD pro-Ration or other HUD-generated subsidy adjustment (including those "add-ons," as described at 24 CFR Part 990), except that the Developer shall pay to the County an amount equal to five percent (5%) of subsidy received;

v. Providing the PHA-Assisted Units' share of those funds appropriated to the County under Section 9(d) of the United States Housing Act of 1937, as amended (the "Act") that are permitted to be utilized as operating subsidy in accordance with Section 9(g)(1) of the Act. The percent amount to be provided shall be determined by (i) dividing the total amount of Capital Funds awarded to the County by the total number of public housing units in the County's portfolio; and (iii) multiplying the resulting per unit amount by twenty percent (20%). Additionally, the County will give good faith consideration to providing the remaining pro-rata share of Capital Funds for purposes of ongoing capital assistance if requested by Developer and approved by HUD;

vi. Coordinating with the residents, other stakeholders in the County and other stakeholders on Development-related issues; and

vii. Obtaining all necessary HUD approvals (including as related to disposition approvals, environmental approvals in accordance with 24 CFR Part 50 or Part 58, mixed finance approvals), providing reports and maintaining communications with HUD. Notwithstanding the foregoing, the County will provide copies of all items to Developer prior to submission to HUD in order to permit the Developer to provide input and comment with respect to the same.

5. **Fees.**

(a) Developer Fee. The parties agree to seek approval from HUD of the maximum allowable developer fee permitted by the Florida Housing Finance Corporation for the Development of sixteen percent (16%) in the budgeted amount set forth at Exhibit B hereto, based upon satisfying the factors outlined by HUD in order to exceed the Cost Control and Safe Harbor Standards for Rental Mixed Finance Development (the "**HUD Safe Harbor Standards**").

(b) Ground Lease Payment. The Developer covenants and agrees to pay to County as pre-paid rent under the Ground Lease a lump sum payment of One Million and No/100 Dollars ($1,000,000.00) upon Financial Closing. No additional amounts shall be due after such lump sum payment. The Ground Lease shall be for a term of Seventy-Five (75) years.

6. **Payment Provisions For County Funds (if applicable).** Developer shall submit to the County, not more often than monthly, a payment request for County funds in a form and format acceptable to the County, for expenditures for the work completed and incurred.

Each payment request shall be carefully reviewed and evaluated for accuracy, completeness and compliance with this agreement by Developer prior to its submission to the County. Each payment request shall identify, by line item and by reference to the corresponding element of the Budget, (a) the total costs to date incurred, (b) the corresponding portion of the compensation due to developer, if applicable (c) the amounts, if any, of previous payments, (d) the portion, if any, of such costs and/or fee for which a payment is requested under the payment request and any other provisions reasonably required (with reasonable advance notice) by the County. Each payment request shall be accompanied by separate billing statements or invoices from each consultant, sub-consultant, contractor or sub-contractor (herein vendors) to which payment has been made or will be made. The County shall not be required to make advance payments or deposits.

Payment requests shall not be processed until a proper payment request (herein proper invoice) has been received by the County from the Developer. Proper invoice means an invoice which conforms to the payment requirements of the County. A proper invoice shall include a statement by Developer waiving claims for extra direct and indirect costs or time associated with work preceding the date of the invoice, or a statement in sufficient detail containing all rights reserved for work already performed. All present requirements or future rules pertaining to the execution of a proper invoice will be made available to Developer in a timely manner. Developer shall make payments to all vendors included in each respective payment request within five (5) business days of receipt of funds from the County. Developer shall include the provisions of this section in all sub-contracts, and require all vendors to include this provision in their contracts with other vendors.

The time at which payment for service is due from the County shall be calculated from the date on which a proper invoice is received by the County. The time at which payment shall be due from the County to Developer shall be forty (45) days from receipt by the County of a proper

invoice from the Developer (provided that the County shall make every effort to make such payment within thirty (30) days. The time at which payment shall be due from the County to a small businesses (as defined in Section 2-222 of the County Code) developer shall be thirty (30) days from receipt of proper invoice by the County. In any case in which an improper invoice is submitted by the developer, the County shall, within ten (10) days after the improper invoice is received, notify the Developer that the invoice is improper and indicate what corrective action on the part of the Developer is needed to make the invoice proper.

For non-County funds, Developer shall provide a report, in a form and format acceptable to County, indicating payment requests and approved amounts received by the developer for all funding sources and percentage of overall project completion. In addition, the Developer shall provide, on a monthly basis, a constructions schedule and construction budget, anticipating anticipated changes to the budget and schedule, along with a change order log, and Developer will meet with the County at the County's request, at reasonable times and frequency, to review and discuss the monthly report. Any proposed changes will be subject to the approval provisions set forth in this Agreement.

7. **Property Management Responsibilities.**

(a) Designation of Property Manager. The initial property manager for the Development shall be TRG Management Company of Florida, an affiliate of Developer (the "**Management Agent**"). The Management Agent shall be responsible for the day to day operation of the Development including but not limited to compliance, collections, leasing, payment of invoices and maintenance. Specific duties shall be further detailed in the initial agreement between the Management Agent and the Owner Entity, such agreements subject to the County's reasonable approval (the "**Management Agreement**").

(b) Existing Residents and Admissions Policies. The parties agree that the occupancy will be carried out with respect to the Development as follows:

i. The existing residents of Dante Fascell (the "Existing Residents") shall have the right of first refusal to occupy public housing units in the Development once the scope of work described in this Agreement is complete, subject to screening by the Management Agent for low-income housing tax credit compliance.

ii. Any vacancies not filled by Existing Residents (either at initial occupancy or thereafter) will be filled by applicants who are referred from the County's waiting list, subject to screening by the Management Agent for low-income housing tax credit compliance. The parties agree that a site-based waiting list will not be used. The parties acknowledge and agree that the County's Admissions and Continued Occupancy Policy will be revised, as necessary, to reflect the foregoing and that a referral process

will be formulated by the parties to ensure that lease-up occurs in a timely manner.

(c) Property Management Fee. The Management Agent shall receive a management fee equal to the maximum fee permitted under HUD Safe Harbor Standards (which is currently Fifty-Six and 95/100 Dollars ($56.95) per unit, per month). The Management Agent will also receive a bookkeeping fee in the amount of $7.50 per unit, per month.

(d) Sub-Management Agreement. It is anticipated that the Management Agent will enter into a sub-management agreement (the "**Sub Management Agreement**") with the County, pursuant to which the County's management staff will carry out certain frontline management services on behalf of the Management Agent on terms and conditions to be agreed to between the parties. The Sub Management Agreement will be for a one (1) year term and will be subject to termination for cause or upon the termination of the Management Agreement.

8. **Termination.**

(a) Termination for Convenience. The County reserves the right to terminate this Agreement, in whole or in part, at any time for the convenience of the County if the County shall determine in good faith that it is infeasible, in the County's best interest, or contrary to that interest to proceed with the Development. In the event of a termination for convenience under this Agreement, the County shall deliver to the Developer a Notice of Termination within thirty (30) days specifying the extent to which the performance of the work under this Agreement is terminated, and the date upon which such termination becomes effective. If the performance of the work under this Agreement is terminated in whole or in part, the County shall be liable to the Developer for reasonable and proper costs resulting from such termination. Within thirty (30) days of receipt of the Notice of Termination, the Developer shall present a proper claim setting out in detail: (i) the total cost of all third-party costs incurred to date of termination (including any loans from third parties); (ii) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, or for settling other liabilities of Developer incurred in performance of its obligations hereunder; (iii) the cost of preserving and protecting the work already performed until the County or its assignee takes possession thereof or assumes responsibility therefore; (iv) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the County; and (v) fair compensation to Developer for all tasks performed to date (including, at a minimum, fifty percent (50%) of projected developer fee if a nine percent (9%) tax credit award has been made). Within ninety (90) days of receipt of the claim from the Developer, the County shall make a final payment to the Developer. Furthermore, the Developer may terminate this Agreement for infeasibility, but only to the extent the Developer

first made good faith efforts to pursue an alternative course of action, and in such event, shall be limited to reimbursement for those costs as set forth in (i)-(iv) of this Article 6(a) and reimbursement of Developer's reasonable overhead. In an event of a dispute regarding the claim, the parties hereto shall avail themself of the dispute resolution process more fully described in Exhibit F, Paragraph 1.

(b) Termination for Cause. Either Party may terminate this Agreement for cause, at any time, on the giving of notice to the other party of the grounds asserted for such termination and failure of the other Party to cure such grounds within thirty (30) days from receipt of such notice (**"Termination for Cause"**). Notwithstanding anything to the contrary contained herein, suspension from participation in any government programs, which suspensions, for the purposes hereof, are defined to include but not be limited to any sanctions imposed by HUD pursuant to 24 CFR Part 24, shall be grounds for termination of this Agreement for cause without opportunity for cure. By execution of this Agreement, Developer hereby certifies to the County that it is not suspended, debarred or otherwise prohibited from participation in any government programs.

In the event of a termination of this Agreement by the County or the Developer which is determined to constitute a breach hereof by the County or the Developer, the party in breach shall be liable to the non-breaching party in accordance with applicable law for all actual damages caused thereby.

(c) Fraud, Misrepresentation or Material Misstatement. The County may terminate this Agreement if Developer attempts to meet its contractual obligations hereunder with the County through fraud, misrepresentation or material misstatement.

(d) Debarment. The foregoing notwithstanding, any individual, corporation or other entity that attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Developer may be subject to debarment for those reasons set forth in Section 10-38 of the County Code.

(e) Remedies. In the event that the County exercises its right to terminate this Agreement following an Event of Default, the Developer shall, upon receipt of such notice, unless otherwise directed by the County:

i. Stop work on the date specified in the notice (the **"Effective Termination Date"**);

ii. Take such actions as may be necessary for the protection and preservation of the County's materials and property;

iii. Cancel orders;

iv. Upon payment by the County for such work product and payment of other amounts due in accordance with this Article 6, assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services; and

v. Take no voluntary action (unless otherwise required by legal obligations) which will increase the amounts payable by the County under this Agreement.

(f) Developer Shall Deliver Work Product in Event of Termination. In the event that this Agreement is terminated under this Article 6, Developer agrees that it shall promptly deliver to County, or cause to be delivered to County, any concrete, transferable, and useable third party work product generated in connection with the Development, and will assign to County all of its right, title, and interest to such work product, without reservation in exchange for County's payment of funds paid by Developer (including funds borrowed from third parties) for such work product, along with amounts due to the Developer hereunder. Developer shall be under no obligation to deliver any work product in its possession unless the County shall have reimbursed it for the cost thereof (and paid to the Developer any other amounts due hereunder) or shall have agreed to offset the cost thereof against any indebtedness owing from the Developer to the County.

9. Event of Default.

(a) An Event of Default shall mean a breach of this Agreement by the Developer after expiration of any applicable notice and cure period without such cure. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:

i. the Developer has not delivered Deliverables on a timely basis;

ii. the Developer has made a Material Change to the Project Schedule without the County's approval;

iii. the Developer has refused or failed to supply enough properly skilled staff personnel;

iv. the Developer has failed to make prompt payment to subcontractors or suppliers for any Services;

v. the Developer has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Developer's creditors, or the Developer has taken advantage of any insolvency statute or debtor/creditor law or if the Developer's affairs have

been put in the hands of a receiver;

vi. the Developer has failed to obtain the approval of the County where required by this Agreement;

vii. the Developer has failed in the representation of any warranties stated herein.

viii. The Developer has made a Material Change to the Project Budget without the County's approval.

(b) In the event the County shall terminate this Agreement for default, the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, and reports after payment.

(c) Notwithstanding the foregoing, this Agreement shall not be terminated for default if the delay in completing the work arises from unforeseeable causes beyond the reasonable control of the Developer (any such failure or other cause or event being referred to herein as a "**Force Majeure Event**"). Examples of such causes include (a) acts of God or the public enemy, (b) material acts or failure to act, or delays in action, of the County, HUD, or other governmental entity in either its sovereign or contractual capacity, (c) material acts or failure to act of another contractor (other than a contractor or subcontractor to the Developer or the Owner Entity) in the performance of a contract with the County, (d) fires, (e) floods, (f) strikes or labor disputes, (g) freight embargoes, (h) unavailability of materials, (i) unusually severe weather, (j) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without fault or negligence of both the Developer and the subcontractors or suppliers, or (k) delay caused by litigation that is not between the County and the Developer.

10. **Notice of Default – Opportunity to Cure.** Notwithstanding anything in this Agreement to the contrary, if an Event of Default occurs in the determination of the County and the County wishes to declare an Event of Default or otherwise terminate this Agreement for cause to the extent, as provided under this Agreement, the County shall notify the Developer ("**Default Notice**"), specifying the basis for such default and the extent to which performance of work under this Agreement is terminated, and advising the Developer that such default must be cured immediately or this Agreement with the County may be terminated. If the termination is stated to be for default, the Default Notice thereof shall specify the nature of the claimed default and, if such default shall be reasonably subject to adequate cure, the Default Notice shall state (i) the actions required to be taken by the Developer to cure the default, and (ii) the reasonable time (up to sixty (60) days) within which Developer shall respond with a showing that all required actions have been taken, provided that the Developer shall have, subject to the County's approval, not to be unreasonably withheld conditioned or delayed, such additional time as is reasonably necessary to cure such default so long as the Developer has diligently commenced and is proceeding in a reasonable diligent matter toward curing such default. During any cure period so provided, the Developer shall proceed diligently with performance of any work required by this Agreement which is not the subject of the claimed default. Following expiration of the stated

cure period, the Authority shall deliver a second notice stating either that the default has been adequately cured or that the Agreement is terminated. The County shall grant an additional period of such duration as the County shall reasonably deem appropriate without waiver of any of the County's rights hereunder, so long as the Developer has commenced curing such default and is effectuating a cure with diligence and continuity during such sixty (60) day period or any other period which the County prescribes. The Default Notice shall specify the date the Developer shall discontinue the Services upon the Termination Date.

11. **Remedies in the Event of Default.** If an Event of Default occurs and remains uncured pursuant to Article 8 herein, the Developer shall be liable for all direct damages to the County resulting from such Event of Default. The Developer shall also remain liable for any liabilities and claims related to the Developer's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

12. **Lien Waivers.** Developer agrees that it will not permit any mechanic's, materialmen's or other liens to stand against the Premises for work or materials furnished to Developer it being provided, however, that Developer shall have the right to contest the validity thereof. Developer shall not have any right, authority or power to bind the County, the Premises or any other interest of the County in the Premises and will pay or cause to be paid all costs and charges for work done by it or caused to be done by it, in or to the Premises, for any claim for labor or material or for any other charge or expense, lien or security interest incurred in connection with the development, construction or operation of the Improvements or any change, alteration or addition thereto. IN THE EVENT THAT ANY MECHANIC'S LIEN SHALL BE FILED, DEVELOPER SHALL BOND OVER, PROCURE THE RELEASE OR DISCHARGE THEREOF WITHIN NINETY (90) DAYS EITHER BY PAYMENT OR IN SUCH OTHER MANNER AS MAY BE PRESCRIBED BY LAW. NOTICE IS HEREBY GIVEN THAT THE COUNTY SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO THE DEVELOPER OR TO ANYONE HOLDING ANY OF THE PREMISES THROUGH OR UNDER THE DEVELOPER, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE COUNTY IN AND TO ANY OF THE PREMISES. THE COUNTY SHALL BE PERMITTED TO POST ANY NOTICES ON THE PREMISES REGARDING SUCH NON-LIABILITY OF THE COUNTY.

Developer shall promptly pay all persons or entities furnishing labor and material with respect to any work performed by Developer or its contractor on or about the Premises, and shall obtain and deliver to Landlord "releases" or waivers of liens from all parties doing work on or about the Premises, along with an affidavit from Developer stating that all bills have been paid with regard to such work and that there are no outstanding obligations, except in the ordinary course of business, owed with respect to any such work performed on the Premises.

13. **Indemnification**

(a) Developer Indemnity. The Developer shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses, or damages, including attorney fees and costs of defense, which

the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Developer or its employees, agents, servants, partners, principals or subcontractors. The Developer shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Developer expressly understands and agrees that any insurance protection required by the Agreement or otherwise provided by the Developer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided. Notwithstanding anything to the contrary herein, such indemnification by Developer shall not cover claims or losses to the extent caused solely by the County's gross negligence or intentional wrongful acts or omissions.

(b) County Responsibility. The County shall indemnify and hold harmless the Developer and its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns from any and all liability, losses, or damages, including attorney fees and costs of defense, which the Developer or its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the County or officers, employees, agents and instrumentalities. The County shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the Developer, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The County's indemnification obligations in this Article 12(b) shall be subject to the provisions of Section 768.28, Fla. Stat., whereby the County shall not be liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of Two Hundred Thousand and No/100 Dollars ($200,000.00), or any claim or judgments or portion thereof, which when totaled with all other occurrence, exceeds the sum of Three Hundred Thousand and No/100 Dollars ($300,000.00), but only to the extent the limitations set forth in that Statute are applicable. Notwithstanding anything to the contrary herein, such indemnification by Miami-Dade County shall not cover claims or losses to the extent caused solely by the Developer's gross negligence or intentional wrongful acts or omissions.

14. **Insurance.** The Developer shall furnish to the Public Housing and Community Development Department, Facilities and Development Division at 701 NW 1 Court, 16th Floor, Miami, Florida 33136-3914, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

(a) Worker's Compensation Insurance for all employees of the Developer as required by Florida Statute 440.

(b) Commercial General Liability Insurance on a comprehensive basis in an amount not less than One Million and No/100 Dollars ($1,000,000.00) combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

(c) Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the work, in an amount not less than Five Hundred Thousand and No/100 Dollars ($500,000.00) combined single limit per occurrence for bodily injury and property damage.

(d) Professional Liability Insurance shall be carried by architects and engineers in an amount not less than One Million and No/100 Dollars ($1,000,000.00) with a deductible per claim not to exceed ten percent (10%) of the limit-liability.

All insurance coverage required above shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Developer. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to do Business in Florida", issued by the State of Florida Department of Financial Services and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Developer hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Developer of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days after notification of recommendation to award. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Developer shall have an additional five (5) business days from notification to submit a corrected certificate to the County. If the Developer fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Developer shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such time frame for submission has been extended by the County.

The Developer shall be responsible for ensuring that the insurance certificates required in conjunction with this Article remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Developer shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

15. **Agreement Security.** Upon request by the County, but in no event earlier than the Financial Closing, the Developer shall cause its General Contractor to deliver to the County an executed Performance and Payment Bond on the prescribed form or in Cash (with the County as an additional obligee). The Performance and Payment Bond shall be in the amount of 100% of the construction cost of the Project, as security for the faithful performance of this Agreement and for the payment of all persons performing labor or furnishing materials in connection therewith. If Cash is used in lieu of the bonds, all terms and conditions stipulated in the bonds shall be just as applicable. The Performance and Payment Bonds shall have as the surety thereon only such surety company or companies as are acceptable to the County and are authorized to write bonds of such character and amount in accordance with the following qualifications:

(a) All bonds shall be written through surety insurers authorized to do business in the State of Florida as surety, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

Bond Amount	Best Rating
i. 500,001 to 1,500,000	B V
ii. 1,500,001 to 2,500,000	A VI
iii. 2,500,001 to 5,000,000	A VII
iv. 5,000,001 to 10,000,000	A VIII
v. Over 10,000,000	A IX

(b) On contract amounts of 500,000 or less, the bond provisions of Section 287.0935, Florida Statutes shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:

i. Providing evidence that the Surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

ii. Certifying that the Surety is otherwise in compliance with the Florida Insurance Code, and;

iii. Providing a copy of the currently valid Certificate of Authority issued by the United States Department of the Treasury under ss. 31 U.S.C. §§ 9304-9308.

(c) Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.

(d) For contracts in excess of 500,000 the provision of Section (b) will be adhered to plus the company must have been listed for at least three consecutive years, or holding a valid Certificate of Authority of at least 1.5 million dollars and on the Treasury List.

(e) Surety Bonds guaranteed through U.S. Government Small Business Administration or Developers Training and Development Inc. will also be acceptable.

(f) The attorney-in-fact or other officer who signs performance and payment bonds for a surety company must file with such bond a certified copy of his power of attorney authorizing him to do so. The performance and payment bonds must be counter signed by the surety's resident Florida agent.

The Performance Bond or Cash used in lieu of the Performance Bond shall remain in force for one (1) year from the date of final acceptance of the work to protect the County against losses resulting from defects in materials or improper performance of work under the Agreement; provided however, that this limitation does not apply to suits seeking damages for latent defects in materials or workmanship, such actions being subject to the limitations found in Section 95.11(3)(c), Florida Statutes.

16. **Compliance with Public Housing Requirements.**

(a) Treatment of HUD Funds. Any transfer of public housing funds pursuant to this

Agreement will not be an assignment of public housing funds or be deemed an assignment of public housing funds. Developer will not succeed to any rights or benefits County may have under the applicable grant agreements or contracts with HUD or attain any privilege, authority, interest, or right under applicable grant agreements or contracts between the County and HUD. Nothing contained in this Agreement will be construed to create any relationship of third party beneficiary or otherwise with HUD.

(b) Development Obligations. Developer shall provide development services in accordance with this Agreement. Developer shall perform the duties and undertake the responsibilities herein set forth in a competent and professional manner using good faith reasonable efforts. The Developer is an independent contractor and not an agent of the County. Therefore, except as may be expressly set forth herein, Developer shall have no authority to bind County. Except as expressly set forth herein, Developer will provide all services, equipment, and materials for Developer and will furnish, directly or through contractors, subcontractors, professional expertise, management, labor, materials, supplies, fixtures, equipment, tools and machinery, testing, supervision, facilities, and other services required for the completion of the Development.

(c) Reporting Requirements. Pursuant to Sections 2-8.1, 2-8.8 and 10.34 of the Code of Miami-Dade County (as amended by Ordinance No. 11-90), the Developer must report to the County the race, gender and ethnic origin of the owners and employees of its first tier subcontractors using the Subcontractor/Supplier Listing form, attached hereto as Exhibit E. In the event that the Developer demonstrates to the County that the race, gender and ethnic information is not reasonably available at that time, the Developer shall be obligated by this Agreement to exercise commercially reasonable efforts to obtain that information and to provide the same to the County not later than ten (10) business days after it becomes available and, in any event, prior to final payment this Agreement.

(d) Compliance with Laws and other Requirements. Developer shall fully comply with all applicable laws and regulations applicable to Developer with respect to workers' compensation, social security, unemployment insurance, hours of labor, wages, working conditions, licensing and other employer-employee related matters, including, without limitation, all laws, rules and regulations with respect to non-discrimination based on race, sex or otherwise, and MBE/WBE, and Section 3 of the Housing and Urban Redevelopment Act of 1968, as more fully described in Exhibit F, Applicable HUD General Conditions for Construction Contracts, which is incorporated herein by reference. Developer will further comply with all applicable public housing requirements.

17. **Warranties.**

(a) Developer's Warranties. Developer represents and warrants to the County that (a) Developer is and will continue to be duly organized, and is in good standing

under the laws of and qualified to do business in the State of Florida, (b) Developer has and will have all necessary power, authority, licenses and staff resources for the undertaking of its obligations under this Agreement, (c) this Agreement has been duly entered into and is the legally binding obligation of Developer, (d) this Agreement will not violate any judgment, law, or agreement to which Developer is a party or is subject, and (e) there is no claim pending, or to the best knowledge of Developer, threatened, that would impede Developer's ability to perform its obligation hereunto. Developer shall not hereafter enter into any agreement which would, or modify any existing agreement in a manner that would, impair its ability to perform its obligations hereunder, and will notify the County if any suit is threatened or law proposed which would impair its ability to perform its obligations hereunder.

(b) County's Warranties. The County represents and warrants to Developer that (a) the County has and will have all necessary power and authority under Florida law for the undertaking of its obligations under this Agreement, (b) this Agreement has been duly entered into and is the legally binding obligation of the County, (c) this Agreement will not violate any judgment, law, consent decree, or agreement to which the County is a party or is subject to and will not violate any law or ordinance under which the County is organized, (d) the County is, or has an affiliate who is, qualified to participate as co-managing member of a tax credit limited liability company to the extent requested by the Developer, (e) there is no claim pending, or to the best knowledge of the County, threatened, that is likely to materially impede the County's ability to perform its obligation hereunto. The County shall not hereafter enter into any agreement or consent decree which would, or modify any existing agreement or consent decree in a manner that would impair its ability to perform its obligations hereunder, and will notify Developer if any suit is threatened or law proposed which would materially impair its ability to perform its obligations hereunder.

18. **Term.** This Agreement shall begin upon execution hereof, and shall expire (except for obligations identified as continuing beyond the term of the Agreement) upon the completion of all the activities described herein, unless sooner terminated in accordance with the terms provided herein. This Agreement shall terminate upon Financial Closing and the closing documents for the Development will govern the relationship between the parties to the extent described in such documents, unless this Agreement expressly provides that such subject matter with survive the termination of this Agreement. The parties acknowledge that certain subject matter of this Agreement relates to activities that are intended to survive the term hereof, and so the parties acknowledge and agree to effectuate such matters in the closing documents with respect to each phase.

19. **County's Sovereignty.** It is expressly understood that, subject to the other provisions of this Agreement:

(a) The County retains all of its sovereign prerogatives and rights as a county under Florida laws and shall in no way be estopped from reasonably withholding or

refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the planning, design, construction and development of the Development or the operation thereof, or be liable for the same; and

(b) The County shall not by virtue of this Agreement be obligated to grant the Developer any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Development.

20. **Option and Right of First Refusal.** The County shall have the option and right of first refusal to purchase the Development at the end of the tax credit compliance period for the greater of: (i) the fair market value of the property; and (ii) the lowest price that is permitted under Section 42(i)(7) of the Internal Revenue Code of 1986, as amended plus any operating deficit loans of any member and any taxes that are projected to be owed by any member as a result of such sale.

21. **No Liability for Exercise of Police Power.** Subject to any contrary provision in this Agreement, or any County covenant or obligation that may be contained in this Agreement, the County shall have no obligation, including but not limited to the following:

(a) To assist the Developer in applying for any county, city or third party permit or needed approval; or

(b) To contest, defend against, or assist the Developer in contesting or defending against any challenge of any nature; and, except as otherwise set forth in this Agreement, this Agreement shall not bind the County Board, the Permitting, Environment and Regulatory Affairs Department, other applicable County departments, or their successor departments, or any other county, city, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the County or any other applicable governmental agencies in the exercise of its police power; and, except as otherwise set forth in this Agreement, the County shall be released and held harmless, by the Developer from and against any liability, responsibility, claims, consequential or other damages, or losses to the Developer or to any third parties resulting from denial, withholding or revocation (in whole or in part) of any zoning or other changes, variances, permits, waivers, amendments, or approvals of any kind or nature whatsoever. Without limiting the foregoing, the parties recognize that the approval of any building permit and/or certificate of occupancy will require the County to exercise its quasi-judicial or police powers. Without limiting any other provision of this Agreement, the County shall have no obligation to approve, in whole or in part, any application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver. The County's obligation to use reasonable good

faith efforts in the permitting of the use of County owned property regarding the Premises shall not extend to any exercise of quasi-judicial or police powers, and shall be limited solely to ministerial actions, including the timely acceptance and processing of any requests or inquiries by the Developer as authorized by this Agreement. Moreover, in no event shall a failure of the County to adopt any of the Developer or Owner Entity's request or application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver be construed a breach or default of this Agreement, unless such failure was unreasonable or untimely or in direct contravention to another provision of this Agreement.

22. Vendor Registration and Forms/Conflict of Interest.

(a) Vendor Registration. The Developer shall be a registered vendor with the County's Internal Services Department, Procurement Management Division, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Developer confirms its knowledge of and commitment to comply with the following:

i. *Miami-Dade County Ownership Disclosure Affidavit* (Section 2-8.1 of the County Code)

ii. *Miami-Dade County Employment Disclosure Affidavit (Section 2.8-1(d)(2) of the County Code)*

iii. *Miami-Dade Employment Drug-free Workplace Certification (Section 2-8.1.2(b) of the County Code)*

iv. *Miami-Dade Disability and Nondiscrimination Affidavit (Section 2-8.1.5* of the County Code*)*

v. *Miami-Dade County Debarment Disclosure Affidavit (Section 10.38 of the County Code)*

vi. *Miami-Dade County Vendor Obligation to County Affidavit (Section 2-8.1 of the County Code)*

vii. *Miami-Dade County Code of Business Ethics Affidavit (Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)*

viii. *Miami-Dade County Family Leave Affidavit(Article V of Chapter 11 of the County Code)*

ix. *Miami-Dade County Living Wage Affidavit (Section 2-8.9 of the County Code)*

x. *Miami-Dade County Domestic Leave and Reporting Affidavit(Article 8, Section 11A-60 11A-67 of the County Code)*

xi. *Subcontracting Practices(Ordinance 97-35)*

xii. *Subcontractor /Supplier Listing (Section 2-8.8 of the County Code)*

xiii. *Environmentally Acceptable Packaging(Resolution R-738-92)*

xiv. *W-9 and 8109 Forms* (as required by the Internal Revenue Service)

xv. *FEIN Number or Social Security Number.* In order to establish a file, the Developer's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Developer's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

(1) Identification of individual account records

(2) To make payments to individual/Developer for goods and services provided to Miami-Dade County

(3) Tax reporting purposes

(4) To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

xvi. *Office of the Inspector General* (Section 2-1076 of the County Code)

xvii. *Small Business Enterprises.* The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

xviii. *Antitrust Laws.* By acceptance of any contract, the Developer agrees to comply with all antitrust laws of the United States and the State of Florida.

(1) Conflict of Interest. Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate

family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593. Further the Developer shall comply with Section 1352 of Title 31 of the United States Code, which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, loan, or cooperative agreement. The Developer further agrees to comply with the requirement of such legislation to furnish a disclosure (OMB Standard Form LLQ) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, in connection with a Federal contract, grant, loan, or cooperative agreement, which payment would be prohibited if made from Federal appropriated funds. The Developer represents that:

- No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.

- There are no undisclosed persons or entities interested with the Developer in this Agreement. This Agreement is entered into by the Developer without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government),

or a member of the immediate family or household of any of the aforesaid:

- is interested on behalf of or through the Developer directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or

- is an employee, agent, advisor, or consultant to the Developer or to the best of the Developer's knowledge any subcontractor or supplier to the Developer.

  - Neither the Developer nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Developer shall have an interest which is in conflict with the Developer's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Developer provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

  - The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

(2) In the event Developer has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Developer shall promptly bring such information to the attention of the County's Project Manager. Developer shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Developer receives from the Project Manager in regard to remedying the situation.

23. **Interest of Members of Congress.** No Member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

24. **Interest of Member, Officer, or Employee and Former Member, Officer, or staff** and elected officials to ensure compliance with contract specifications and to detect fraud and

corruption.

25. **Upon Written Notice to the Developer from the Inspector General or IPSIG Retained by the Inspector Employee of the County.** No member, officer, or employee of the County, no member of the governing body of the County, no member of the governing body by which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Development shall, during his or her tenure, or for two year thereafter or such longer time as the County's Code of Ethics may reasonably require, have any interest, direct or indirect, in this Agreement or the proceeds thereof, unless the conflict of interest is waived by the County and by HUD.

26. **Inspector General Reviews.** Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "**IPSIG**"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Developer shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Developer's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Developer, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Developer in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Developer or any third party.

(a) ***Miami-Dade County Inspector General Review.*** According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Developer. The audit cost shall also be included in all change orders and all contract renewals and extensions.

i. Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (l) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade***

County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Agreement. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Developer, its officers, agents and employees, lobbyists, County General, the Developer shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Developer's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

27. **Notices.** All notices, requests, approvals, demands and other communications given hereunder or in connection with this Agreement shall be in writing and shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows (provided, that any time period for responding to any such communication shall not begin to run until such communication is actually received or delivery is refused):

If to County: Miami-Dade County
c/o Miami-Dade Public Housing and Community Development
701 N.W. 1st Court, 16th Floor
Miami, FL 33136
Attn: Executive Director

With a Copy to: Miami-Dade County Attorney's Office

111 N.W. 1st Street, Suite 2810
Miami, FL 33128
Attn: Terrence A. Smith, Esq.

If to Developer: Dante Fascell Developer, LLC
c/o Related Urban
315 S. Biscayne Blvd., 4th Floor
Miami, FL 33131
Attn: Albert Milo, Jr., Principal/Senior Vice President

With a Copy to: Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
150 W. Flagler Street, Suite 2200
Miami, FL 33130
Attn: Brian McDonough, Esq.

28. **Further Assurances.** Each party shall execute such other and further documents as may be reasonably necessary or proper for the consummation of the transaction contemplated by this Agreement as mutually agreed by the Parties hereto.

29. **Assignment.** This Agreement shall not be assignable by either party, except by the Developer to the Owner Entities as contemplated herein or upon written consent of the other party.

30. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed original, but all of which, together, shall constitute one instrument.

31. **Interpretation and Governing Law.** This Agreement shall not be construed against the party who prepared it but shall be construed as though prepared by both Parties. This Agreement shall be construed, interpreted, and governed by the laws of the State of Florida.

32. **Severability.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable such portion shall be deemed severed from this Agreement and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Agreement.

33. **Parties Bound.** No officer, director, shareholder, employee, agent, or other person authorized to act for and on behalf of any party hereto shall be personally liable for any obligation, express or implied.

34. **Final Agreement.** Unless otherwise provided herein, this Agreement constitutes the final understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the Parties, and except for those agreements contemplated herein. This Agreement may be amended, supplemented or changed only by a writing signed or authorized by or on behalf of the party to be bound thereby. Notwithstanding the foregoing, the parties acknowledge that Ground Lease made as of December 5, 2011, by and between the County and Dante Fascell Preservation Phase One, LLC,

which expressly survives the terms hereof.

35. **Modification of Agreement.** This Agreement may be amended by mutual agreement of the County and Owner, not to be unreasonably withheld, subject to prior written approval by HUD (if required) and provided that all amendments must be in writing and signed by both parties and that no amendment shall impair the obligations of the County or Owner to develop and operate the Public Housing Units in accordance with all Applicable Public Housing Requirements and the Ground Lease. This Agreement may not be altered, modified, rescinded, or extended orally.

36. **Waivers.** The failure of any party to insist in any one or more cases upon the strict performance of any of the obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by any party of any provision of this Agreement shall be deemed to have been made unless set forth in writing and signed by the party to be charged.

37. **Successors.** The terms, covenants, agreements, provisions, and conditions contained herein shall bind and inure to the benefit of the Parties hereto, their successors and assigns.

38. **Certain Approvals and Reasonableness Standard.** Unless otherwise stated, all approvals or consents required of either party hereunder shall not be unreasonably withheld, conditioned or delayed and each party shall endeavor to act reasonably with respect to activities under this Agreement.

39. **Headings.** The headings in this Agreement are inserted for convenience only and shall not be used to define, limit or describe the scope of this Agreement or any of the obligations herein.

40. **Construction.** Whenever in this Agreement a pronoun is used, it shall be construed to represent either the singular or the plural, either the masculine or the feminine, as the case shall demand.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed this _____ day of _____, 2012.

DANTE FASCELL DEVELOPER, LLC

By:_____

MIAMI-DADE COUNTY

By:_____

Attest: _____
Deputy Clerk

Approved as to form and legal sufficiency

By:_____
Name: Terrence A. Smith
Title: Assistant County Attorney

Exhibit A

Scope of Work

(see attached)

Dante Fascell Scope of Work

6 Stories 152 Units Rehab

Exterior

Re-Roof with energy efficient roof
Hurricane Impact Windows
Hurricane Impact Doors
Energy Efficient Air Conditioning Units
Condensate drains for the A/C Units
Exterior Paint
Railing at Catwalks
Repair and Coat Concrete Walkways
Benches
Covered Seating Area with Tables and Benches
Landscaping
Repair/Re-Stucco Exterior Spalling Concrete

New Interior Features in each Unit

Asbestos Abatement
Kitchen Cabinets
Kitchen Appliances
Interior Doors
Energy Efficient Light Fixtures
Bathroom Cabinet
Bathroom Fixtures
Roll in Showers
Bathroom Tile
Flooring in Unit
Wood Baseboards
Texture Interior Walls
Interior Paint
Energy Efficient Water Heater
Exhaust Fans in Kitchen and Bathroom
Door Hardware
Cable, Phone, and Internet in Each Unit
Window Coverings in Each Unit
Emergency Call System
Energy Efficient Ceiling Fans
Water Sense Dual Flush ADA Toilet
Low Flow Shower
Low Flow Sink Faucets
Energry Efficient Lighting
Sprinklered Units
Hard Wired Smoke Detectors
Adjustable Shelves Inside Closets

Common Areas

New Community Center

Dante Fascell Scope of Work

6 Stories 152 Units Rehab

New Fitness Center
New Library / Computer Room
New Community Kitchen
New Laundry Facility
New Doors in Office
New Door Hardware in Office
New A/C in Office and Lobby
New Lobby Flooring
New Lobby Doors
Elevator Upgrades
Landscape Upgrades
Perimeter Site Fencing with Access Control Gates
Site Lighting Upgrades
Patching, Sealing, and Restriping Parkinh Areas

Building Systems
New Fire Alarm
New Domestic Water Pumps
Refurbish Existing Generator Enclosure
Upgraded Security Camera System
Upgraded Access Control System
Repair Sanitary Lines
New Fire Sprinkler System
Upgrade plumbing Stacks

Exhibit B

Redevelopment Budget

(see attached)

Exhibit B

Dante Fascell

			DEVELOPMENT BUDGET
Acquisition Costs			
Land:		100%	1,000,000
	Subtotal:		**1,000,000**
Construction Costs		PDU	
Residential:		53,500	8,140,979
Other; Amenities			300,000
FF&E			100,000
General Requirements:		6%	506,459
Overhead:		2%	168,820
Profit:		6%	506,459
Hard Cost Contingency:		5%	829,098
	Subtotal:	69,880	**10,551,815**
Project Soft Costs			
Accountant Cost Cert:			50,000
Appraisal:			15,000
Market Study:			10,000
Enviromental Studies:			83,000
Pre-Constr. Analysis/Existing Prop. Eval			10,000
Architect - Design&Supervision:			225,000
Survey:			25,000
Title Insurance			150,000
Marketing & Advertising			20,000
Management Transition			107,078
P&P Bonds:			129,893
Building Permits:			185,000
Engineering Fee			150,000
Inspection Fees:			26,400
Tenant Relocation:			1,244,750
Builders Risk Insurance			59,283
Liability Insurance			20,000
	Subtotal:	16,625	**2,510,404**
Developer Legal Costs			
Acquisition Counsel:			30,000
Debt Counsel:			55,000
HUD Counsel:			30,000
Local Counsel:			15,000
Legal Contingency:			50,000
	Subtotal:	1,192	**180,000**
Financing Issuance Costs			
Closing Costs - Construction			160,000
Lender Origination Fees:			120,000
Underwriter Fees:			16,000
	Subtotal:	1,960	**296,000**

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Dante Fascell

			DEVELOPMENT BUDGET
Financing Legal Costs			
Lender Counsel:			20,000
	Subtotal:	132	**20,000**
Equity Syndication Costs			
Up-Front LIHTC Admin Fees:			121,000
LIHTC Application Fees:			3,000
FHFC Compliance Fee			54,407
Syndicator Costs			75,000
Investor Due Diligence			15,000
	Subtotal:		**268,407**
Reserves and Escrows			
Replacement Reserve:		500	75,500
Insurance Escrow:			105,700
Capitalized Asset Management Fee			75,000
Construction Interest		0	314,500
Operating Expense Reserve			396,000
Operating Subsidy Reserve			423,000
	Subtotal:		**1,389,700**
Soft Cost Contingency		5%	**120,000**
Developer Fee			**2,281,780**
	Total Development Budget:		**18,618,106**

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Exhibit C

Redevelopment Schedule

(see attached)

Dante Fascell

Project Schedule

Milestone	Start	Complete
PLANS & SPECS	6/1/2012	8/10/2012
PERMITTING	8/20/2012	10/26/2012
BIDDING	11/2/2012	11/30/2012
FINAL CLOSING	12/1/2012	12/1/2012
CONSTRUCTION COMMENCEMENT	1/2/2013	-
TENANT RELOCATION	1/2/2013	12/23/2013
CONSTRUCTION COMPLETION	-	12/17/2013
LEASE UP STABILIZATION	12/1/2013	12/31/2013
PROJECT FORM 8609 COMPLETION	1/30/2014	2/15/2014
TOTAL	6/1/2012	2/15/2014

Exhibit D

Unit Mix

(see attached)

Exhibit D

Dante Fascell Unit Mix		
# of Bedrooms	# of Units	Sq. Ft. of Living Area
1	111	412
1	40	555
Total	151	

Exhibit E

Subcontractor/Supplier Listing Form

(see attached)

SUBCONTRACTOR/SUPPLIER LISTING
(Miami-Dade County Code Sections 2-8.1, 2-8.8 and 10-34)

Firm Name of Prime Contractor/Respondent _____ FEIN # _____

Project/Contract Number _____

In accordance with Sections 2-8.1, 2-8.8 and 10.34 of the Miami-Dade County Code, this form must be submitted as a condition of award by all bidders/respondents on County contracts for purchase of supplies, materials or services, including professional services which involve expenditures of $100,000 or more, and all bidders/respondents on County or Public Health Trust construction contracts which involve expenditures of $100,000 or more. The bidder/respondent who is awarded this bid/contract shall not change or substitute first tier subcontractors or direct suppliers or the portions of the contract work to be performed or materials to be supplied from those identified, except upon written approval of the County. The bidder/respondent should enter the word "NONE" under the appropriate heading of this form if no subcontractors or suppliers will be used on the contract and sign the form below.

In accordance with Ordinance No. 11-90, an entity contracting with the County shall report the race, gender and ethnic origin of the owners and employees of all first tier subcontractors/suppliers. In the event that the successful bidder demonstrates to the County prior to award that the race, gender, and ethnic information is not reasonably available at that time, the successful bidder shall be obligated to exercise diligent efforts to obtain that information and provide the same to the County not later than ten (10) days after it becomes available and, in any event, prior to final payment under the contract.

(Please duplicate this form if additional space is needed.)

Business Name and Address of First Tier Subcontractor/ Subconsultant	Principal Owner	Scope of Work to be Performed by Subcontractor/ Subconsultant	Principal Owner (Enter the number of male and female owners by race/ethnicity)								Employee(s) (Enter the number of male and female employees and the number of employees by race/ethnicity)							
			Gender		Race/Ethnicity						Gender		Race/Ethnicity					
			M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other	M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other

Business Name and Address of First Tier Direct Supplier	Principal Owner	Supplies/Materials/ Services to be Provided by Supplier	Principal Owner (Enter the number of male and female owners by race/ethnicity)								Employee(s) (Enter the number of male and female employees and the number of employees by race/ethnicity)							
			Gender		Race/Ethnicity						Gender		Race/Ethnicity					
			M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other	M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other

☐ Mark here if race, gender and ethnicity information is not available and will be provided at a later date. This data may be submitted to Contracting/User department or on-line to the Small Business Development Division of the Regulatory and Economic Resources Department at http://new.miamidade.gov/business/business-development.asp.

I certify that the representations contained in this Subcontractor/Supplier listing are to the best of my knowledge true and accurate.

Signature of Bidder/Respondent _____ Print Name _____ Print Title _____ Date _____

SUB 100 Rev. 6/12

Exhibit F

Applicable HUD General Conditions for Construction Contracts

Conduct of Work

1. Disputes

(a) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(b) Except for disputes arising under the clauses entitled *Labor Standards and Labor Standards- Nonroutine Maintenance,* herein, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.

(c) All claims by the Developer shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the County against the Developer shall be subject to a written decision by the Contracting Officer.

(d) _____ shall be the "Contracting Officer." The Contracting Officer shall, within 60 (unless otherwise indicated) days after receipt of the request, decide the claim or notify the Developer of the date by which the decision will be made.

(e) The Contracting Officer's decision shall be final unless the Developer (l) appeals in writing to a higher level in the County in accordance with the County' s policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the Contracting Officer's decision.

(f) The Developer shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

2. Lead-Based Paint

The Developer shall comply with the requirements concerning lead-based painted contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

3. Health, Safety, and Accident Prevention

(a) In performing this contract, the Developer shall:

i. Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;

ii. Protect the lives, health, and safety of other persons;

iii. Prevent damage to property, materials, supplies, and equipment; and

iv. Avoid work interruptions.

(b) For these purposes, the Developer shall:

i. Comply with regulations and standards issued by the Secretary of Labor at 29 CFR Part 1926. Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96), 40 U.S.C. 3701 et seq.; and

ii. Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.

(c) The Developer shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR Part 1904.

(d) The Contracting Officer shall notify the Developer of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Developer or the Developer's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Developer shall immediately take corrective action (unless Developer disputes the notification in accordance with Section 1). If the Developer fails or refuses to take corrective action promptly, the

Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Developer shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.

(e) The Developer shall be responsible for its subcontractors' compliance with the provisions of this clause. The Developer shall take such action with respect to any subcontract as Miami-Dade County (the "County"), the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

4. Royalties and Patents

The Developer shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the County harmless from loss on account thereof; except that the County shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and the Developer has no reason to believe that the specified design, process, or product is an infringement. If, however, the Developer has reason to believe that any design, process or product specified is an infringement of a patent, the Developer shall promptly notify the Contracting Officer. Failure to give such notice shall make the Developer responsible for resultant loss.

5. Clean Air and Water

The contactor shall comply with the Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Water Act, as amended, 33 U.S.C. 1251 et seq., and standards issued pursuant thereto in the facilities in which this contract is to be performed.

6. Energy Efficiency

The Developer shall comply with mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under the contract is performed.

7. Subcontracts

(a) Definitions. As used in this contract:

i. "Subcontract" means any contract, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and services for the performance of the prime contract or a subcontract.

ii. "Subcontractor" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for the Developer or

another subcontractor.

(b) The Developer shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the state in which the work under this contract is to be performed.

(c) The Developer shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Developer.

(d) The Developer shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.

(e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the County or between the subcontractor and HUD.

8. Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms.

The Developer shall take the following steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority firms, women's business enterprises, and labor surplus area firms:

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;

(d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business enterprises; and

(e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

9. Equal Employment Opportunity.

During the performance of this contract, the Developer agrees as follows:

(a) The Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation.

(b) The Developer shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation. Such action shall include, but not be limited to, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.

(c) The Developer shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(d) The Developer shall, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation.

(e) The Developer shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Developer's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The Developer shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(g) The Developer shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Developer shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(h) In the event of a determination that the Developer is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Developer may be declared ineligible for further Government contracts, or Federally assisted construction contracts under the procedures authorized in Executive Order 11246,

as amended. In addition, sanctions may be imposed and remedies invoked against the Developer as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(i) The Developer shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Developer shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Developer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Developer may request the United States to enter into the litigation to protect the interests of the United States.

(j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.

10. Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

(a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s)

taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b)agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

11. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

12. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the County, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

13. Limitations on Payments made to Influence Certain Federal Financial Transactions.

(a) The Developer agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(b) The Developer further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

14. Examination and Retention of Developer's Records

(a) The County, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Developer's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

(b) The Developer agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding $10,000.

(c) The periods of access and examination in paragraphs (a) and (b) above for records relating to (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the County, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

(d) Lunches, dinners, etc. are not acceptable reimbursable expenses.

(e) Acceptable reimbursable expenses are defined as:

(f) Payments to Developer shall be based on services rendered/work completed, not costs incurred for deposits/retainers.

15. Labor Standards - Davis-Bacon and Related Acts.

If the total amount of this contract exceeds $2,000, the Federal labor standards set forth in the clause below shall apply to the development or construction work to be performed under the contract.

(a) Minimum Wages.

i. All laborers and mechanics employed under this contract in the development or construction of the project(s) involved will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Developer and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the regular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Developer and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met: (A) The work to be performed by the classification requested is not performed by a

classification in the wage determination; and (B) The classification is utilized in the area by the construction industry; and (C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

iii. If the Developer and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

iv. In the event the Developer, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

v. The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in classification.

vi. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Developer shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

vii. If the Developer does not make payments to a trustee or other third person, the Developer may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Developer, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Developer to set aside in a separate

account assets for the meeting of obligations under the plan or program.

(b) Withholding of funds. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Developer under this contract or any other Federal contract with the same prime Developer, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Developer, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Developer or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working in the construction or development of the project, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Developer, disburse such amounts withheld for and on account of the Developer or subcontractor to the respective employees to whom they are due.

(c) Payrolls and basic records.

i. Payrolls and basic records relating thereto shall be maintained by the Developer during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Developer shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Developers employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

ii. The Developer shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Developer is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)

iii. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Developer or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under paragraph (c) (1) of this clause and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

iv. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.

v. The falsification of any of the above certifications may subject the Developer or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

vi. The Developer or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives

to interview employees during working hours on the job. If the Developer or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) Apprentices.

i. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Developer as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Developer's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency

recognized by OATELS, withdraws approval of an apprenticeship program, the Developer will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

ii. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Developer will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

iii. Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(e) Compliance with Copeland Act requirements. The Developer shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

(f) Contract termination; debarment. A breach of this contract clause may be grounds for termination of the contract and for debarment as a Developer and a

subcontractor as provided in 29 CFR 5.12.

(g) Compliance with Davis-Bacon and related Act requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(h) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Developer (or any of its subcontractors) and the County, HUD, the U.S. Department of Labor, or the employees or their representatives.

(i) Certification of eligibility.

i. By entering into this contract, the Developer certifies that neither it (nor he or she) nor any person or firm who has an interest in the Developer's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

iii. The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

(j) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

i. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

ii. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in subparagraph (j)(1) of this clause, the Developer and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Developer and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to

such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic (including watchmen and guards) employed in violation of the provisions set forth in subparagraph (j)(1) of this clause, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in subparagraph (j)(1) of this clause.

iii. Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Developer or subcontractor under any such contract or any Federal contract with the same prime Developer, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Developer, such sums as may be determined to be necessary to satisfy any liabilities of such Developer or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in subparagraph (j)(2) of this clause.

(k) Subcontracts. The Developer or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Developer shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

16. Non-Federal Prevailing Wage Rates

(a) Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State or tribal law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Developer or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:

i. The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;

(b) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or

(c) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

17. Procurement of Recovered Materials.

(a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Developer shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Developer shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Developer determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

(b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Developer purchases in excess of $10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Developer: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.

Exhibit G

Vacancy Preparation Work

(Required to prepare existing vacant Public Housing units for temporary relocations of residents affected by the work covered by this MDA)

Should the County provide vacant units to the developer for its use for temporary relocation, the developer shall provide vacancy preparation;

1. Prior to being occupied by first relocated residents.
2. Perform maintenance and/or repairs to units during temporary occupancy period.
3. Perform a final vacancy preparation of unit after final resident(s) have been relocated back and prior to turn-over back to PHCD for its use.

Developer agrees to perform vacancy preparation work in accordance with PHCD requirements, that will be provided when this vacant unit option is used for temporary relocation.

Exhibit H

Key Development Team Members

(see attached)

Dante Fascell Preservation

Key Development Team Members

Name:	Role:
Jorge M. Perez	President & Principal
Alberto Milo Jr.	Senior Vice President & Principal
Matthew J. Allen	Vice President
Jeffery Hoyos	Vice President & Secretary
Tony Del Pozzo	Vice President & Director of Finance
Luis Castellon	Project Manager
Brian Latta	Project Manager
Larry Lennon	President - TRG Management Company of Florida
Marilyn Pascual	Regional Manager - TRG Management Company of Florida

MASTER DEVELOPMENT AGREEMENT

BETWEEN

MIAMI-DADE COUNTY

AND

SOUTH MIAMI PLAZA DEVELOPER, LLC

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MASTER DEVELOPMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND SOUTH MIAMI PLAZA DEVELOPER, LLC

South Miami Plaza Developer, LLC ("**Developer**") and MIAMI-DADE COUNTY, a political subdivision of the State of Florida and a "public housing agency" as defined in the United States Housing Act of 1937, as amended (the "**County**"), hereby enter into this Master Development Agreement (the "**Agreement**") to memorialize certain business terms, conditions and agreements regarding future rehabilitation and redevelopment of South Miami Plaza, a public housing development, in Miami Dade County, Florida (the "**Development**").

1. Definitions.

(a) "Act" shall have the meaning set forth in Section 4(b)(v).

(b) "Agreement" shall mean this Master Development Agreement.

(c) "Authority Affiliate" shall have the meaning set forth in Section 3(c).

(d) "County" shall mean Miami-Dade County.

(e) "Default Notice" shall have the meaning set forth in Section 10.

(f) "Developer" shall mean South Miami Plaza Developer, LLC.

(g) "Developer Affiliate" shall have the meaning set forth in Section 3(c).

(h) "Development" shall mean the redevelopment of South Miami Plaza, as further described in Section 3.

(i) "Effective Termination Date" shall have the meaning set forth in Section 8(c)(i).

(j) "FHFC" shall have the meaning set forth in Section 3(b).

(k) "Financial Closing" shall mean closing on construction financing.

(l) "Force Majeure Event" shall have the meaning set forth in Section 9(c).

(m) "HUD Safe Harbor Standards" shall have the meaning set forth in Section 5(a).

(n) "IPSIG" shall have the meaning set forth in Section 26.

(o) "LIHTC" shall have the meaning set forth in Section 3(b).

(p) "Management Agent" shall have the meaning set forth in Section 7(a).

(q) "Management Agreement" shall have the meaning set forth in Section 7(a).

(r) "Material Changes" shall have the meaning set forth in Section 3(b).

(s) "Owner Entity" shall have the meaning set forth in Section 3(c).

(t) "PHA-Assisted Units" shall have the meaning set forth in Section 3(b).

(u) "Partner" shall have the meaning set forth in Section 3(a).

(v) "Project Stabilization" shall have the meaning set forth in Section 3(c).

(w) "Proper Invoice" shall mean (insert)

(x) "RFP" shall have the meaning set forth in Section 3.

(y) "Redevelopment Budget" shall have the meaning set forth in Section 3(b).

(z) "Redevelopment Schedule" shall have the meaning set forth in Section 3(b).

(aa) "Relocation Plan" shall have the meaning set forth in Section 4(a)(ix)(4).

(bb) "Section 42" shall have the meaning set forth in Section 3(b).

(cc) "Sub Management Agreement" shall have the meaning set forth in Section 8(c).

(dd) "Termination for Cause" shall have the meaning set forth in Section 8(b).

2. **Nature of Agreement.** This Agreement sets forth the principal terms that have been agreed to by the parties concerning the Development (as defined below). It is anticipated that this agreement will constitute the "Master Development Agreement" for the Development. The parties are executing this Agreement to establish the principal terms of the transaction in order to enable both parties to proceed with an understanding of their obligations and agreements with regard to the Development.

3. **Development Feasibility and Structure.**

(a) Request for Proposals and Developer's Response. On July 14, 2011, the County sought proposals under Request for Proposals No. 794 (the "**RFP**") for the Development from qualified housing developers. An affiliate of Developer, RUDG, LLC, submitted a response to the RFP and County selected RUDG, LLC's proposal as the most qualified response to the RFP. The County approved RUDG, LLC's assignment of development rights to Developer and approved the designation of the Developer as the developer for the development of the South Miami Plaza site, and as the County's "**Partner**," as described in 24 CFR § 941.604, for the mixed-finance rehabilitation of public housing units, subject to and in accordance with the terms and conditions provided herein.

(b) Development Overview: The Parties hereby agree that the Development shall be a mixed finance development, consisting of the rehabilitation of ninety-seven (97) public housing units in a rental phase owned by the Owner Entity (as hereinafter defined). All units shall continue to be set aside as 'public housing', as that term is defined in the U.S. Housing Act of 1937 (the "**PHA-Assisted Units**"), and will be operated and maintained as qualified Low Income Housing Tax Credit ("**LIHTC**") Units under Section 42 of the Internal Revenue Code of 1986 ("**Section 42**"), as amended, for a period of not less than the Tax Credit Compliance Period and any applicable extended use period (as such term is defined in Section 42 and required by the Florida Housing Finance Corporation ("**FHFC**")).

A scope of work is attached hereto as Exhibit A (hereinafter referred to as the "Scope of Work"), a development budget (including uses funded by undefined sources) is attached hereto as Exhibit B (hereinafter referred to as the "**Redevelopment Budget**"). A development schedule is attached hereto as Exhibit C (hereinafter referred to as the "Redevelopment Schedule"). A description of the unit types, sizes and targeted income levels (the "**Unit Mix**") is attached as Exhibit D. A list of key development team members is attached as Exhibit H. As development proceeds, the parties may mutually agree to supplement such exhibits with a more refined budget containing achievable sources, which budget shall be tied to a redevelopment schedule and realistic timeframes for securing development sources. Developer will submit proposed updates to the Redevelopment Schedule, the Redevelopment Budget and the Unit Mix for the County's review and comment, and Developer shall be required to obtain County's approval, such approval not to be unreasonably withheld, with respect to "**Material Changes**" and as changes become necessary. The following shall be considered "**Material Changes**":

i. Changes to the Unit Mix;

ii. An increase in the Redevelopment Budget by more than 10%; or

iii. Changes to the Redevelopment Schedule that delay completion or lease-up by more than ninety (90) calendar days.

(c) Ownership Entities for Rental Phase and Selection of Investor. The Developer has formed South Miami Plaza Preservation, LLC (the "**Owner Entity**") to own the Development. The Owner Entity will have a managing member that will be a limited liability company controlled by the Developer. The principal equity interest in the Owner Entity will be owned by a low income housing tax credit investor that is selected by the Developer in its sole discretion.

The County agrees to take all reasonably necessary action to assist Developer in obtaining an identity of interest waiver from HUD to utilize Developer's affiliated general contractor.

4. **Redevelopment Responsibilities.**

(a) Developer Responsibilities: As more specifically set forth herein, Developer shall be responsible for development services in connection with the rehabilitation and continued occupancy of the Development, as well as carrying out all other work for which Developer is responsible, as such responsibilities are detailed in this Agreement. The actual services delivered shall include all development services reasonably required to complete the rehabilitation of the Development and, except as otherwise provided herein, to cause each Owner Entity to facilitate the rehabilitation of the Development, including, but not limited to:

i. establishing phasing and timetables, structuring and securing financing and obtaining necessary city and county approvals, and hiring a general contractor or construction manager;

ii. providing financing to the project and identifying and securing additional financing as needed;

iii. providing all required third-party guarantees including investor and completion guarantees;

iv. assisting in preparing the Mixed-Finance Proposal; assisting in preparing or coordinating all documents necessary for closing of the financing in accordance with, as applicable, public housing, mixed-finance requirements; collaborating with the County to finalize documents and assist in the preparation of the evidentiary submission to HUD; and scheduling the Financial Closing;

v. entering into contracts or agreements, consistent with the terms of this Agreement, necessary or convenient for completion of the Development, which contracts or agreements may be assigned, as appropriate, by the Developer to the related Owner Entity at or prior to the financial closings. Awards shall be made to the bidder or offeror whose bid or offer is most advantageous to the Development, taking into consideration price, quality and other factors deemed by the Developer to be relevant; Developer shall not employ or contract with any third party contractor which has been debarred by HUD or the County and shall promptly terminate any contracts with any third party contractor that is subsequently debarred;

vi. determining all necessary governmental approvals for such plans;

vii. carrying out pre-construction and construction activities, including design, engineering, and rehabilitation of the Development, guaranteeing completion of same without Material Changes to the Redevelopment Budget or Schedule, and ensuring compliance with all applicable laws,

rules and regulations;

viii. carrying out property management of the Development, including resident relocation and subsequent re-occupancy of the Development, maintaining all applicable occupancy standards and maintaining all requisite reports, certifications and data in accordance with applicable requirements;

ix. maintaining regular communication with County regarding its development activities; and

x. Design, Construction and accessibility requirements:

(1) Developer shall conduct value engineering reviews during design and construction document phases to minimize construction cost and maximize scope of work to be done with allocated funding. The County will have access to design drawings and may provide comments and requests to changes in design, finishes and all aspects of the design development process.

(2) The Developer will provide the County with all cost certifications and reports from the investor and lender and the County will have the opportunity to review and comment on such certifications and reports.

(3) The County will have the opportunity to approve all change orders that require the approval of the investor and the lender (i.e. in excess of those minimum thresholds per occurrence and in the aggregate that do not require the approval of the investor and lender), such approvals not to be unreasonably withheld or delayed.

(4) Developer shall meet or exceed federal accessibility requirements including those indicated herein. Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794 and 24 CFR, Parts 8 and 9, prohibits discrimination against persons with disabilities in any program or activity receiving Federal Financial assistance. 24 CFR § 40.4 established the Uniform Federal Accessibility Standards (UFAS) as the standard design, construction, or alteration of residential structures. UFAS became effective July 11, 1988. For new construction and/or rehabilitation projects, the Developer shall provide at a minimum (unless more stringent requirements apply) five percent (5%) or at least one (1) unit (whichever is greater) for mobility, impaired persons. An additional minimum of two percent (2%) or at least one (1) unit (whichever is greater) is required for people with hearing or vision impairments. UFAS compliance is required for all areas required by UFAS including interior and exterior of units, common areas, site, etc. A third party certification

of UFAS Compliance is required in a form and format reasonably acceptable to the County. On-going information concerning UFAS units and its occupants may also be required by the County. Developer shall provide required UFAS – related information as reasonably required by the County. In addition, developers are highly encouraged to provide units that are easily "adaptable" to UFAS units.

(5) Davis-Bacon wage requirements: Developer shall meet all applicable Davis-Bacon wage requirements and shall monitor and ensure Davis-Bacon wage compliance by general contractor(s), sub-contractors, sub – sub contractors, etc. (contractors), and shall ensure that all contracts and sub-contracts issued to any contractor on the project include Davis-Bacon requirements. Developers shall carefully review Davis-Bacon requirements with all contractors and sub-contractors on site on an on-going basis, shall appoint a Davis-Bacon compliance officer to ensure compliance during the entire construction duration, and shall provide Davis-Bacon compliance reporting to County as it may require. Any costs incurred by the County due to Davis-Bacon non-compliance by the Developer and/or any of its contractors, shall be reimbursable to the County by the Developer.

(6) For preservation/rehabilitation projects, maximize the storage capacity (kitchen cabinets, closets, pantry, vanity, etc.) for existing units as to not reduce existing capacity, whenever possible.

(7) The County has retained an Energy Performance Contractor (EPC) to conduct an energy audit on all public housing sites and provide recommendations to implement energy efficient systems, components, etc. The Developer shall coordinate its work with the EPC, attend meetings with EPC and the County as necessary, submit its drawings and specifications for EPC review and incorporate EPC comments received into the design documents, unless this requirement is waived by the County.

xi. County Approvals:

(1) On preservation/rehabilitation projects, Developers shall not reduce the size of existing units in any material respect to obtain more units within the same building envelope or change the unit designation (family, elderly, etc.) without a written request and written approval from PHCD, provided that PHCD has provided Developer a written description of such unit designation.

(2) Developer shall forward the drawings for

preservation/rehabilitation and/or new construction to PHCD as these are developed for review, comment and approval, such approval not to be unreasonably withheld, withdrawn, or deleted.

(3) Developer shall closely coordinate with PHCD and attend meetings with public housing residents as reasonably required to inform and receive input from residents on all aspects of the development plans. Developer shall give good faith consideration to incorporate input received from residents, in coordination with PHCD, as feasible and consistent with applicable codes, zoning, federal requirements, etc. PHCD will coordinate and schedule meetings with residents.

(4) Developer shall submit a detailed relocation plan ("**Relocation Plan**") for review and approval by PHCD, such approval not be unreasonably withheld, withdrawn, or deleted. The Relocation Plan shall include appropriate notification and minimum disruption/convenience for residents, safety and provision of temporary housing as major considerations. Developer shall provide a "relocation coordinator" to plan, organize, implement and monitor all aspects of the Relocation Plan, closely coordinate all aspects required for relocation including phasing and duration, moving and storage of furnishings, transportation, meals, pets, mail, etc.

xii. The Developer and its consultants shall carefully review all change orders, contingency adjustments and/or any other additional costs (herein change orders) to confirm that these are appropriate and to minimize said costs whenever possible. Such review shall include but not be limited to compliance with contract documents, the party requesting the change order, and the reason for such request (justification), hidden or unforeseen conditions, A/E error and/or omissions, critical path analysis for time extensions and other contract requirements.

xiii. Consultant Coordination

(1) Developer shall carefully review and coordinate the works of its consultants to minimize architect/engineer errors and omissions and minimize any change orders, including additional costs and time extensions on the project.

(b) County's Responsibilities. As more specifically described herein, County is responsible for the following activities related to the Development (such list is not intended to be exhaustive):

i. Developing and submitting all necessary property disposition applications to HUD (provided that Developer shall have an opportunity to review and

comment on the same prior to submission);

ii. Approving Owner Entity admissions and occupancy criteria and related property management documents such as the Public Housing lease and Community Policies, which approvals shall not be unreasonably withheld, delayed or conditioned;

iii. Reviewing, approving, and submitting the mixed finance proposal and evidentiaries to HUD;

iv. Providing all of the operating subsidy received from HUD relative to the PHA-Assisted Units on an annual basis and subject to any HUD pro-Ration or other HUD-generated subsidy adjustment (including those "add-ons," as described at 24 CFR Part 990), except that the Developer shall pay to the County an amount equal to five percent (5%) of subsidy received;

v. Providing the PHA-Assisted Units' share of those funds appropriated to the County under Section 9(d) of the United States Housing Act of 1937, as amended (the "Act") that are permitted to be utilized as operating subsidy in accordance with Section 9(g)(1) of the Act. The percent amount to be provided shall be determined by (i) dividing the total amount of Capital Funds awarded to the County by the total number of public housing units in the County's portfolio; and (iii) multiplying the resulting per unit amount by twenty percent (20%). Additionally, the County will give good faith consideration to providing the remaining pro-rata share of Capital Funds for purposes of ongoing capital assistance if requested by Developer and approved by HUD;

vi. Coordinating with the residents, other stakeholders in the County and other stakeholders on Development-related issues; and

vii. Obtaining all necessary HUD approvals (including as related to disposition approvals, environmental approvals in accordance with 24 CFR Part 50 or Part 58, mixed finance approvals), providing reports and maintaining communications with HUD. Notwithstanding the foregoing, the County will provide copies of all items to Developer prior to submission to HUD in order to permit the Developer to provide input and comment with respect to the same.

5. **Fees.**

(a) Developer Fee. The parties agree to seek approval from HUD of the maximum allowable developer fee permitted by the Florida Housing Finance Corporation for the Development of sixteen percent (16%) in the budgeted amount set forth at Exhibit B hereto, based upon satisfying the factors outlined by HUD in order to exceed the Cost Control and Safe Harbor Standards for Rental Mixed Finance

Development (the "**HUD Safe Harbor Standards**").

(b) Ground Lease Payment. The Developer covenants and agrees to pay to County as pre-paid rent under the Ground Lease a lump sum payment of Five Hundred Thousand and No/100 Dollars ($500,000.00) upon Financial Closing. No additional amounts shall be due after such lump sum payment. The Ground Lease shall be for a term of Seventy-Five (75) years.

6. **Payment Provisions For County Funds (if applicable).** Developer shall submit to the County, not more often than monthly, a payment request for County funds in a form and format acceptable to the County, for expenditures for the work completed and incurred.

Each payment request shall be carefully reviewed and evaluated for accuracy, completeness and compliance with this agreement by Developer prior to its submission to the County. Each payment request shall identify, by line item and by reference to the corresponding element of the Budget, (a) the total costs to date incurred, (b) the corresponding portion of the compensation due to developer, if applicable (c) the amounts, if any, of previous payments, (d) the portion, if any, of such costs and/or fee for which a payment is requested under the payment request and any other provisions reasonably required (with reasonable advance notice) by the County. Each payment request shall be accompanied by separate billing statements or invoices from each consultant, sub-consultant, contractor or sub-contractor (herein vendors) to which payment has been made or will be made. The County shall not be required to make advance payments or deposits.

Payment requests shall not be processed until a proper payment request (herein proper invoice) has been received by the County from the Developer. Proper invoice means an invoice which conforms to the payment requirements of the County. A proper invoice shall include a statement by Developer waiving claims for extra direct and indirect costs or time associated with work preceding the date of the invoice, or a statement in sufficient detail containing all rights reserved for work already performed. All present requirements or future rules pertaining to the execution of a proper invoice will be made available to Developer in a timely manner. Developer shall make payments to all vendors included in each respective payment request within five (5) business days of receipt of funds from the County. Developer shall include the provisions of this section in all sub-contracts, and require all vendors to include this provision in their contracts with other vendors.

The time at which payment for service is due from the County shall be calculated from the date on which a proper invoice is received by the County. The time at which payment shall be due from the County to Developer shall be forty (45) days from receipt by the County of a proper invoice from the Developer (provided that the County shall make every effort to make such payment within thirty (30) days. The time at which payment shall be due from the County to a small businesses (as defined in Section 2-222 of the County Code) developer shall be thirty (30) days from receipt of proper invoice by the County. In any case in which an improper invoice is submitted by the developer, the County shall, within ten (10) days after the improper invoice is received, notify the Developer that the invoice is improper and indicate what corrective action on the part of the Developer is needed to make the invoice proper.

For non-County funds, Developer shall provide a report, in a form and format acceptable to County, indicating payment requests and approved amounts received by the developer for all funding sources and percentage of overall project completion. In addition, the Developer shall provide, on a monthly basis, a constructions schedule and construction budget, anticipating anticipated changes to the budget and schedule, along with a change order log, and Developer will meet with the County at the County's request, at reasonable times and frequency, to review and discuss the monthly report. Any proposed changes will be subject to the approval provisions set forth in this Agreement.

7. **Property Management Responsibilities.**

(a) Designation of Property Manager. The initial property manager for the Development shall be TRG Management Company of Florida, an affiliate of Developer (the "**Management Agent**"). The Management Agent shall be responsible for the day to day operation of the Development including but not limited to compliance, collections, leasing, payment of invoices and maintenance. Specific duties shall be further detailed in the initial agreement between the Management Agent and the Owner Entity, such agreements subject to the County's reasonable approval (the "**Management Agreement**").

(b) Existing Residents and Admissions Policies. The parties agree that the occupancy will be carried out with respect to the Development as follows:

i. The existing residents of South Miami Plaza (the "Existing Residents") shall have the right of first refusal to occupy public housing units in the Development once the scope of work described in this Agreement is complete, subject to screening by the Management Agent for low-income housing tax credit compliance.

ii. Any vacancies not filled by Existing Residents (either at initial occupancy or thereafter) will be filled by applicants who are referred from the County's waiting list, subject to screening by the Management Agent for low-income housing tax credit compliance. The parties agree that a site-based waiting list will not be used. The parties acknowledge and agree that the County's Admissions and Continued Occupancy Policy will be revised, as necessary, to reflect the foregoing and that a referral process will be formulated by the parties to ensure that lease-up occurs in a timely manner.

(c) Property Management Fee. The Management Agent shall receive a management fee equal to the maximum fee permitted under HUD Safe Harbor Standards (which is currently Fifty-Six and 95/100 Dollars ($56.95) per unit, per month). The Management Agent will also receive a bookkeeping fee in the amount of

$7.50 per unit, per month.

(d) Sub-Management Agreement. It is anticipated that the Management Agent will enter into a sub-management agreement (the "**Sub Management Agreement**") with the County, pursuant to which the County's management staff will carry out certain frontline management services on behalf of the Management Agent on terms and conditions to be agreed to between the parties. The Sub Management Agreement will be for a one (1) year term and will be subject to termination for cause or upon the termination of the Management Agreement.

8. **Termination.**

(a) Termination for Convenience. The County reserves the right to terminate this Agreement, in whole or in part, at any time for the convenience of the County if the County shall determine in good faith that it is infeasible, in the County's best interest, or contrary to that interest to proceed with the Development. In the event of a termination for convenience under this Agreement, the County shall deliver to the Developer a Notice of Termination within thirty (30) days specifying the extent to which the performance of the work under this Agreement is terminated, and the date upon which such termination becomes effective. If the performance of the work under this Agreement is terminated in whole or in part, the County shall be liable to the Developer for reasonable and proper costs resulting from such termination. Within thirty (30) days of receipt of the Notice of Termination, the Developer shall present a proper claim setting out in detail: (i) the total cost of all third-party costs incurred to date of termination (including any loans from third parties); (ii) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, or for settling other liabilities of Developer incurred in performance of its obligations hereunder; (iii) the cost of preserving and protecting the work already performed until the County or its assignee takes possession thereof or assumes responsibility therefore; (iv) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the County; and (v) fair compensation to Developer for all tasks performed to date (including, at a minimum, fifty percent (50%) of projected developer fee if a nine percent (9%) tax credit award has been made). Within ninety (90) days of receipt of the claim from the Developer, the County shall make a final payment to the Developer. Furthermore, the Developer may terminate this Agreement for infeasibility, but only to the extent the Developer first made good faith efforts to pursue an alternative course of action, and in such event, shall be limited to reimbursement for those costs as set forth in (i)-(iv) of this Article 6(a) and reimbursement of Developer's reasonable overhead. In an event of a dispute regarding the claim, the parties hereto shall avail themself of the dispute resolution process more fully described in Exhibit F, Paragraph 1.

(b) Termination for Cause. Either Party may terminate this Agreement for cause, at any time, on the giving of notice to the other party of the grounds asserted for

such termination and failure of the other Party to cure such grounds within thirty (30) days from receipt of such notice ("**Termination for Cause**"). Notwithstanding anything to the contrary contained herein, suspension from participation in any government programs, which suspensions, for the purposes hereof, are defined to include but not be limited to any sanctions imposed by HUD pursuant to 24 CFR Part 24, shall be grounds for termination of this Agreement for cause without opportunity for cure. By execution of this Agreement, Developer hereby certifies to the County that it is not suspended, debarred or otherwise prohibited from participation in any government programs.

In the event of a termination of this Agreement by the County or the Developer which is determined to constitute a breach hereof by the County or the Developer, the party in breach shall be liable to the non-breaching party in accordance with applicable law for all actual damages caused thereby.

(c) Fraud, Misrepresentation or Material Misstatement. The County may terminate this Agreement if Developer attempts to meet its contractual obligations hereunder with the County through fraud, misrepresentation or material misstatement.

(d) Debarment. The foregoing notwithstanding, any individual, corporation or other entity that attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Developer may be subject to debarment for those reasons set forth in Section 10-38 of the County Code.

(e) Remedies. In the event that the County exercises its right to terminate this Agreement following an Event of Default, the Developer shall, upon receipt of such notice, unless otherwise directed by the County:

i. Stop work on the date specified in the notice (the "**Effective Termination Date**");

ii. Take such actions as may be necessary for the protection and preservation of the County's materials and property;

iii. Cancel orders;

iv. Upon payment by the County for such work product and payment of other amounts due in accordance with this Article 6, assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services; and

v. Take no voluntary action (unless otherwise required by legal obligations) which will increase the amounts payable by the County under this Agreement.

(f) Developer Shall Deliver Work Product in Event of Termination. In the event that this Agreement is terminated under this Article 6, Developer agrees that it shall promptly deliver to County, or cause to be delivered to County, any concrete, transferable, and useable third party work product generated in connection with the Development, and will assign to County all of its right, title, and interest to such work product, without reservation in exchange for County's payment of funds paid by Developer (including funds borrowed from third parties) for such work product, along with amounts due to the Developer hereunder. Developer shall be under no obligation to deliver any work product in its possession unless the County shall have reimbursed it for the cost thereof (and paid to the Developer any other amounts due hereunder) or shall have agreed to offset the cost thereof against any indebtedness owing from the Developer to the County.

9. Event of Default.

(a) An Event of Default shall mean a breach of this Agreement by the Developer after expiration of any applicable notice and cure period without such cure. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:

i. the Developer has not delivered Deliverables on a timely basis;

ii. the Developer has made a Material Change to the Project Schedule without the County's approval;

iii. the Developer has refused or failed to supply enough properly skilled staff personnel;

iv. the Developer has failed to make prompt payment to subcontractors or suppliers for any Services;

v. the Developer has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Developer's creditors, or the Developer has taken advantage of any insolvency statute or debtor/creditor law or if the Developer's affairs have been put in the hands of a receiver;

vi. the Developer has failed to obtain the approval of the County where required by this Agreement;

vii. the Developer has failed in the representation of any warranties stated herein.

viii. The Developer has made a Material Change to the Project Budget without the County's approval.

(b) In the event the County shall terminate this Agreement for default, the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, and reports after payment.

(c) Notwithstanding the foregoing, this Agreement shall not be terminated for default if the delay in completing the work arises from unforeseeable causes beyond the reasonable control of the Developer (any such failure or other cause or event being referred to herein as a "**Force Majeure Event**"). Examples of such causes include (a) acts of God or the public enemy, (b) material acts or failure to act, or delays in action, of the County, HUD, or other governmental entity in either its sovereign or contractual capacity, (c) material acts or failure to act of another contractor (other than a contractor or subcontractor to the Developer or the Owner Entity) in the performance of a contract with the County, (d) fires, (e) floods, (f) strikes or labor disputes, (g) freight embargoes, (h) unavailability of materials, (i) unusually severe weather, (j) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without fault or negligence of both the Developer and the subcontractors or suppliers, or (k) delay caused by litigation that is not between the County and the Developer.

10. **Notice of Default – Opportunity to Cure.** Notwithstanding anything in this Agreement to the contrary, if an Event of Default occurs in the determination of the County and the County wishes to declare an Event of Default or otherwise terminate this Agreement for cause to the extent, as provided under this Agreement, the County shall notify the Developer ("**Default Notice**"), specifying the basis for such default and the extent to which performance of work under this Agreement is terminated, and advising the Developer that such default must be cured immediately or this Agreement with the County may be terminated. If the termination is stated to be for default, the Default Notice thereof shall specify the nature of the claimed default and, if such default shall be reasonably subject to adequate cure, the Default Notice shall state (i) the actions required to be taken by the Developer to cure the default, and (ii) the reasonable time (up to sixty (60) days) within which Developer shall respond with a showing that all required actions have been taken, provided that the Developer shall have, subject to the County's approval, not to be unreasonably withheld conditioned or delayed, such additional time as is reasonably necessary to cure such default so long as the Developer has diligently commenced and is proceeding in a reasonable diligent matter toward curing such default. During any cure period so provided, the Developer shall proceed diligently with performance of any work required by this Agreement which is not the subject of the claimed default. Following expiration of the stated cure period, the Authority shall deliver a second notice stating either that the default has been adequately cured or that the Agreement is terminated. The County shall grant an additional period of such duration as the County shall reasonably deem appropriate without waiver of any of the County's rights hereunder, so long as the Developer has commenced curing such default and is effectuating a cure with diligence and continuity during such sixty (60) day period or any other period which the County prescribes. The Default Notice shall specify the date the Developer shall discontinue the Services upon the Termination Date.

11. **Remedies in the Event of Default.** If an Event of Default occurs and remains uncured pursuant to Article 8 herein, the Developer shall be liable for all direct damages to the County resulting from such Event of Default. The Developer shall also remain liable for any liabilities and claims related to the Developer's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

12. **Lien Waivers**. Developer agrees that it will not permit any mechanic's, materialmen's or other liens to stand against the Premises for work or materials furnished to Developer it being provided, however, that Developer shall have the right to contest the validity thereof. Developer shall not have any right, authority or power to bind the County, the Premises or any other interest of the County in the Premises and will pay or cause to be paid all costs and charges for work done by it or caused to be done by it, in or to the Premises, for any claim for labor or material or for any other charge or expense, lien or security interest incurred in connection with the development, construction or operation of the Improvements or any change, alteration or addition thereto. IN THE EVENT THAT ANY MECHANIC'S LIEN SHALL BE FILED, DEVELOPER SHALL BOND OVER, PROCURE THE RELEASE OR DISCHARGE THEREOF WITHIN NINETY (90) DAYS EITHER BY PAYMENT OR IN SUCH OTHER MANNER AS MAY BE PRESCRIBED BY LAW. NOTICE IS HEREBY GIVEN THAT THE COUNTY SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO THE DEVELOPER OR TO ANYONE HOLDING ANY OF THE PREMISES THROUGH OR UNDER THE DEVELOPER, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE COUNTY IN AND TO ANY OF THE PREMISES. THE COUNTY SHALL BE PERMITTED TO POST ANY NOTICES ON THE PREMISES REGARDING SUCH NON-LIABILITY OF THE COUNTY.

Developer shall promptly pay all persons or entities furnishing labor and material with respect to any work performed by Developer or its contractor on or about the Premises, and shall obtain and deliver to Landlord "releases" or waivers of liens from all parties doing work on or about the Premises, along with an affidavit from Developer stating that all bills have been paid with regard to such work and that there are no outstanding obligations, except in the ordinary course of business, owed with respect to any such work performed on the Premises.

13. **Indemnification**

(a) Developer Indemnity. The Developer shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses, or damages, including attorney fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Developer or its employees, agents, servants, partners, principals or subcontractors. The Developer shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees

which may issue thereon. The Developer expressly understands and agrees that any insurance protection required by the Agreement or otherwise provided by the Developer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided. Notwithstanding anything to the contrary herein, such indemnification by Developer shall not cover claims or losses to the extent caused solely by the County's gross negligence or intentional wrongful acts or omissions.

(b) County Responsibility. The County shall indemnify and hold harmless the Developer and its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns from any and all liability, losses, or damages, including attorney fees and costs of defense, which the Developer or its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the County or officers, employees, agents and instrumentalities. The County shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the Developer, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The County's indemnification obligations in this Article 12(b) shall be subject to the provisions of Section 768.28, Fla. Stat., whereby the County shall not be liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of Two Hundred Thousand and No/100 Dollars ($200,000.00), or any claim or judgments or portion thereof, which when totaled with all other occurrence, exceeds the sum of Three Hundred Thousand and No/100 Dollars ($300,000.00), but only to the extent the limitations set forth in that Statute are applicable. Notwithstanding anything to the contrary herein, such indemnification by Miami-Dade County shall not cover claims or losses to the extent caused solely by the Developer's gross negligence or intentional wrongful acts or omissions.

14. **Insurance.** The Developer shall furnish to the Public Housing and Community Development Department, Facilities and Development Division at 701 NW 1 Court, 16th Floor, Miami, Florida 33136-3914, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

(a) Worker's Compensation Insurance for all employees of the Developer as required by Florida Statute 440.

(b) Commercial General Liability Insurance on a comprehensive basis in an amount not less than One Million and No/100 Dollars ($1,000,000.00) combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

(c) Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the work, in an amount not less than Five Hundred Thousand and No/100 Dollars ($500,000.00) combined single limit per occurrence for bodily injury and property damage.

(d) Professional Liability Insurance shall be carried by architects and engineers in an amount not less than One Million and No/100 Dollars ($1,000,000.00) with a deductible per claim not to exceed ten percent (10%) of the limit-liability.

All insurance coverage required above shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Developer. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to do Business in Florida", issued by the State of Florida Department of Financial Services and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Developer hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Developer of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days after notification of recommendation to award. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Developer shall have an additional five (5) business days from notification to submit a corrected certificate to the County. If the Developer fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Developer shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such time frame for submission has been extended by the County.

The Developer shall be responsible for ensuring that the insurance certificates required in conjunction with this Article remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Developer shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

15. **Agreement Security.** Upon request by the County, but in no event earlier than the Financial Closing, the Developer shall cause its General Contractor to deliver to the County an executed Performance and Payment Bond on the prescribed form or in Cash (with the County as an additional obligee). The Performance and Payment Bond shall be in the amount of 100% of the construction cost of the Project, as security for the faithful performance of this Agreement and for the payment of all persons performing labor or furnishing materials in connection therewith. If Cash is used in lieu of the bonds, all terms and conditions stipulated in the bonds shall be just as applicable. The Performance and Payment Bonds shall have as the surety thereon only such surety company or companies as are acceptable to the County and are authorized to write bonds of such character and amount in accordance with the following qualifications:

(a) All bonds shall be written through surety insurers authorized to do business in the State of Florida as surety, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

Bond Amount	Best Rating
i. 500,001 to 1,500,000	B V
ii. 1,500,001 to 2,500,000	A VI
iii. 2,500,001 to 5,000,000	A VII
iv. 5,000,001 to 10,000,000	A VIII
v. Over 10,000,000	A IX

(b) On contract amounts of 500,000 or less, the bond provisions of Section 287.0935, Florida Statutes shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:

i. Providing evidence that the Surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

ii. Certifying that the Surety is otherwise in compliance with the Florida Insurance Code, and;

iii. Providing a copy of the currently valid Certificate of Authority issued by the United States Department of the Treasury under ss. 31 U.S.C. §§ 9304-9308.

(c) Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.

(d) For contracts in excess of 500,000 the provision of Section (b) will be adhered to plus the company must have been listed for at least three consecutive years, or holding a valid Certificate of Authority of at least 1.5 million dollars and on the Treasury List.

(e) Surety Bonds guaranteed through U.S. Government Small Business Administration or Developers Training and Development Inc. will also be acceptable.

(f) The attorney-in-fact or other officer who signs performance and payment bonds for a surety company must file with such bond a certified copy of his power of attorney authorizing him to do so. The performance and payment bonds must be counter signed by the surety's resident Florida agent.

The Performance Bond or Cash used in lieu of the Performance Bond shall remain in force for one (1) year from the date of final acceptance of the work to protect the County against losses resulting from defects in materials or improper performance of work under the Agreement; provided however, that this limitation does not apply to suits seeking damages for latent defects in materials or workmanship, such actions being subject to the limitations found in Section 95.11(3)(c), Florida Statutes.

16. **Compliance with Public Housing Requirements.**

(a) Treatment of HUD Funds. Any transfer of public housing funds pursuant to this Agreement will not be an assignment of public housing funds or be deemed an assignment of public housing funds. Developer will not succeed to any rights or benefits County may have under the applicable grant agreements or contracts with HUD or attain any privilege, authority, interest, or right under applicable grant agreements or contracts between the County and HUD. Nothing contained in this Agreement will be construed to create any relationship of third party beneficiary or otherwise with HUD.

(b) Development Obligations. Developer shall provide development services in accordance with this Agreement. Developer shall perform the duties and

undertake the responsibilities herein set forth in a competent and professional manner using good faith reasonable efforts. The Developer is an independent contractor and not an agent of the County. Therefore, except as may be expressly set forth herein, Developer shall have no authority to bind County. Except as expressly set forth herein, Developer will provide all services, equipment, and materials for Developer and will furnish, directly or through contractors, subcontractors, professional expertise, management, labor, materials, supplies, fixtures, equipment, tools and machinery, testing, supervision, facilities, and other services required for the completion of the Development.

(c) Reporting Requirements. Pursuant to Sections 2-8.1, 2-8.8 and 10.34 of the Code of Miami-Dade County (as amended by Ordinance No. 11-90), the Developer must report to the County the race, gender and ethnic origin of the owners and employees of its first tier subcontractors using the Subcontractor/Supplier Listing form, attached hereto as Exhibit E. In the event that the Developer demonstrates to the County that the race, gender and ethnic information is not reasonably available at that time, the Developer shall be obligated by this Agreement to exercise commercially reasonable efforts to obtain that information and to provide the same to the County not later than ten (10) business days after it becomes available and, in any event, prior to final payment this Agreement.

(d) Compliance with Laws and other Requirements. Developer shall fully comply with all applicable laws and regulations applicable to Developer with respect to workers' compensation, social security, unemployment insurance, hours of labor, wages, working conditions, licensing and other employer-employee related matters, including, without limitation, all laws, rules and regulations with respect to non-discrimination based on race, sex or otherwise, and MBE/WBE, and Section 3 of the Housing and Urban Redevelopment Act of 1968, as more fully described in Exhibit F, Applicable HUD General Conditions for Construction Contracts, which is incorporated herein by reference. Developer will further comply with all applicable public housing requirements.

17. **Warranties.**

(a) Developer's Warranties. Developer represents and warrants to the County that (a) Developer is and will continue to be duly organized, and is in good standing under the laws of and qualified to do business in the State of Florida, (b) Developer has and will have all necessary power, authority, licenses and staff resources for the undertaking of its obligations under this Agreement, (c) this Agreement has been duly entered into and is the legally binding obligation of Developer, (d) this Agreement will not violate any judgment, law, or agreement to which Developer is a party or is subject, and (e) there is no claim pending, or to the best knowledge of Developer, threatened, that would impede Developer's ability to perform its obligation hereunto. Developer shall not hereafter enter into any agreement which would, or modify any existing agreement in a manner that would, impair its ability to perform its obligations hereunder, and will notify the

County if any suit is threatened or law proposed which would impair its ability to perform its obligations hereunder.

(b) County's Warranties. The County represents and warrants to Developer that (a) the County has and will have all necessary power and authority under Florida law for the undertaking of its obligations under this Agreement, (b) this Agreement has been duly entered into and is the legally binding obligation of the County, (c) this Agreement will not violate any judgment, law, consent decree, or agreement to which the County is a party or is subject to and will not violate any law or ordinance under which the County is organized, (d) the County is, or has an affiliate who is, qualified to participate as co-managing member of a tax credit limited liability company to the extent requested by the Developer, (e) there is no claim pending, or to the best knowledge of the County, threatened, that is likely to materially impede the County's ability to perform its obligation hereunto. The County shall not hereafter enter into any agreement or consent decree which would, or modify any existing agreement or consent decree in a manner that would impair its ability to perform its obligations hereunder, and will notify Developer if any suit is threatened or law proposed which would materially impair its ability to perform its obligations hereunder.

18. **Term.** This Agreement shall begin upon execution hereof, and shall expire (except for obligations identified as continuing beyond the term of the Agreement) upon the completion of all the activities described herein, unless sooner terminated in accordance with the terms provided herein. This Agreement shall terminate upon Financial Closing and the closing documents for the Development will govern the relationship between the parties to the extent described in such documents, unless this Agreement expressly provides that such subject matter with survive the termination of this Agreement. The parties acknowledge that certain subject matter of this Agreement relates to activities that are intended to survive the term hereof, and so the parties acknowledge and agree to effectuate such matters in the closing documents with respect to each phase.

19. **County's Sovereignty.** It is expressly understood that, subject to the other provisions of this Agreement:

(a) The County retains all of its sovereign prerogatives and rights as a county under Florida laws and shall in no way be estopped from reasonably withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the planning, design, construction and development of the Development or the operation thereof, or be liable for the same; and

(b) The County shall not by virtue of this Agreement be obligated to grant the Developer any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Development.

20. **Option and Right of First Refusal.** The County shall have the option and right of first refusal to purchase the Development at the end of the tax credit compliance period for the greater of: (i) the fair market value of the property; and (ii) the lowest price that is permitted under Section 42(i)(7) of the Internal Revenue Code of 1986, as amended plus any operating deficit loans of any member and any taxes that are projected to be owed by any member as a result of such sale.

21. **No Liability for Exercise of Police Power.** Subject to any contrary provision in this Agreement, or any County covenant or obligation that may be contained in this Agreement, the County shall have no obligation, including but not limited to the following:

(a) To assist the Developer in applying for any county, city or third party permit or needed approval; or

(b) To contest, defend against, or assist the Developer in contesting or defending against any challenge of any nature; and, except as otherwise set forth in this Agreement, this Agreement shall not bind the County Board, the Permitting, Environment and Regulatory Affairs Department, other applicable County departments, or their successor departments, or any other county, city, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the County or any other applicable governmental agencies in the exercise of its police power; and, except as otherwise set forth in this Agreement, the County shall be released and held harmless, by the Developer from and against any liability, responsibility, claims, consequential or other damages, or losses to the Developer or to any third parties resulting from denial, withholding or revocation (in whole or in part) of any zoning or other changes, variances, permits, waivers, amendments, or approvals of any kind or nature whatsoever. Without limiting the foregoing, the parties recognize that the approval of any building permit and/or certificate of occupancy will require the County to exercise its quasi-judicial or police powers. Without limiting any other provision of this Agreement, the County shall have no obligation to approve, in whole or in part, any application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver. The County's obligation to use reasonable good faith efforts in the permitting of the use of County owned property regarding the Premises shall not extend to any exercise of quasi-judicial or police powers, and shall be limited solely to ministerial actions, including the timely acceptance and processing of any requests or inquiries by the Developer as authorized by this Agreement. Moreover, in no event shall a failure of the County to adopt any of the Developer or Owner Entity's request or application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver be construed a breach or default of this Agreement, unless such failure was unreasonable or untimely or in direct contravention to another provision of this Agreement.

22. Vendor Registration and Forms/Conflict of Interest.

(a) Vendor Registration. The Developer shall be a registered vendor with the County's Internal Services Department. Procurement Management Division, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Developer confirms its knowledge of and commitment to comply with the following:

i. *Miami-Dade County Ownership Disclosure Affidavit* (Section 2-8.1 of the County Code)

ii. *Miami-Dade County Employment Disclosure Affidavit (Section 2.8-1(d)(2) of the County Code)*

iii. *Miami-Dade Employment Drug-free Workplace Certification (Section 2-8.1.2(b) of the County Code)*

iv. *Miami-Dade Disability and Nondiscrimination Affidavit (Section 2-8.1.5* of the County Code*)*

v. *Miami-Dade County Debarment Disclosure Affidavit (Section 10.38 of the County Code)*

vi. *Miami-Dade County Vendor Obligation to County Affidavit (Section 2-8.1 of the County Code)*

vii. *Miami-Dade County Code of Business Ethics Affidavit (Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)*

viii. *Miami-Dade County Family Leave Affidavit(Article V of Chapter 11 of the County Code)*

ix. *Miami-Dade County Living Wage Affidavit (Section 2-8.9 of the County Code)*

x. *Miami-Dade County Domestic Leave and Reporting Affidavit(Article 8, Section 11A-60 11A-67 of the County Code)*

xi. *Subcontracting Practices(Ordinance 97-35)*

xii. *Subcontractor /Supplier Listing (Section 2-8.8 of the County Code)*

xiii. *Environmentally Acceptable Packaging(Resolution R-738-92)*

xiv. *W-9 and 8109 Forms* (as required by the Internal Revenue Service)

xv. *FEIN Number or Social Security Number.* In order to establish a file, the

Developer's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Developer's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

(1) Identification of individual account records

(2) To make payments to individual/Developer for goods and services provided to Miami-Dade County

(3) Tax reporting purposes

(4) To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

xvi. *Office of the Inspector General* (Section 2-1076 of the County Code)

xvii. *Small Business Enterprises.* The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

xviii. *Antitrust Laws.* By acceptance of any contract, the Developer agrees to comply with all antitrust laws of the United States and the State of Florida.

(1) Conflict of Interest. Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593. Further the Developer shall comply with Section 1352 of Title 31 of the United States Code, which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting

to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, loan, or cooperative agreement. The Developer further agrees to comply with the requirement of such legislation to furnish a disclosure (OMB Standard Form LLQ) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, in connection with a Federal contract, grant, loan, or cooperative agreement, which payment would be prohibited if made from Federal appropriated funds. The Developer represents that:

- No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.

- There are no undisclosed persons or entities interested with the Developer in this Agreement. This Agreement is entered into by the Developer without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

  - is interested on behalf of or through the Developer directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or

  - is an employee, agent, advisor, or consultant to the Developer or to the best of the Developer's knowledge any subcontractor or supplier to the Developer.

- Neither the Developer nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Developer shall have an interest which is in conflict with the Developer's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Developer provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

- The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

(2) In the event Developer has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Developer shall promptly bring such information to the attention of the County's Project Manager. Developer shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Developer receives from the Project Manager in regard to remedying the situation.

23. **Interest of Members of Congress.** No Member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

24. **Interest of Member, Officer, or Employee and Former Member, Officer, or staff** and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

25. **Upon Written Notice to the Developer from the Inspector General or IPSIG Retained by the Inspector Employee of the County.** No member, officer, or employee of the County, no member of the governing body of the County, no member of the governing body by which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Development shall, during his or her tenure, or for two year thereafter or such longer time as the County's Code of Ethics may reasonably require, have any interest, direct or indirect, in this Agreement or the proceeds thereof, unless the conflict of interest is waived by the County and by HUD.

26. **Inspector General Reviews.** Pursuant to Miami-Dade County Administrative Order 3-

20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "**IPSIG**"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Developer shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Developer's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Developer, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Developer in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Developer or any third party.

(a) ***Miami-Dade County Inspector General Review.*** According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Developer. The audit cost shall also be included in all change orders and all contract renewals and extensions.

i. Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (I) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget

and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Agreement. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Developer, its officers, agents and employees, lobbyists, County General, the Developer shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Developer's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

27. **Notices.** All notices, requests, approvals, demands and other communications given hereunder or in connection with this Agreement shall be in writing and shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows (provided, that any time period for responding to any such communication shall not begin to run until such communication is actually received or delivery is refused):

If to County:	Miami-Dade County c/o Miami-Dade Public Housing and Community Development 701 N.W. 1st Court, 16th Floor Miami, FL 33136 Attn: Executive Director
With a Copy to:	Miami-Dade County Attorney's Office 111 N.W. 1st Street, Suite 2810 Miami, FL 33128 Attn: Terrence A. Smith, Esq.
If to Developer:	South Miami Plaza Developer, LLC c/o Related Urban 315 S. Biscayne Blvd., 4th Floor Miami, FL 33131 Attn: Albert Milo, Jr., Principal/Senior Vice President
With a Copy to:	Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. 150 W. Flagler Street, Suite 2200

Miami, FL 33130
Attn: Brian McDonough, Esq.

28. **Further Assurances.** Each party shall execute such other and further documents as may be reasonably necessary or proper for the consummation of the transaction contemplated by this Agreement as mutually agreed by the Parties hereto.

29. **Assignment.** This Agreement shall not be assignable by either party, except by the Developer to the Owner Entities as contemplated herein or upon written consent of the other party.

30. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed original, but all of which, together, shall constitute one instrument.

31. **Interpretation and Governing Law.** This Agreement shall not be construed against the party who prepared it but shall be construed as though prepared by both Parties. This Agreement shall be construed, interpreted, and governed by the laws of the State of Florida.

32. **Severability.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable such portion shall be deemed severed from this Agreement and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Agreement.

33. **Parties Bound.** No officer, director, shareholder, employee, agent, or other person authorized to act for and on behalf of any party hereto shall be personally liable for any obligation, express or implied.

34. **Final Agreement.** Unless otherwise provided herein, this Agreement constitutes the final understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the Parties, and except for those agreements contemplated herein. This Agreement may be amended, supplemented or changed only by a writing signed or authorized by or on behalf of the party to be bound thereby. Notwithstanding the foregoing, the parties acknowledge that Ground Lease made as of December 5, 2011, by and between the County and South Miami Plaza Preservation, LLC, which expressly survives the terms hereof.

35. **Modification of Agreement.** This Agreement may be amended by mutual agreement of the County and Owner, not to be unreasonably withheld, subject to prior written approval by HUD (if required) and provided that all amendments must be in writing and signed by both parties and that no amendment shall impair the obligations of the County or Owner to develop and operate the Public Housing Units in accordance with all Applicable Public Housing Requirements and the Ground Lease. This Agreement may not be altered, modified, rescinded, or extended orally.

36. **Waivers.** The failure of any party to insist in any one or more cases upon the strict performance of any of the obligations under this Agreement or to exercise any right or remedy

herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by any party of any provision of this Agreement shall be deemed to have been made unless set forth in writing and signed by the party to be charged.

37. **Successors.** The terms, covenants, agreements, provisions, and conditions contained herein shall bind and inure to the benefit of the Parties hereto, their successors and assigns.

38. **Certain Approvals and Reasonableness Standard.** Unless otherwise stated, all approvals or consents required of either party hereunder shall not be unreasonably withheld, conditioned or delayed and each party shall endeavor to act reasonably with respect to activities under this Agreement.

39. **Headings.** The headings in this Agreement are inserted for convenience only and shall not be used to define, limit or describe the scope of this Agreement or any of the obligations herein.

40. **Construction.** Whenever in this Agreement a pronoun is used, it shall be construed to represent either the singular or the plural, either the masculine or the feminine, as the case shall demand.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed this _____ day of _____, 2012.

SOUTH MIAMI PLAZA DEVELOPER, LLC **MIAMI-DADE COUNTY**

By:_____ By:_____

Attest: _____
Deputy Clerk

Approved as to form and legal
Sufficiency

By:_____
Terrence A. Smith
Assistant County Attorney

Exhibit A

Scope of Work

(see attached)

South Miami Plaza Scope of Work

6 Stories 97 Units Rehab

Exterior

Re-Roof with energy efficient roof
New Hurricane Impact Windows
New Energy Efficient Air Conditioning Units
Stucco Patch and Repair
Repair Condensate drains for the A/C Units
New Exterior Paint
Repair Concrete Walkways
New Benches
Repair Covered Seating Area
New Landscaping
Patch, Seal, and Restripe Parking area
Site Lighting Upgrades

New Interior Features in each Unit

Asbestos Abatement
New Kitchen Cabinets
New Kitchen Appliances
New Interior Doors
New Energy Efficient Light Fixtures
New Bathroom Cabinet
New Bathroom Fixtures
New Roll in Showers
New Bathroom Tile
New Flooring in Unit
New Wood Baseboards
New Interior Paint
Interior Wall Retexturing
New Exhaust Fans in Kitchen and Bathroom
New Door Hardware
Cable, Phone, and Internet in Each Unit
New Emergency Call System
New Corridor Flooring
New Corridor Ceilings
New Corridor Energy Efficient Lighting
Window Coverings in Each Unit
Energy Efficient Ceiling Fans

Common Areas

New Community Center Flooring
New Community Center Ceilings
New Community Energy Efficient Lighting
New Fitness Center
New Library / Computer Room
New Laundry Flooring

South Miami Plaza Scope of Work

6 Stories 97 Units Rehab

New Laundry Ceilings
New Laundry Energy Efficient Lighting
New Doors
New Door Hardware
New Lobby Flooring
New Lobby Doors
Elevator Upgrades

Building Systems
Upgrade Fire Alarm
Upgrade Fire Sprinkler System
New Fire Pump
New Domestic Water Pumps
New Generator
Upgraded Security Camera System
Electrical Upgrade
Upgraded Access Control System

Exhibit B

Redevelopment Budget

(see attached)

South Miami Plaza

			DEVELOPMENT BUDGET
Acquisition Costs			
Land:			500,000
	Subtotal:		**500,000**
Construction Costs		PDU	
Residential:		59,215	5,743,828
Amenities			165,000
FF&E			100,000
General Requirements:		6%	354,529
Overhead:		2%	118,176
Profit:		6%	354,529
Hard Cost Contingency:			582,633
	Subtotal:	76,481	**7,418,695**
Project Soft Costs			
Accountant Cost Cert:			50,000
Appraisal:			15,000
Market Study:			10,000
Enviromental Studies/Soil Tests:			83,000
Pre-Constr. Analysis/Existing Prop. Eval			10,000
Architect - Design:			225,000
Survey:			25,000
Title Insurance			150,000
Marketing & Advertising			20,000
Management Transition			100,000
P&P Bonds:			88,185
Building Permits:			150,000
Engineering Fee			150,000
Inspection Fees:			26,400
Tenant Relocation:			853,250
Builders Risk Insurance			40,231
Liability Insurance			20,000
	Subtotal:	20,784	**2,016,066**
Developer Legal Costs			
Acquisition Counsel:			30,000
Closing Counsel:			55,000
HUD Counsel:			30,000
Local Counsel:			15,000
Legal Contingency:			50,000
	Subtotal:	1,856	**180,000**
Financing Issuance Costs			
Closing Costs - Construction			110,000
Lender Origination Fees:			90,000
Underwriter Fees:			16,000
	Subtotal:	2,227	**216,000**

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South Miami Plaza

			DEVELOPMENT BUDGET
Financing Legal Costs			
Lender Counsel:			20,000
	Subtotal:	206	**20,000**
Equity Syndication Costs			
Up-Front LIHTC Admin Fees (FHFC):			86,000
LIHTC Application Fees:			3,000
FHFC Compliance Fee			45,407
Syndicator Costs			75,000
	Subtotal:	2,159	**209,407**
Reserves and Escrows			
Replacement Reserve:			48,500
Insurance Escrow:			67,900
Capitalized Asset Management Fee:			75,000
Construction Interest			200,000
Operating Expense Reserve		6 mos.	259,268
Operating Subsidy Reserve		12 mos.	242,698
	Subtotal:	9,210	**893,366**
Soft Cost Contingency			**120,000**
Developer Fee			**1,660,827**
Total Development Budget:			**13,234,361**

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Exhibit C

Redevelopment Schedule

(see attached)

South Miami

Project Schedule

Milestone	Start	Complete
PLANS & SPECS	6/1/2012	8/10/2012
PERMITTING	8/20/2012	10/26/2012
BIDDING	10/2/2012	11/30/2012
FINAL CLOSING	12/1/2012	12/1/2012
CONSTRUCTION COMMENCEMENT	1/2/2013	-
TENANT RELOCATION	1/2/2013	12/23/2013
CONSTRUCTION COMPLETION	-	12/17/2013
LEASE UP STABILIZATION	12/1/2013	12/31/2013
PROJECT FORM 8609 COMPLETION	1/30/2014	2/15/2014
TOTAL	6/1/2012	2/15/2014

Exhibit D

Unit Mix

(see attached)

Exhibit D

South Miami Plaza Unit Mix		
# of Bedrooms	# of Units	Sq. Ft. of Living Area
1	80	420
1	17	540
Total	97	

Exhibit E

Subcontractor/Supplier Listing Form

(see attached)

SUBCONTRACTOR/SUPPLIER LISTING

(Miami-Dade County Code Sections 2-8.1, 2-8.8 and 10-34)

Firm Name of Prime Contractor/Respondent _____ FEIN # _____

Project/Contract Number _____

In accordance with Sections 2-8.1, 2-8.8 and 10.34 of the Miami-Dade County Code, this form must be submitted as a condition of award by all bidders/respondents on County contracts for purchase of supplies, materials or services, including professional services which involve expenditures of $100,000 or more, and all bidders/respondents on County or Public Health Trust construction contracts which involve expenditures of $100,000 or more. The bidder/respondent who is awarded this bid/contract shall not change or substitute first tier subcontractors or direct suppliers or the portions of the contract work to be performed or materials to be supplied from those identified, except upon written approval of the County. The bidder/respondent should enter the word "NONE" under the appropriate heading of this form if no subcontractors or suppliers will be used on the contract and sign the form below.

In accordance with Ordinance No. 11-90, an entity contracting with the County shall report the race, gender and ethnic origin of the owners and employees of all first tier subcontractors/suppliers. In the event that the successful bidder demonstrates to the County prior to award that the race, gender, and ethnic information is not reasonably available at that time, the successful bidder shall be obligated to exercise diligent efforts to obtain that information and provide the same to the County not later than ten (10) days after it becomes available and, in any event, prior to final payment under the contract.

(Please duplicate this form if additional space is needed.)

Business Name and Address of First Tier Subcontractor/ Subconsultant	Principal Owner	Scope of Work to be Performed by Subcontractor/ Subconsultant	Principal Owner (Enter the number of male and female owners by race/ethnicity)								Employee(s) (Enter the number of male and female employees and the number of employees by race/ethnicity)							
			Gender		Race/Ethnicity						Gender		Race/Ethnicity					
			M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other	M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other

Business Name and Address of First Tier Direct Supplier	Principal Owner	Supplies/Materials/ Services to be Provided by Supplier	Principal Owner (Enter the number of male and female owners by race/ethnicity)								Employee(s) (Enter the number of male and female employees and the number of employees by race/ethnicity)							
			Gender		Race/Ethnicity						Gender		Race/Ethnicity					
			M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other	M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other

☐ Mark here if race, gender and ethnicity information is not available and will be provided at a later date. This data may be submitted to Contracting/User department or on-line to the Small Business Development Division of the Regulatory and Economic Resources Department at http://new.miamidade.gov/business/business-development.asp.

I certify that the representations contained in this Subcontractor/Supplier listing are to the best of my knowledge true and accurate.

Signature of Bidder/Respondent _____ Print Name _____ Print Title _____ Date _____

SUB.100 Rev. 6/12

Exhibit F

Applicable HUD General Conditions for Construction Contracts

Conduct of Work

1. Disputes

(a) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(b) Except for disputes arising under the clauses entitled *Labor Standards and Labor Standards- Nonroutine Maintenance*, herein, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.

(c) All claims by the Developer shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the County against the Developer shall be subject to a written decision by the Contracting Officer.

(d) _____shall be the "Contracting Officer." The Contracting Officer shall, within 60 (unless otherwise indicated) days after receipt of the request, decide the claim or notify the Developer of the date by which the decision will be made.

(e) The Contracting Officer's decision shall be final unless the Developer (1) appeals in writing to a higher level in the County in accordance with the County' s policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the Contracting Officer's decision.

(f) The Developer shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

2. Lead-Based Paint

The Developer shall comply with the requirements concerning lead-based painted contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

3. Health, Safety, and Accident Prevention

(a) In performing this contract, the Developer shall:

i. Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;

ii. Protect the lives, health, and safety of other persons;

iii. Prevent damage to property, materials, supplies, and equipment; and

iv. Avoid work interruptions.

(b) For these purposes, the Developer shall:

i. Comply with regulations and standards issued by the Secretary of Labor at 29 CFR Part 1926. Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96), 40 U.S.C. 3701 et seq.; and

ii. Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.

(c) The Developer shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR Part 1904.

(d) The Contracting Officer shall notify the Developer of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Developer or the Developer's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Developer shall immediately take corrective action (unless Developer disputes the notification in accordance with Section 1). If the Developer fails or refuses to take corrective action promptly, the

Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Developer shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.

(e) The Developer shall be responsible for its subcontractors' compliance with the provisions of this clause. The Developer shall take such action with respect to any subcontract as Miami-Dade County (the "County"), the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

4. Royalties and Patents

The Developer shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the County harmless from loss on account thereof; except that the County shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and the Developer has no reason to believe that the specified design, process, or product is an infringement. If, however, the Developer has reason to believe that any design, process or product specified is an infringement of a patent, the Developer shall promptly notify the Contracting Officer. Failure to give such notice shall make the Developer responsible for resultant loss.

5. Clean Air and Water

The contactor shall comply with the Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Water Act, as amended, 33 U.S.C. 1251 et seq., and standards issued pursuant thereto in the facilities in which this contract is to be performed.

6. Energy Efficiency

The Developer shall comply with mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under the contract is performed.

7. Subcontracts

(a) Definitions. As used in this contract:

i. "Subcontract" means any contract, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and services for the performance of the prime contract or a subcontract.

ii. "Subcontractor" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for the Developer or

another subcontractor.

(b) The Developer shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the state in which the work under this contract is to be performed.

(c) The Developer shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Developer.

(d) The Developer shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.

(e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the County or between the subcontractor and HUD.

8. Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms.

The Developer shall take the following steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority firms, women's business enterprises, and labor surplus area firms:

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;

(d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business enterprises; and

(e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

9. Equal Employment Opportunity.

During the performance of this contract, the Developer agrees as follows:

(a) The Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation.

(b) The Developer shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation. Such action shall include, but not be limited to, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.

(c) The Developer shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(d) The Developer shall, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation.

(e) The Developer shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Developer's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The Developer shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(g) The Developer shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Developer shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(h) In the event of a determination that the Developer is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Developer may be declared ineligible for further Government contracts, or Federally assisted construction contracts under the procedures authorized in Executive Order 11246,

as amended. In addition, sanctions may be imposed and remedies invoked against the Developer as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(i) The Developer shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Developer shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Developer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Developer may request the United States to enter into the litigation to protect the interests of the United States.

(j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.

10. Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

(a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s)

taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b)agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

11. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

12. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the County, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

13. Limitations on Payments made to Influence Certain Federal Financial Transactions.

(a) The Developer agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(b) The Developer further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

14. Examination and Retention of Developer's Records

(a) The County, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Developer's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

(b) The Developer agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding $10,000.

(c) The periods of access and examination in paragraphs (a) and (b) above for records relating to (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the County, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

(d) Lunches, dinners, etc. are not acceptable reimbursable expenses.

(e) Acceptable reimbursable expenses are defined as:

(f) Payments to Developer shall be based on services rendered/work completed, not costs incurred for deposits/retainers.

15. Labor Standards - Davis-Bacon and Related Acts.

If the total amount of this contract exceeds $2,000, the Federal labor standards set forth in the clause below shall apply to the development or construction work to be performed under the contract.

(a) Minimum Wages.

i. All laborers and mechanics employed under this contract in the development or construction of the project(s) involved will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Developer and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the regular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Developer and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met: (A) The work to be performed by the classification requested is not performed by a

classification in the wage determination; and (B) The classification is utilized in the area by the construction industry; and (C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

iii. If the Developer and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

iv. In the event the Developer, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

v. The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in classification.

vi. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Developer shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

vii. If the Developer does not make payments to a trustee or other third person, the Developer may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Developer, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Developer to set aside in a separate

account assets for the meeting of obligations under the plan or program.

(b) Withholding of funds. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Developer under this contract or any other Federal contract with the same prime Developer, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Developer, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Developer or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working in the construction or development of the project, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Developer, disburse such amounts withheld for and on account of the Developer or subcontractor to the respective employees to whom they are due.

(c) Payrolls and basic records.

i. Payrolls and basic records relating thereto shall be maintained by the Developer during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Developer shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Developers employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

ii. The Developer shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Developer is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)

iii. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Developer or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under paragraph (c) (1) of this clause and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

iv. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.

v. The falsification of any of the above certifications may subject the Developer or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

vi. The Developer or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives

to interview employees during working hours on the job. If the Developer or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) Apprentices.

i. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Developer as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Developer's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency

recognized by OATELS, withdraws approval of an apprenticeship program, the Developer will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

ii. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Developer will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

iii. Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(e) Compliance with Copeland Act requirements. The Developer shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

(f) Contract termination; debarment. A breach of this contract clause may be grounds for termination of the contract and for debarment as a Developer and a

subcontractor as provided in 29 CFR 5.12.

(g) Compliance with Davis-Bacon and related Act requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(h) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Developer (or any of its subcontractors) and the County, HUD, the U.S. Department of Labor, or the employees or their representatives.

(i) Certification of eligibility.

i. By entering into this contract, the Developer certifies that neither it (nor he or she) nor any person or firm who has an interest in the Developer's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

iii. The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

(j) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

i. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

ii. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in subparagraph (j)(1) of this clause, the Developer and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Developer and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to

such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic (including watchmen and guards) employed in violation of the provisions set forth in subparagraph (j)(1) of this clause, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in subparagraph (j)(1) of this clause.

iii. Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Developer or subcontractor under any such contract or any Federal contract with the same prime Developer, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Developer, such sums as may be determined to be necessary to satisfy any liabilities of such Developer or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in subparagraph (j)(2) of this clause.

(k) Subcontracts. The Developer or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Developer shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

16. Non-Federal Prevailing Wage Rates

(a) Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State or tribal law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Developer or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:

i. The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;

(b) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or

(c) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

17. Procurement of Recovered Materials.

(a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Developer shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Developer shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Developer determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

(b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Developer purchases in excess of $10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Developer: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.

Exhibit G

Vacancy Preparation Work

(Required to prepare existing vacant Public Housing units for temporary relocations of residents affected by the work covered by this MDA)

Should the County provide vacant units to the developer for its use for temporary relocation, the developer shall provide vacancy preparation;

1. Prior to being occupied by first relocated residents.
2. Perform maintenance and/or repairs to units during temporary occupancy period.
3. Perform a final vacancy preparation of unit after final resident(s) have been relocated back and prior to turn-over back to PHCD for its use.

Developer agrees to perform vacancy preparation work in accordance with PHCD requirements, that will be provided when this vacant unit option is used for temporary relocation.

Exhibit H

Key Development Team Members

(see attached)

South Miami Plaza Preservation

Key Development Team Members

Name:	Role:
Jorge M. Perez	President & Principal
Alberto Milo Jr.	Senior Vice President & Principal
Matthew J. Allen	Vice President
Jeffery Hoyos	Vice President & Secretary
Tony Del Pozzo	Vice President & Director of Finance
Luis Castellon	Project Manager
Brian Latta	Project Manager
Larry Lennon	President - TRG Management Company of Florida
Marilyn Pascual	Regional Manager - TRG Management Company of Florida

MASTER DEVELOPMENT AGREEMENT

BETWEEN

MIAMI-DADE COUNTY

AND

JACK ORR PLAZA PHASE ONE DEVELOPER, LLC

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MASTER DEVELOPMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND JACK ORR PLAZA PHASE ONE DEVELOPER, LLC

JACK ORR PLAZA PHASE ONE DEVELOPER, LLC ("**Developer**") and MIAMI-DADE COUNTY, a political subdivision of the State of Florida and a "public housing agency" as defined in the United States Housing Act of 1937, as amended (the "**County**"), hereby enter into this Master Development Agreement (the "**Agreement**") to memorialize certain business terms, conditions and agreements regarding future rehabilitation and redevelopment of Jack Orr Plaza, a public housing development, in Miami Dade County, Florida (the "**Development**").

1. Definitions.

(a) "Act" shall have the meaning set forth in Section 4(b)(v).

(b) "Agreement" shall mean this Master Development Agreement.

(c) "Authority Affiliate" shall have the meaning set forth in Section 3(c).

(d) "County" shall mean Miami-Dade County.

(e) "Default Notice" shall have the meaning set forth in Section 10.

(f) "Developer" shall mean Jack Orr Plaza Phase One Developer, LLC.

(g) "Developer Affiliate" shall have the meaning set forth in Section 3(c).

(h) "Development" shall mean the redevelopment of Jack Orr Plaza, as further described in Section 3.

(i) "Effective Termination Date" shall have the meaning set forth in Section 8(e)(i).

(j) "FHFC" shall have the meaning set forth in Section 3(b).

(k) "Financial Closing" shall mean closing on construction financing.

(l) "Force Majeure Event" shall have the meaning set forth in Section 9(c).

(m) "HUD Safe Harbor Standards" shall have the meaning set forth in Section 5(a).

(n) "IPSIG" shall have the meaning set forth in Section 26.

(o) "LIHTC" shall have the meaning set forth in Section 3(b).

(p) "Management Agent" shall have the meaning set forth in Section 7(a).

(q) "Management Agreement" shall have the meaning set forth in Section 7(a).

(r) "Material Changes" shall have the meaning set forth in Section 3(b).

(s) "Owner Entity" shall have the meaning set forth in Section 3(c).

(t) "PHA-Assisted Units" shall have the meaning set forth in Section 3(b).

(u) "Partner" shall have the meaning set forth in Section 3(a).

(v) "Project Stabilization" shall have the meaning set forth in Section 3(c).

(w) "Proper Invoice" shall mean (insert)

(x) "RFP" shall have the meaning set forth in Section 3.

(y) "Redevelopment Budget" shall have the meaning set forth in Section 3(b).

(z) "Redevelopment Schedule" shall have the meaning set forth in Section 3(b).

(aa) "Relocation Plan" shall have the meaning set forth in Section 4(a)(ix)(4).

(bb) "Section 42" shall have the meaning set forth in Section 3(b).

(cc) "Sub Management Agreement" shall have the meaning set forth in Section 8(c).

(dd) "Termination for Cause" shall have the meaning set forth in Section 8(b).

2. **Nature of Agreement.** This Agreement sets forth the principal terms that have been agreed to by the parties concerning the Development (as defined below). It is anticipated that this agreement will constitute the "Master Development Agreement" for the Development. The parties are executing this Agreement to establish the principal terms of the transaction in order to enable both parties to proceed with an understanding of their obligations and agreements with regard to the Development.

3. **Development Feasibility and Structure.**

(a) Request for Proposals and Developer's Response. On July 14, 2011, the County sought proposals under Request for Proposals No. 794 (the "**RFP**") for the Development from qualified housing developers. An affiliate of Developer, RUDG, LLC, submitted a response to the RFP and County selected RUDG, LLC's proposal as the most qualified response to the RFP. The County approved RUDG, LLC's assignment of development rights to Developer and approved the designation of the Developer as the developer for the development of the Jack Orr Plaza site, and as the County's "**Partner**," as described in 24 CFR § 941.604, for the mixed-finance rehabilitation of public housing units (and potentially other units in later phases, as described herein), subject to and in accordance with the terms and conditions provided herein.

(b) Development Overview: The Parties hereby agree that the first phase ("Phase I") of the Development shall be a mixed finance development, consisting of the rehabilitation of two hundred (200) public housing units in a rental phase owned by the Owner Entity (as hereinafter defined). All units shall continue to be set aside as 'public housing', as that term is defined in the U.S. Housing Act of 1937 (the "**PHA-Assisted Units**"), and will be operated and maintained as qualified Low Income Housing Tax Credit ("**LIHTC**") Units under Section 42 of the Internal Revenue Code of 1986 ("**Section 42**"), as amended, for a period of not less than the Tax Credit Compliance Period and any applicable extended use period (as such term is defined in Section 42 and required by the Florida Housing Finance Corporation ("**FHFC**")).

A scope of work is attached hereto as Exhibit A (hereinafter referred to as the "Scope of Work"), a development budget (including uses funded by undefined sources) is attached hereto as Exhibit B (hereinafter referred to as the "**Redevelopment Budget**"). A development schedule is attached hereto as Exhibit C (hereinafter referred to as the "Redevelopment Schedule"). A description of the unit types, sizes and targeted income levels (the "**Unit Mix**") is attached as Exhibit D. A list of key development team members is attached as Exhibit H. As development proceeds, the parties may mutually agree to supplement such exhibits with a more refined budget containing achievable sources, which budget shall be tied to a redevelopment schedule and realistic timeframes for securing development sources. Developer will submit proposed updates to the Redevelopment Schedule, the Redevelopment Budget and the Unit Mix for the County's review and comment, and Developer shall be required to obtain County's approval, such approval not to be unreasonably withheld, with respect to "**Material Changes**" and as changes become necessary. The following shall be considered "**Material Changes**":

i. Changes to the Unit Mix;

ii. An increase in the Redevelopment Budget by more than 10%; or

iii. Changes to the Redevelopment Schedule that delay completion or lease-up by more than ninety (90) calendar days.

References to the Development in this Agreement shall initially refer to Phase I. In the Developer's Response to the RFP, the Developer proposed the new construction of additional phases of development, which are anticipated to be negotiated in a separate Master Development Agreement. The County and Developer acknowledge and agree that such supplemental development will require County and HUD approval of the same and the release of certain excess property that is encumbered by the Ground Lease.

(c) Ownership Entities for Rental Phase and Selection of Investor. The Developer has formed Jack Orr Plaza Preservation Phase One, LLC (the "**Owner Entity**") to own the Development. The Owner Entity will have a managing member that will

be a limited liability company controlled by the Developer. The principal equity interest in the Owner Entity will be owned by a low income housing tax credit investor that is selected by the Developer in its sole discretion.

The County agrees to take all reasonably necessary action to assist Developer in obtaining an identity of interest waiver from HUD to utilize Developer's affiliated general contractor.

4. **Redevelopment Responsibilities.**

(a) Developer Responsibilities: As more specifically set forth herein, Developer shall be responsible for development services in connection with the rehabilitation and continued occupancy of the Development, as well as carrying out all other work for which Developer is responsible, as such responsibilities are detailed in this Agreement. The actual services delivered shall include all development services reasonably required to complete the rehabilitation of the Development and, except as otherwise provided herein, to cause each Owner Entity to facilitate the rehabilitation of the Development, including, but not limited to:

i. establishing phasing and timetables, structuring and securing financing and obtaining necessary city and county approvals, and hiring a general contractor or construction manager;

ii. providing financing to the project and identifying and securing additional financing as needed;

iii. providing all required third-party guarantees including investor and completion guarantees;

iv. assisting in preparing the Mixed-Finance Proposal; assisting in preparing or coordinating all documents necessary for closing of the financing in accordance with, as applicable, public housing, mixed-finance requirements; collaborating with the County to finalize documents and assist in the preparation of the evidentiary submission to HUD; and scheduling the Financial Closing;

v. entering into contracts or agreements, consistent with the terms of this Agreement, necessary or convenient for completion of the Development, which contracts or agreements may be assigned, as appropriate, by the Developer to the related Owner Entity at or prior to the financial closings. Awards shall be made to the bidder or offeror whose bid or offer is most advantageous to the Development, taking into consideration price, quality and other factors deemed by the Developer to be relevant; Developer shall not employ or contract with any third party contractor which has been debarred by HUD or the County and shall promptly terminate any contracts with any third party contractor that is subsequently debarred;

vi. determining all necessary governmental approvals for such plans;

vii. carrying out pre-construction and construction activities, including design, engineering, and rehabilitation of the Development, guaranteeing completion of same without Material Changes to the Redevelopment Budget or Schedule, and ensuring compliance with all applicable laws, rules and regulations;

viii. carrying out property management of the Development, including resident relocation and subsequent re-occupancy of the Development, maintaining all applicable occupancy standards and maintaining all requisite reports, certifications and data in accordance with applicable requirements;

ix. maintaining regular communication with County regarding its development activities; and

x. Design, Construction and accessibility requirements:

(1) Developer shall conduct value engineering reviews during design and construction document phases to minimize construction cost and maximize scope of work to be done with allocated funding. The County will have access to design drawings and may provide comments and requests to changes in design, finishes and all aspects of the design development process.

(2) The Developer will provide the County with all cost certifications and reports from the investor and lender and the County will have the opportunity to review and comment on such certifications and reports.

(3) The County will have the opportunity to approve all change orders that require the approval of the investor and the lender (i.e. in excess of those minimum thresholds per occurrence and in the aggregate that do not require the approval of the investor and lender), such approvals not to be unreasonably withheld or delayed.

(4) Developer shall meet or exceed federal accessibility requirements including those indicated herein. Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794 and 24 CFR, Parts 8 and 9, prohibits discrimination against persons with disabilities in any program or activity receiving Federal Financial assistance. 24 CFR § 40.4 established the Uniform Federal Accessibility Standards (UFAS) as the standard design, construction, or alteration of residential structures. UFAS became effective July 11, 1988. For new construction and/or rehabilitation projects, the Developer shall provide at a minimum (unless more stringent requirements apply)

five percent (5%) or at least one (1) unit (whichever is greater) for mobility, impaired persons. An additional minimum of two percent (2%) or at least one (1) unit (whichever is greater) is required for people with hearing or vision impairments. UFAS compliance is required for all areas required by UFAS including interior and exterior of units, common areas, site, etc. A third party certification of UFAS Compliance is required in a form and format reasonably acceptable to the County. On-going information concerning UFAS units and its occupants may also be required by the County. Developer shall provide required UFAS – related information as reasonably required by the County. In addition, developers are highly encouraged to provide units that are easily "adaptable" to UFAS units.

(5) Davis-Bacon wage requirements: Developer shall meet all applicable Davis-Bacon wage requirements and shall monitor and ensure Davis-Bacon wage compliance by general contractor(s), sub-contractors, sub – sub contractors, etc. (contractors), and shall ensure that all contracts and sub-contracts issued to any contractor on the project include Davis-Bacon requirements. Developers shall carefully review Davis-Bacon requirements with all contractors and sub-contractors on site on an on-going basis, shall appoint a Davis-Bacon compliance officer to ensure compliance during the entire construction duration, and shall provide Davis-Bacon compliance reporting to County as it may require. Any costs incurred by the County due to Davis-Bacon non-compliance by the Developer and/or any of its contractors, shall be reimbursable to the County by the Developer.

(6) For preservation/rehabilitation projects, maximize the storage capacity (kitchen cabinets, closets, pantry, vanity, etc.) for existing units as to not reduce existing capacity, whenever possible.

(7) The County has retained an Energy Performance Contractor (EPC) to conduct an energy audit on all public housing sites and provide recommendations to implement energy efficient systems, components, etc. The Developer shall coordinate its work with the EPC, attend meetings with EPC and the County as necessary, submit its drawings and specifications for EPC review and incorporate EPC comments received into the design documents, unless this requirement is waived by the County.

xi. County Approvals:

(1) On preservation/rehabilitation projects, Developers shall not

reduce the size of existing units in any material respect to obtain more units within the same building envelope or change the unit designation (family, elderly, etc.) without a written request and written approval from PHCD, provided that PHCD has provided Developer a written description of such unit designation.

(2) Developer shall forward the drawings for preservation/rehabilitation and/or new construction to PHCD as these are developed for review, comment and approval, such approval not to be unreasonably withheld, withdrawn, or deleted.

(3) Developer shall closely coordinate with PHCD and attend meetings with public housing residents as reasonably required to inform and receive input from residents on all aspects of the development plans. Developer shall give good faith consideration to incorporate input received from residents, in coordination with PHCD, as feasible and consistent with applicable codes, zoning, federal requirements, etc. PHCD will coordinate and schedule meetings with residents.

(4) Developer shall submit a detailed relocation plan ("**Relocation Plan**") for review and approval by PHCD, such approval not be unreasonably withheld, withdrawn, or deleted. The Relocation Plan shall include appropriate notification and minimum disruption/convenience for residents, safety and provision of temporary housing as major considerations. Developer shall provide a "relocation coordinator" to plan, organize, implement and monitor all aspects of the Relocation Plan, closely coordinate all aspects required for relocation including phasing and duration, moving and storage of furnishings, transportation, meals, pets, mail, etc.

xii. The Developer and its consultants shall carefully review all change orders, contingency adjustments and/or any other additional costs (herein change orders) to confirm that these are appropriate and to minimize said costs whenever possible. Such review shall include but not be limited to compliance with contract documents, the party requesting the change order, and the reason for such request (justification), hidden or unforeseen conditions, A/E error and/or omissions, critical path analysis for time extensions and other contract requirements.

xiii. Consultant Coordination

(1) Developer shall carefully review and coordinate the works of its consultants to minimize architect/engineer errors and omissions and minimize any change orders, including additional costs and time extensions on the project.

(b) County's Responsibilities. As more specifically described herein, County is responsible for the following activities related to the Development (such list is not intended to be exhaustive):

i. Developing and submitting all necessary property disposition applications to HUD (provided that Developer shall have an opportunity to review and comment on the same prior to submission);

ii. Approving Owner Entity admissions and occupancy criteria and related property management documents such as the Public Housing lease and Community Policies, which approvals shall not be unreasonably withheld, delayed or conditioned;

iii. Reviewing, approving, and submitting the mixed finance proposal and evidentiaries to HUD;

iv. Providing all of the operating subsidy received from HUD relative to the PHA-Assisted Units on an annual basis and subject to any HUD pro-Ration or other HUD-generated subsidy adjustment (including those "add-ons," as described at 24 CFR Part 990), except that the Developer shall pay to the County an amount equal to five percent (5%) of subsidy received;

v. Providing the PHA-Assisted Units' share of those funds appropriated to the County under Section 9(d) of the United States Housing Act of 1937, as amended (the "Act") that are permitted to be utilized as operating subsidy in accordance with Section 9(g)(1) of the Act. The percent amount to be provided shall be determined by (i) dividing the total amount of Capital Funds awarded to the County by the total number of public housing units in the County's portfolio; and (iii) multiplying the resulting per unit amount by twenty percent (20%). Additionally, the County will give good faith consideration to providing the remaining pro-rata share of Capital Funds for purposes of ongoing capital assistance if requested by Developer and approved by HUD;

vi. Coordinating with the residents, other stakeholders in the County and other stakeholders on Development-related issues; and

vii. Obtaining all necessary HUD approvals (including as related to disposition approvals, environmental approvals in accordance with 24 CFR Part 50 or Part 58, mixed finance approvals), providing reports and maintaining communications with HUD. Notwithstanding the foregoing, the County will provide copies of all items to Developer prior to submission to HUD in order to permit the Developer to provide input and comment with respect to the same.

5. **Fees.**

(a) Developer Fee. The parties agree to seek approval from HUD of the maximum allowable developer fee permitted by the Florida Housing Finance Corporation for the Development of sixteen percent (16%) in the budgeted amount set forth at Exhibit B hereto, based upon satisfying the factors outlined by HUD in order to exceed the Cost Control and Safe Harbor Standards for Rental Mixed Finance Development (the "**HUD Safe Harbor Standards**").

(b) Ground Lease Payment. The Developer covenants and agrees to pay to County as pre-paid rent under the Ground Lease a lump sum payment of Five Hundred Thousand and No/100 Dollars ($500,000.00) upon Financial Closing. No additional amounts shall be due after such lump sum payment. The Ground Lease shall be for a term of Seventy-Five (75) years.

6. **Payment Provisions For County Funds (if applicable).** Developer shall submit to the County, not more often than monthly, a payment request for County funds in a form and format acceptable to the County, for expenditures for the work completed and incurred.

Each payment request shall be carefully reviewed and evaluated for accuracy, completeness and compliance with this agreement by Developer prior to its submission to the County. Each payment request shall identify, by line item and by reference to the corresponding element of the Budget, (a) the total costs to date incurred, (b) the corresponding portion of the compensation due to developer, if applicable (c) the amounts, if any, of previous payments, (d) the portion, if any, of such costs and/or fee for which a payment is requested under the payment request and any other provisions reasonably required (with reasonable advance notice) by the County. Each payment request shall be accompanied by separate billing statements or invoices from each consultant, sub-consultant, contractor or sub-contractor (herein vendors) to which payment has been made or will be made. The County shall not be required to make advance payments or deposits.

Payment requests shall not be processed until a proper payment request (herein proper invoice) has been received by the County from the Developer. Proper invoice means an invoice which conforms to the payment requirements of the County. A proper invoice shall include a statement by Developer waiving claims for extra direct and indirect costs or time associated with work preceding the date of the invoice, or a statement in sufficient detail containing all rights reserved for work already performed. All present requirements or future rules pertaining to the execution of a proper invoice will be made available to Developer in a timely manner. Developer shall make payments to all vendors included in each respective payment request within five (5) business days of receipt of funds from the County. Developer shall include the provisions of this section in all sub-contracts, and require all vendors to include this provision in their contracts with other vendors.

The time at which payment for service is due from the County shall be calculated from the date on which a proper invoice is received by the County. The time at which payment shall be due from the County to Developer shall be forty (45) days from receipt by the County of a proper invoice from the Developer (provided that the County shall make every effort to make such payment within thirty (30) days. The time at which payment shall be due from the County to a

small businesses (as defined in Section 2-222 of the County Code) developer shall be thirty (30) days from receipt of proper invoice by the County. In any case in which an improper invoice is submitted by the developer, the County shall, within ten (10) days after the improper invoice is received, notify the Developer that the invoice is improper and indicate what corrective action on the part of the Developer is needed to make the invoice proper.

For non-County funds, Developer shall provide a report, in a form and format acceptable to County, indicating payment requests and approved amounts received by the developer for all funding sources and percentage of overall project completion. In addition, the Developer shall provide, on a monthly basis, a constructions schedule and construction budget, anticipating anticipated changes to the budget and schedule, along with a change order log, and Developer will meet with the County at the County's request, at reasonable times and frequency, to review and discuss the monthly report. Any proposed changes will be subject to the approval provisions set forth in this Agreement.

7. **Property Management Responsibilities.**

(a) Designation of Property Manager. The initial property manager for the Development shall be TRG Management Company of Florida, an affiliate of Developer (the "**Management Agent**"). The Management Agent shall be responsible for the day to day operation of the Development including but not limited to compliance, collections, leasing, payment of invoices and maintenance. Specific duties shall be further detailed in the initial agreement between the Management Agent and the Owner Entity, such agreements subject to the County's reasonable approval (the "**Management Agreement**").

(b) Existing Residents and Admissions Policies. The parties agree that the occupancy will be carried out with respect to the Development as follows:

i. The existing residents of Jack Orr Plaza (the "Existing Residents") shall have the right of first refusal to occupy public housing units in the Development once the scope of work described in this Agreement is complete, subject to screening by the Management Agent for low-income housing tax credit compliance.

ii. Any vacancies not filled by Existing Residents (either at initial occupancy or thereafter) will be filled by applicants who are referred from the County's waiting list, subject to screening by the Management Agent for low-income housing tax credit compliance. The parties agree that a site-based waiting list will not be used. The parties acknowledge and agree that the County's Admissions and Continued Occupancy Policy will be revised, as necessary, to reflect the foregoing and that a referral process will be formulated by the parties to ensure that lease-up occurs in a timely manner.

(c) Property Management Fee. The Management Agent shall receive a management fee equal to the maximum fee permitted under HUD Safe Harbor Standards (which is currently Fifty-Six and 95/100 Dollars ($56.95) per unit, per month). The Management Agent will also receive a bookkeeping fee in the amount of $7.50 per unit, per month.

(d) Sub-Management Agreement. It is anticipated that the Management Agent will enter into a sub-management agreement (the "**Sub Management Agreement**") with the County, pursuant to which the County's management staff will carry out certain frontline management services on behalf of the Management Agent on terms and conditions to be agreed to between the parties. The Sub Management Agreement will be for a one (1) year term and will be subject to termination for cause or upon the termination of the Management Agreement.

8. **Termination.**

(a) Termination for Convenience. The County reserves the right to terminate this Agreement, in whole or in part, at any time for the convenience of the County if the County shall determine in good faith that it is infeasible, in the County's best interest, or contrary to that interest to proceed with the Development. In the event of a termination for convenience under this Agreement, the County shall deliver to the Developer a Notice of Termination within thirty (30) days specifying the extent to which the performance of the work under this Agreement is terminated, and the date upon which such termination becomes effective. If the performance of the work under this Agreement is terminated in whole or in part, the County shall be liable to the Developer for reasonable and proper costs resulting from such termination. Within thirty (30) days of receipt of the Notice of Termination, the Developer shall present a proper claim setting out in detail: (i) the total cost of all third-party costs incurred to date of termination (including any loans from third parties); (ii) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, or for settling other liabilities of Developer incurred in performance of its obligations hereunder; (iii) the cost of preserving and protecting the work already performed until the County or its assignee takes possession thereof or assumes responsibility therefore; (iv) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the County; and (v) fair compensation to Developer for all tasks performed to date (including, at a minimum, fifty percent (50%) of projected developer fee if a nine percent (9%) tax credit award has been made). Within ninety (90) days of receipt of the claim from the Developer, the County shall make a final payment to the Developer. Furthermore, the Developer may terminate this Agreement for infeasibility, but only to the extent the Developer first made good faith efforts to pursue an alternative course of action, and in such event, shall be limited to reimbursement for those costs as set forth in (i)-(iv) of this Article 6(a) and reimbursement of Developer's reasonable overhead. In an event of a dispute regarding the claim, the parties hereto shall avail themself of

the dispute resolution process more fully described in Exhibit F, Paragraph 1.

(b) Termination for Cause. Either Party may terminate this Agreement for cause, at any time, on the giving of notice to the other party of the grounds asserted for such termination and failure of the other Party to cure such grounds within thirty (30) days from receipt of such notice ("**Termination for Cause**"). Notwithstanding anything to the contrary contained herein, suspension from participation in any government programs, which suspensions, for the purposes hereof, are defined to include but not be limited to any sanctions imposed by HUD pursuant to 24 CFR Part 24, shall be grounds for termination of this Agreement for cause without opportunity for cure. By execution of this Agreement, Developer hereby certifies to the County that it is not suspended, debarred or otherwise prohibited from participation in any government programs.

In the event of a termination of this Agreement by the County or the Developer which is determined to constitute a breach hereof by the County or the Developer, the party in breach shall be liable to the non-breaching party in accordance with applicable law for all actual damages caused thereby.

(c) Fraud, Misrepresentation or Material Misstatement. The County may terminate this Agreement if Developer attempts to meet its contractual obligations hereunder with the County through fraud, misrepresentation or material misstatement.

(d) Debarment. The foregoing notwithstanding, any individual, corporation or other entity that attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Developer may be subject to debarment for those reasons set forth in Section 10-38 of the County Code.

(e) Remedies. In the event that the County exercises its right to terminate this Agreement following an Event of Default, the Developer shall, upon receipt of such notice, unless otherwise directed by the County:

i. Stop work on the date specified in the notice (the "**Effective Termination Date**");

ii. Take such actions as may be necessary for the protection and preservation of the County's materials and property;

iii. Cancel orders;

iv. Upon payment by the County for such work product and payment of other amounts due in accordance with this Article 6, assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the

performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services; and

v. Take no voluntary action (unless otherwise required by legal obligations) which will increase the amounts payable by the County under this Agreement.

(f) Developer Shall Deliver Work Product in Event of Termination. In the event that this Agreement is terminated under this Article 6, Developer agrees that it shall promptly deliver to County, or cause to be delivered to County, any concrete, transferable, and useable third party work product generated in connection with the Development, and will assign to County all of its right, title, and interest to such work product, without reservation in exchange for County's payment of funds paid by Developer (including funds borrowed from third parties) for such work product, along with amounts due to the Developer hereunder. Developer shall be under no obligation to deliver any work product in its possession unless the County shall have reimbursed it for the cost thereof (and paid to the Developer any other amounts due hereunder) or shall have agreed to offset the cost thereof against any indebtedness owing from the Developer to the County.

9. Event of Default.

(a) An Event of Default shall mean a breach of this Agreement by the Developer after expiration of any applicable notice and cure period without such cure. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:

i. the Developer has not delivered Deliverables on a timely basis;

ii. the Developer has made a Material Change to the Project Schedule without the County's approval;

iii. the Developer has refused or failed to supply enough properly skilled staff personnel;

iv. the Developer has failed to make prompt payment to subcontractors or suppliers for any Services;

v. the Developer has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Developer's creditors, or the Developer has taken advantage of any insolvency statute or debtor/creditor law or if the Developer's affairs have been put in the hands of a receiver;

vi. the Developer has failed to obtain the approval of the County where required by this Agreement;

vii. the Developer has failed in the representation of any warranties stated herein.

viii. The Developer has made a Material Change to the Project Budget without the County's approval.

(b) In the event the County shall terminate this Agreement for default, the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, and reports after payment.

(c) Notwithstanding the foregoing, this Agreement shall not be terminated for default if the delay in completing the work arises from unforeseeable causes beyond the reasonable control of the Developer (any such failure or other cause or event being referred to herein as a "**Force Majeure Event**"). Examples of such causes include (a) acts of God or the public enemy, (b) material acts or failure to act, or delays in action, of the County, HUD, or other governmental entity in either its sovereign or contractual capacity, (c) material acts or failure to act of another contractor (other than a contractor or subcontractor to the Developer or the Owner Entity) in the performance of a contract with the County, (d) fires, (e) floods, (f) strikes or labor disputes, (g) freight embargoes, (h) unavailability of materials, (i) unusually severe weather, (j) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without fault or negligence of both the Developer and the subcontractors or suppliers, or (k) delay caused by litigation that is not between the County and the Developer.

10. **Notice of Default – Opportunity to Cure.** Notwithstanding anything in this Agreement to the contrary, if an Event of Default occurs in the determination of the County and the County wishes to declare an Event of Default or otherwise terminate this Agreement for cause to the extent, as provided under this Agreement, the County shall notify the Developer ("**Default Notice**"), specifying the basis for such default and the extent to which performance of work under this Agreement is terminated, and advising the Developer that such default must be cured immediately or this Agreement with the County may be terminated. If the termination is stated to be for default, the Default Notice thereof shall specify the nature of the claimed default and, if such default shall be reasonably subject to adequate cure, the Default Notice shall state (i) the actions required to be taken by the Developer to cure the default, and (ii) the reasonable time (up to sixty (60) days) within which Developer shall respond with a showing that all required actions have been taken, provided that the Developer shall have, subject to the County's approval, not to be unreasonably withheld conditioned or delayed, such additional time as is reasonably necessary to cure such default so long as the Developer has diligently commenced and is proceeding in a reasonable diligent matter toward curing such default. During any cure period so provided, the Developer shall proceed diligently with performance of any work required by this Agreement which is not the subject of the claimed default. Following expiration of the stated cure period, the Authority shall deliver a second notice stating either that the default has been adequately cured or that the Agreement is terminated. The County shall grant an additional period of such duration as the County shall reasonably deem appropriate without waiver of any of the County's rights hereunder, so long as the Developer has commenced curing such default

and is effectuating a cure with diligence and continuity during such sixty (60) day period or any other period which the County prescribes. The Default Notice shall specify the date the Developer shall discontinue the Services upon the Termination Date.

11. **Remedies in the Event of Default.** If an Event of Default occurs and remains uncured pursuant to Article 8 herein, the Developer shall be liable for all direct damages to the County resulting from such Event of Default. The Developer shall also remain liable for any liabilities and claims related to the Developer's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

12. **Lien Waivers.** Developer agrees that it will not permit any mechanic's, materialmen's or other liens to stand against the Premises for work or materials furnished to Developer it being provided, however, that Developer shall have the right to contest the validity thereof. Developer shall not have any right, authority or power to bind the County, the Premises or any other interest of the County in the Premises and will pay or cause to be paid all costs and charges for work done by it or caused to be done by it, in or to the Premises, for any claim for labor or material or for any other charge or expense, lien or security interest incurred in connection with the development, construction or operation of the Improvements or any change, alteration or addition thereto. IN THE EVENT THAT ANY MECHANIC'S LIEN SHALL BE FILED, DEVELOPER SHALL BOND OVER, PROCURE THE RELEASE OR DISCHARGE THEREOF WITHIN NINETY (90) DAYS EITHER BY PAYMENT OR IN SUCH OTHER MANNER AS MAY BE PRESCRIBED BY LAW. NOTICE IS HEREBY GIVEN THAT THE COUNTY SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO THE DEVELOPER OR TO ANYONE HOLDING ANY OF THE PREMISES THROUGH OR UNDER THE DEVELOPER, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE COUNTY IN AND TO ANY OF THE PREMISES. THE COUNTY SHALL BE PERMITTED TO POST ANY NOTICES ON THE PREMISES REGARDING SUCH NON-LIABILITY OF THE COUNTY.

Developer shall promptly pay all persons or entities furnishing labor and material with respect to any work performed by Developer or its contractor on or about the Premises, and shall obtain and deliver to Landlord "releases" or waivers of liens from all parties doing work on or about the Premises, along with an affidavit from Developer stating that all bills have been paid with regard to such work and that there are no outstanding obligations, except in the ordinary course of business, owed with respect to any such work performed on the Premises.

13. **Indemnification**

(a) Developer Indemnity. The Developer shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses, or damages, including attorney fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Developer or its employees, agents, servants, partners,

principals or subcontractors. The Developer shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Developer expressly understands and agrees that any insurance protection required by the Agreement or otherwise provided by the Developer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided. Notwithstanding anything to the contrary herein, such indemnification by Developer shall not cover claims or losses to the extent caused solely by the County's gross negligence or intentional wrongful acts or omissions.

(b) County Responsibility. The County shall indemnify and hold harmless the Developer and its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns from any and all liability, losses, or damages, including attorney fees and costs of defense, which the Developer or its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the County or officers, employees, agents and instrumentalities. The County shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the Developer, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The County's indemnification obligations in this Article 12(b) shall be subject to the provisions of Section 768.28, Fla. Stat., whereby the County shall not be liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of Two Hundred Thousand and No/100 Dollars ($200,000.00), or any claim or judgments or portion thereof, which when totaled with all other occurrence, exceeds the sum of Three Hundred Thousand and No/100 Dollars ($300,000.00), but only to the extent the limitations set forth in that Statute are applicable. Notwithstanding anything to the contrary herein, such indemnification by Miami-Dade County shall not cover claims or losses to the extent caused solely by the Developer's gross negligence or intentional wrongful acts or omissions.

14. **Insurance.** The Developer shall furnish to the Public Housing and Community Development Department, Facilities and Development Division at 701 NW 1 Court, 16th Floor, Miami, Florida 33136-3914, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

(a) Worker's Compensation Insurance for all employees of the Developer as required by Florida Statute 440.

(b) Commercial General Liability Insurance on a comprehensive basis in an amount

not less than One Million and No/100 Dollars ($1,000,000.00) combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

(c) Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the work, in an amount not less than Five Hundred Thousand and No/100 Dollars ($500,000.00) combined single limit per occurrence for bodily injury and property damage.

(d) Professional Liability Insurance shall be carried by architects and engineers in an amount not less than One Million and No/100 Dollars ($1,000,000.00) with a deductible per claim not to exceed ten percent (10%) of the limit-liability.

All insurance coverage required above shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Developer. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to do Business in Florida", issued by the State of Florida Department of Financial Services and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Developer hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Developer of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days after notification of recommendation to award. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Developer shall have an additional five (5) business days from notification to submit a corrected certificate to the County. If the Developer

fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Developer shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such time frame for submission has been extended by the County.

The Developer shall be responsible for ensuring that the insurance certificates required in conjunction with this Article remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Developer shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

15. **Agreement Security.** Upon request by the County, but in no event earlier than the Financial Closing, the Developer shall cause its General Contractor to deliver to the County an executed Performance and Payment Bond on the prescribed form or in Cash (with the County as an additional obligee). The Performance and Payment Bond shall be in the amount of 100% of the construction cost of the Project, as security for the faithful performance of this Agreement and for the payment of all persons performing labor or furnishing materials in connection therewith. If Cash is used in lieu of the bonds, all terms and conditions stipulated in the bonds shall be just as applicable. The Performance and Payment Bonds shall have as the surety thereon only such surety company or companies as are acceptable to the County and are authorized to write bonds of such character and amount in accordance with the following qualifications:

(a) All bonds shall be written through surety insurers authorized to do business in the State of Florida as surety, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

Bond Amount	Best Rating
i. 500,001 to 1,500,000	B V
ii. 1,500,001 to 2,500,000	A VI
iii. 2,500,001 to 5,000,000	A VII
iv. 5,000,001 to 10,000,000	A VIII
v. Over 10,000,000	A IX

(b) On contract amounts of 500,000 or less, the bond provisions of Section 287.0935, Florida Statutes shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:

i. Providing evidence that the Surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

ii. Certifying that the Surety is otherwise in compliance with the Florida Insurance Code, and;

iii. Providing a copy of the currently valid Certificate of Authority issued by the United States Department of the Treasury under ss. 31 U.S.C. §§ 9304-9308.

(c) Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The bond amount shall not exceed the underwriting limitations as shown in this circular.

(d) For contracts in excess of 500,000 the provision of Section (b) will be adhered to plus the company must have been listed for at least three consecutive years, or holding a valid Certificate of Authority of at least 1.5 million dollars and on the Treasury List.

(e) Surety Bonds guaranteed through U.S. Government Small Business Administration or Developers Training and Development Inc. will also be acceptable.

(f) The attorney-in-fact or other officer who signs performance and payment bonds for a surety company must file with such bond a certified copy of his power of attorney authorizing him to do so. The performance and payment bonds must be counter signed by the surety's resident Florida agent.

The Performance Bond or Cash used in lieu of the Performance Bond shall remain in force for one (1) year from the date of final acceptance of the work to protect the County against losses resulting from defects in materials or improper performance of work under the Agreement; provided however, that this limitation does not apply to suits seeking damages for latent defects in materials or workmanship, such actions being subject to the limitations found in Section 95.11(3)(c), Florida Statutes.

16. **Compliance with Public Housing Requirements.**

(a) Treatment of HUD Funds. Any transfer of public housing funds pursuant to this Agreement will not be an assignment of public housing funds or be deemed an assignment of public housing funds. Developer will not succeed to any rights or benefits County may have under the applicable grant agreements or contracts with HUD or attain any privilege, authority, interest, or right under applicable grant agreements or contracts between the County and HUD. Nothing contained in this Agreement will be construed to create any relationship of third party beneficiary

or otherwise with HUD.

(b) Development Obligations. Developer shall provide development services in accordance with this Agreement. Developer shall perform the duties and undertake the responsibilities herein set forth in a competent and professional manner using good faith reasonable efforts. The Developer is an independent contractor and not an agent of the County. Therefore, except as may be expressly set forth herein, Developer shall have no authority to bind County. Except as expressly set forth herein, Developer will provide all services, equipment, and materials for Developer and will furnish, directly or through contractors, subcontractors, professional expertise, management, labor, materials, supplies, fixtures, equipment, tools and machinery, testing, supervision, facilities, and other services required for the completion of the Development.

(c) Reporting Requirements. Pursuant to Sections 2-8.1, 2-8.8 and 10.34 of the Code of Miami-Dade County (as amended by Ordinance No. 11-90), the Developer must report to the County the race, gender and ethnic origin of the owners and employees of its first tier subcontractors using the Subcontractor/Supplier Listing form, attached hereto as Exhibit E. In the event that the Developer demonstrates to the County that the race, gender and ethnic information is not reasonably available at that time, the Developer shall be obligated by this Agreement to exercise commercially reasonable efforts to obtain that information and to provide the same to the County not later than ten (10) business days after it becomes available and, in any event, prior to final payment this Agreement.

(d) Compliance with Laws and other Requirements. Developer shall fully comply with all applicable laws and regulations applicable to Developer with respect to workers' compensation, social security, unemployment insurance, hours of labor, wages, working conditions, licensing and other employer-employee related matters, including, without limitation, all laws, rules and regulations with respect to non-discrimination based on race, sex or otherwise, and MBE/WBE, and Section 3 of the Housing and Urban Redevelopment Act of 1968, as more fully described in Exhibit F, Applicable HUD General Conditions for Construction Contracts, which is incorporated herein by reference. Developer will further comply with all applicable public housing requirements.

17. **Warranties.**

(a) Developer's Warranties. Developer represents and warrants to the County that (a) Developer is and will continue to be duly organized, and is in good standing under the laws of and qualified to do business in the State of Florida, (b) Developer has and will have all necessary power, authority, licenses and staff resources for the undertaking of its obligations under this Agreement, (c) this Agreement has been duly entered into and is the legally binding obligation of Developer, (d) this Agreement will not violate any judgment, law, or agreement to which Developer is a party or is subject, and (e) there is no claim pending, or to

the best knowledge of Developer, threatened, that would impede Developer's ability to perform its obligation hereunto. Developer shall not hereafter enter into any agreement which would, or modify any existing agreement in a manner that would, impair its ability to perform its obligations hereunder, and will notify the County if any suit is threatened or law proposed which would impair its ability to perform its obligations hereunder.

(b) County's Warranties. The County represents and warrants to Developer that (a) the County has and will have all necessary power and authority under Florida law for the undertaking of its obligations under this Agreement, (b) this Agreement has been duly entered into and is the legally binding obligation of the County, (c) this Agreement will not violate any judgment, law, consent decree, or agreement to which the County is a party or is subject to and will not violate any law or ordinance under which the County is organized, (d) the County is, or has an affiliate who is, qualified to participate as co-managing member of a tax credit limited liability company to the extent requested by the Developer, (e) there is no claim pending, or to the best knowledge of the County, threatened, that is likely to materially impede the County's ability to perform its obligation hereunto. The County shall not hereafter enter into any agreement or consent decree which would, or modify any existing agreement or consent decree in a manner that would impair its ability to perform its obligations hereunder, and will notify Developer if any suit is threatened or law proposed which would materially impair its ability to perform its obligations hereunder.

18. **Term.** This Agreement shall begin upon execution hereof, and shall expire (except for obligations identified as continuing beyond the term of the Agreement) upon the completion of all the activities described herein, unless sooner terminated in accordance with the terms provided herein. This Agreement shall terminate upon Financial Closing and the closing documents for the Development will govern the relationship between the parties to the extent described in such documents, unless this Agreement expressly provides that such subject matter with survive the termination of this Agreement. The parties acknowledge that certain subject matter of this Agreement relates to activities that are intended to survive the term hereof, and so the parties acknowledge and agree to effectuate such matters in the closing documents with respect to each phase.

19. **County's Sovereignty.** It is expressly understood that, subject to the other provisions of this Agreement:

(a) The County retains all of its sovereign prerogatives and rights as a county under Florida laws and shall in no way be estopped from reasonably withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the planning, design, construction and development of the Development or the operation thereof, or be liable for the same; and

(b) The County shall not by virtue of this Agreement be obligated to grant the

Developer any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Development.

20. **Option and Right of First Refusal.** The County shall have the option and right of first refusal to purchase the Development at the end of the tax credit compliance period for the greater of: (i) the fair market value of the property; and (ii) the lowest price that is permitted under Section 42(i)(7) of the Internal Revenue Code of 1986, as amended plus any operating deficit loans of any member and any taxes that are projected to be owed by any member as a result of such sale.

21. **No Liability for Exercise of Police Power.** Subject to any contrary provision in this Agreement, or any County covenant or obligation that may be contained in this Agreement, the County shall have no obligation, including but not limited to the following:

(a) To assist the Developer in applying for any county, city or third party permit or needed approval; or

(b) To contest, defend against, or assist the Developer in contesting or defending against any challenge of any nature; and, except as otherwise set forth in this Agreement, this Agreement shall not bind the County Board, the Permitting, Environment and Regulatory Affairs Department, other applicable County departments, or their successor departments, or any other county, city, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the County or any other applicable governmental agencies in the exercise of its police power; and, except as otherwise set forth in this Agreement, the County shall be released and held harmless, by the Developer from and against any liability, responsibility, claims, consequential or other damages, or losses to the Developer or to any third parties resulting from denial, withholding or revocation (in whole or in part) of any zoning or other changes, variances, permits, waivers, amendments, or approvals of any kind or nature whatsoever. Without limiting the foregoing, the parties recognize that the approval of any building permit and/or certificate of occupancy will require the County to exercise its quasi-judicial or police powers. Without limiting any other provision of this Agreement, the County shall have no obligation to approve, in whole or in part, any application for any type of permit, license, zoning or any other type of matter requiring government approval or waiver. The County's obligation to use reasonable good faith efforts in the permitting of the use of County owned property regarding the Premises shall not extend to any exercise of quasi-judicial or police powers, and shall be limited solely to ministerial actions, including the timely acceptance and processing of any requests or inquiries by the Developer as authorized by this Agreement. Moreover, in no event shall a failure of the County to adopt any of the Developer or Owner Entity's request or application for any type of permit,

license, zoning or any other type of matter requiring government approval or waiver be construed a breach or default of this Agreement, unless such failure was unreasonable or untimely or in direct contravention to another provision of this Agreement.

22. Vendor Registration and Forms/Conflict of Interest.

(a) Vendor Registration. The Developer shall be a registered vendor with the County's Internal Services Department, Procurement Management Division, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Developer confirms its knowledge of and commitment to comply with the following:

i. *Miami-Dade County Ownership Disclosure Affidavit* (Section 2-8.1 of the County Code)

ii. *Miami-Dade County Employment Disclosure Affidavit (Section 2.8-1(d)(2) of the County Code)*

iii. *Miami-Dade Employment Drug-free Workplace Certification (Section 2-8.1.2(b) of the County Code)*

iv. *Miami-Dade Disability and Nondiscrimination Affidavit (Section 2-8.1.5* of the County Code*)*

v. *Miami-Dade County Debarment Disclosure Affidavit (Section 10.38 of the County Code)*

vi. *Miami-Dade County Vendor Obligation to County Affidavit (Section 2-8.1 of the County Code)*

vii. *Miami-Dade County Code of Business Ethics Affidavit (Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)*

viii. *Miami-Dade County Family Leave Affidavit(Article V of Chapter 11 of the County Code)*

ix. *Miami-Dade County Living Wage Affidavit (Section 2-8.9 of the County Code)*

x. *Miami-Dade County Domestic Leave and Reporting Affidavit(Article 8, Section 11A-60 11A-67 of the County Code)*

xi. *Subcontracting Practices(Ordinance 97-35)*

xii. *Subcontractor /Supplier Listing (Section 2-8.8 of the County Code)*

xiii. *Environmentally Acceptable Packaging(Resolution R-738-92)*

xiv. *W-9 and 8109 Forms* (as required by the Internal Revenue Service)

xv. *FEIN Number or Social Security Number.* In order to establish a file, the Developer's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Developer's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

(1) Identification of individual account records

(2) To make payments to individual/Developer for goods and services provided to Miami-Dade County

(3) Tax reporting purposes

(4) To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

xvi. *Office of the Inspector General* (Section 2-1076 of the County Code)

xvii. *Small Business Enterprises.* The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

xviii. *Antitrust Laws.* By acceptance of any contract, the Developer agrees to comply with all antitrust laws of the United States and the State of Florida.

(1) Conflict of Interest. Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended,

shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593. Further the Developer shall comply with Section 1352 of Title 31 of the United States Code, which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, loan, or cooperative agreement. The Developer further agrees to comply with the requirement of such legislation to furnish a disclosure (OMB Standard Form LLQ) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, in connection with a Federal contract, grant, loan, or cooperative agreement, which payment would be prohibited if made from Federal appropriated funds. The Developer represents that:

- No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.

- There are no undisclosed persons or entities interested with the Developer in this Agreement. This Agreement is entered into by the Developer without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

o is interested on behalf of or through the Developer directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the

revenues; or

- is an employee, agent, advisor, or consultant to the Developer or to the best of the Developer's knowledge any subcontractor or supplier to the Developer.

  - Neither the Developer nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Developer shall have an interest which is in conflict with the Developer's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Developer provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

  - The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

(2) In the event Developer has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Developer shall promptly bring such information to the attention of the County's Project Manager. Developer shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Developer receives from the Project Manager in regard to remedying the situation.

23. **Interest of Members of Congress.** No Member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

24. **Interest of Member, Officer, or Employee and Former Member, Officer, or staff** and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

25. **Upon Written Notice to the Developer from the Inspector General or IPSIG Retained by the Inspector Employee of the County.** No member, officer, or employee of the County, no member of the governing body of the County, no member of the governing body by which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Development shall, during his or

her tenure, or for two year thereafter or such longer time as the County's Code of Ethics may reasonably require, have any interest, direct or indirect, in this Agreement or the proceeds thereof, unless the conflict of interest is waived by the County and by HUD.

26. **Inspector General Reviews.** Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "**IPSIG**"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Developer shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Developer's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Developer, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Developer in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Developer or any third party.

(a) ***Miami-Dade County Inspector General Review.*** According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Developer. The audit cost shall also be included in all change orders and all contract renewals and extensions.

i. Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (I) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized

and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Agreement. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Developer, its officers, agents and employees, lobbyists, County General, the Developer shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Developer's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

27. **Notices.** All notices, requests, approvals, demands and other communications given hereunder or in connection with this Agreement shall be in writing and shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows (provided, that any time period for responding to any such communication shall not begin to run until such communication is actually received or delivery is refused):

If to County:	Miami-Dade County c/o Miami-Dade Public Housing and Community Development 701 N.W. 1st Court, 16th Floor Miami, FL 33136 Attn: Executive Director
With a Copy to:	Miami-Dade County Attorney's Office 111 N.W. 1st Street, Suite 2810 Miami, FL 33128 Attn: Terrence A. Smith, Esq.
If to Developer:	Jack Orr Plaza Phase One Developer, LLC c/o Related Urban 315 S. Biscayne Blvd., 4th Floor

Miami, FL 33131
Attn: Albert Milo, Jr., Principal/Senior Vice President

With a Copy to: Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
150 W. Flagler Street, Suite 2200
Miami, FL 33130
Attn: Brian McDonough, Esq.

28. **Further Assurances.** Each party shall execute such other and further documents as may be reasonably necessary or proper for the consummation of the transaction contemplated by this Agreement as mutually agreed by the Parties hereto.

29. **Assignment.** This Agreement shall not be assignable by either party, except by the Developer to the Owner Entities as contemplated herein or upon written consent of the other party.

30. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed original, but all of which, together, shall constitute one instrument.

31. **Interpretation and Governing Law.** This Agreement shall not be construed against the party who prepared it but shall be construed as though prepared by both Parties. This Agreement shall be construed, interpreted, and governed by the laws of the State of Florida.

32. **Severability.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable such portion shall be deemed severed from this Agreement and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Agreement.

33. **Parties Bound.** No officer, director, shareholder, employee, agent, or other person authorized to act for and on behalf of any party hereto shall be personally liable for any obligation, express or implied.

34. **Final Agreement.** Unless otherwise provided herein, this Agreement constitutes the final understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the Parties, and except for those agreements contemplated herein. This Agreement may be amended, supplemented or changed only by a writing signed or authorized by or on behalf of the party to be bound thereby. Notwithstanding the foregoing, the parties acknowledge that Ground Lease made as of December 5, 2011, by and between the County and Jack Orr Plaza Preservation Phase One, LLC, which expressly survives the terms hereof.

35. **Modification of Agreement.** This Agreement may be amended by mutual agreement of the County and Owner, not to be unreasonably withheld, subject to prior written approval by HUD (if required) and provided that all amendments must be in writing and signed by both parties and that no amendment shall impair the obligations of the County or Owner to develop and operate the Public Housing Units in accordance with all Applicable Public Housing

Requirements and the Ground Lease. This Agreement may not be altered, modified, rescinded, or extended orally.

36. **Waivers.** The failure of any party to insist in any one or more cases upon the strict performance of any of the obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by any party of any provision of this Agreement shall be deemed to have been made unless set forth in writing and signed by the party to be charged.

37. **Successors.** The terms, covenants, agreements, provisions, and conditions contained herein shall bind and inure to the benefit of the Parties hereto, their successors and assigns.

38. **Certain Approvals and Reasonableness Standard.** Unless otherwise stated, all approvals or consents required of either party hereunder shall not be unreasonably withheld, conditioned or delayed and each party shall endeavor to act reasonably with respect to activities under this Agreement.

39. **Headings.** The headings in this Agreement are inserted for convenience only and shall not be used to define, limit or describe the scope of this Agreement or any of the obligations herein.

40. **Construction.** Whenever in this Agreement a pronoun is used, it shall be construed to represent either the singular or the plural, either the masculine or the feminine, as the case shall demand.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed this _____ day of _____, 2012.

JACK ORR PLAZA PHASE ONE DEVELOPER, LLC

By:_____

MIAMI-DADE COUNTY

By:_____

Attest: _____
Deputy Clerk

Approved as to form and legal sufficiency

By:_____
Name: Terrence A. Smith
Title: Assistant County Attorney

Exhibit A

Scope of Work

(see attached)

Jack Orr Scope of Work

12 Stories 200 Units Rehab

Exterior

Repair or Replace Exterior Wall System at Balcony Walls
Re-Roof with energy efficient roof
New Hurricane Impact Windows and Doors
New Energy Efficient Air Conditioning Units
Repair Condensate drains for the A/C Units
New Exterior Paint
Repair Concrete Walkways
New Building Railings in all Balconies
New Benches
Repair Covered Seating Area
New Landscaping
Patch, Seal, and Restripe Parking area
Site Lighting Upgrades

Interior

New Kitchen Cabinets
New Kitchen Appliances
New Interior Doors
New Energy Efficient Light Fixtures
New Bathroom Cabinet
New Bathroom Fixtures
New Roll in Showers
New Bathroom Tile
New Flooring in Unit
New Wood Baseboards
New Interior Paint
New Exhaust Fans in Kitchen and Bathroom
New Door Hardware
Cable, Phone, and Internet in Each Unit
New Emergency Call System
New Corridor Flooring
New Corridor Ceilings
New Corridor Energy Efficient Lighting
Window Coverings in Each Unit
Energy Efficient Ceiling Fans

Common Areas

New Community Center Flooring
New Community Center Ceilings
New Community Energy Efficient Lighting
New Fitness Center
New Library / Computer Room
New Laundry Flooring
New Laundry Ceilings

Jack Orr Scope of Work

12 Stories 200 Units Rehab

New Laundry Energy Efficient Lighting
New Laundry Energy Efficient Washers and Dryers
New Acoustical Ceiling Tiles Throughout
New Doors
New Door Hardware
New Lobby Flooring
New Lobby Doors
Elevator Upgrades

Building Systems
Upgrade Fire Alarm
New Domestic Water Pumps
New Fire Sprinkler System
Upgraded Security Camera System
Upgraded Access Control System
Upgrade Plumbing Stacks

Exhibit B

Redevelopment Budget

(see attached)

Jack Orr Plaza

			DEVELOPMENT BUDGET
Acquisition Costs			
Land:			500,000
	Subtotal:		**500,000**
Construction Costs		PDU	
Residential:		59,500	11,900,000
Amenities			200,000
FF&E			100,000
General Requirements:		6%	726,000
Overhead:		2%	242,000
Profit:		6%	726,000
Hard Cost Contingency:			1,200,000
	Subtotal:	75,470	**15,094,000**
Project Soft Costs			
Accountant Cost Cert:			50,000
Appraisal:			15,000
Market Study:			10,000
Enviromental Studies/Soil Tests:			83,000
Pre-Constr. Analysis/Existing Prop. Eval			10,000
Architect - Design:			400,000
Survey:			25,000
Title Insurance			150,000
Marketing & Advertising			20,000
P&P Bonds:			182,325
Building Permits:			210,000
Engineering Fee			150,000
Inspection Fees:			26,400
Tenant Relocation:			1,500,000
Management Transition			178,507
Builders Risk Insurance			110,000
Liability Insurance			20,000
	Subtotal:	15,701	**3,140,232**
Developer Legal Costs			
Acquisition Counsel:			30,000
Closing Counsel:			55,000
HUD Counsel:			30,000
Local Counsel:			15,000
Tax Counsel:			0
Legal Contingency:			50,000
Other:			0
	Subtotal:	900	**180,000**
Financing Issuance Costs			
Closing Costs - Construction			190,000
Lender Origination Fees:			150,000
Underwriter Fees:			16,000
	Subtotal:	1,780	**356,000**

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Jack Orr Plaza

			DEVELOPMENT BUDGET
Financing Legal Costs			
Lender Counsel:			20,000
	Subtotal:	100	**20,000**
Equity Syndication Costs			
Up-Front LIHTC Admin Fees (FHFC):			165,000
LIHTC Application Fees:			3,000
FHFC Compliance Fee			54,407
Syndicator Costs			50,000
	Subtotal:	1,362	**272,407**
Reserves and Escrows			
Replacement Reserve:			100,000
Insurance Escrow:			140,000
Capitalized Asset Management Fee:			75,000
Construction Interest			550,000
Operating Expense Reserve		6 mos.	463,333
Operating Subsidy Reserve		12 mos.	554,240
	Subtotal:	9,413	**1,882,573**
Soft Cost Contingency			**150,000**
Developer Fee			**3,162,022**
Total Development Budget:			**24,757,234**

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Exhibit C

Redevelopment Schedule

(see attached)

Jack Orr

Project Schedule

Milestone	Start	Complete
PLANS & SPECS	10/1/2012	12/15/2012
PERMITTING	12/15/2012	2/13/2013
BIDDING	1/15/2013	2/15/2013
FINAL CLOSING	2/28/2013	2/28/2013
CONSTRUCTION COMMENCEMENT	3/1/2013	-
TENANT RELOCATION	2/29/2013	5/23/2014
CONSTRUCTION COMPLETION	-	5/20/2014
LEASE UP STABILIZATION	5/1/2014	5/30/2014
PROJECT FORM 8609 COMPLETION	5/30/2014	6/15/2014
TOTAL	10/1/2012	6/15/2014

Exhibit D

Unit Mix

(see attached)

Exhibit D

Jack Orr Plaza Unit Mix		
# of Bedrooms	# of Units	Sq. Ft. of Living Area
1	200	583
Total	200	

Exhibit E

Subcontractor/Supplier Listing Form

(see attached)

SUBCONTRACTOR/SUPPLIER LISTING
(Miami-Dade County Code Sections 2-8.1, 2-8.8 and 10-34)

Firm Name of Prime Contractor/Respondent _____ FEIN # _____

Project/Contract Number _____

In accordance with Sections 2-8.1, 2-8.8 and 10.34 of the Miami-Dade County Code, this form must be submitted as a condition of award by all bidders/respondents on County contracts for purchase of supplies, materials or services, including professional services which involve expenditures of $100,000 or more, and all bidders/respondents on County or Public Health Trust construction contracts which involve expenditures of $100,000 or more. The bidder/respondent who is awarded this bid/contract shall not change or substitute first tier subcontractors or direct suppliers or the portions of the contract work to be performed or materials to be supplied from those identified, except upon written approval of the County. The bidder/respondent should enter the word "NONE" under the appropriate heading of this form if no subcontractors or suppliers will be used on the contract and sign the form below.

In accordance with Ordinance No. 11-90, an entity contracting with the County shall report the race, gender and ethnic origin of the owners and employees of all first tier subcontractors/suppliers. In the event that the successful bidder demonstrates to the County prior to award that the race, gender, and ethnic information is not reasonably available at that time, the successful bidder shall be obligated to exercise diligent efforts to obtain that information and provide the same to the County not later than ten (10) days after it becomes available and, in any event, prior to final payment under the contract.

(Please duplicate this form if additional space is needed.)

Business Name and Address of First Tier Subcontractor/ Subconsultant	Principal Owner	Scope of Work to be Performed by Subcontractor/ Subconsultant	Principal Owner (Enter the number of male and female owners by race/ethnicity)								Employee(s) (Enter the number of male and female employees and the number of employees by race/ethnicity)							
			Gender		Race/Ethnicity						Gender		Race/Ethnicity					
			M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other	M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other

Business Name and Address of First Tier Direct Supplier	Principal Owner	Supplies/Materials/ Services to be Provided by Supplier	Principal Owner (Enter the number of male and female owners by race/ethnicity)								Employee(s) (Enter the number of male and female employees and the number of employees by race/ethnicity)							
			Gender		Race/Ethnicity						Gender		Race/Ethnicity					
			M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other	M	F	White	Black	Hispanic	Asian/Pacific Islander	Native American/Native Alaskan	Other

☐ Mark here if race, gender and ethnicity information is not available and will be provided at a later date. This data may be submitted to Contracting/User department or on-line to the Small Business Development Division of the Regulatory and Economic Resources Department at http://new.miamidade.gov/business/business-development.asp.

I certify that the representations contained in this Subcontractor/Supplier listing are to the best of my knowledge true and accurate.

Signature of Bidder/Respondent _____ Print Name _____ Print Title _____ Date _____

Exhibit F

Applicable HUD General Conditions for Construction Contracts

Conduct of Work

1. Disputes

(a) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(b) Except for disputes arising under the clauses entitled *Labor Standards and Labor Standards- Nonroutine Maintenance,* herein, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.

(c) All claims by the Developer shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the County against the Developer shall be subject to a written decision by the Contracting Officer.

(d) _____shall be the "Contracting Officer." The Contracting Officer shall, within 60 (unless otherwise indicated) days after receipt of the request, decide the claim or notify the Developer of the date by which the decision will be made.

(e) The Contracting Officer's decision shall be final unless the Developer (l) appeals in writing to a higher level in the County in accordance with the County' s policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the Contracting Officer's decision.

(f) The Developer shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

2. Lead-Based Paint

The Developer shall comply with the requirements concerning lead-based painted contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

3. Health, Safety, and Accident Prevention

(a) In performing this contract, the Developer shall:

i. Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;

ii. Protect the lives, health, and safety of other persons;

iii. Prevent damage to property, materials, supplies, and equipment; and

iv. Avoid work interruptions.

(b) For these purposes, the Developer shall:

i. Comply with regulations and standards issued by the Secretary of Labor at 29 CFR Part 1926. Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96), 40 U.S.C. 3701 et seq.; and

ii. Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.

(c) The Developer shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR Part 1904.

(d) The Contracting Officer shall notify the Developer of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Developer or the Developer's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Developer shall immediately take corrective action (unless Developer disputes the notification in accordance with Section 1). If the Developer fails or refuses to take corrective action promptly, the

Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Developer shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.

(e) The Developer shall be responsible for its subcontractors' compliance with the provisions of this clause. The Developer shall take such action with respect to any subcontract as Miami-Dade County (the "County"), the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

4. Royalties and Patents

The Developer shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the County harmless from loss on account thereof; except that the County shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and the Developer has no reason to believe that the specified design, process, or product is an infringement. If, however, the Developer has reason to believe that any design, process or product specified is an infringement of a patent, the Developer shall promptly notify the Contracting Officer. Failure to give such notice shall make the Developer responsible for resultant loss.

5. Clean Air and Water

The contactor shall comply with the Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Water Act, as amended, 33 U.S.C. 1251 et seq., and standards issued pursuant thereto in the facilities in which this contract is to be performed.

6. Energy Efficiency

The Developer shall comply with mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under the contract is performed.

7. Subcontracts

(a) Definitions. As used in this contract:

i. "Subcontract" means any contract, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and services for the performance of the prime contract or a subcontract.

ii. "Subcontractor" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for the Developer or

another subcontractor.

(b) The Developer shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the state in which the work under this contract is to be performed.

(c) The Developer shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Developer.

(d) The Developer shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.

(e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the County or between the subcontractor and HUD.

8. Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms.

The Developer shall take the following steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority firms, women's business enterprises, and labor surplus area firms:

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;

(d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business enterprises; and

(e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

9. Equal Employment Opportunity.

During the performance of this contract, the Developer agrees as follows:

(a) The Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation.

(b) The Developer shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation. Such action shall include, but not be limited to, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.

(c) The Developer shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(d) The Developer shall, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, or sexual orientation.

(e) The Developer shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Developer's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The Developer shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(g) The Developer shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Developer shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(h) In the event of a determination that the Developer is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Developer may be declared ineligible for further Government contracts, or Federally assisted construction contracts under the procedures authorized in Executive Order 11246,

as amended. In addition, sanctions may be imposed and remedies invoked against the Developer as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(i) The Developer shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Developer shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Developer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Developer may request the United States to enter into the litigation to protect the interests of the United States.

(j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.

10. Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

(a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s)

taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b)agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

11. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

12. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the County, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

13. Limitations on Payments made to Influence Certain Federal Financial Transactions.

(a) The Developer agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(b) The Developer further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

14. Examination and Retention of Developer's Records

(a) The County, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Developer's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

(b) The Developer agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding $10,000.

(c) The periods of access and examination in paragraphs (a) and (b) above for records relating to (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the County, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

(d) Lunches, dinners, etc. are not acceptable reimbursable expenses.

(e) Acceptable reimbursable expenses are defined as:

(f) Payments to Developer shall be based on services rendered/work completed, not costs incurred for deposits/retainers.

15. Labor Standards - Davis-Bacon and Related Acts.

If the total amount of this contract exceeds $2,000, the Federal labor standards set forth in the clause below shall apply to the development or construction work to be performed under the contract.

(a) Minimum Wages.

i. All laborers and mechanics employed under this contract in the development or construction of the project(s) involved will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Developer and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the regular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Developer and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met: (A) The work to be performed by the classification requested is not performed by a

classification in the wage determination; and (B) The classification is utilized in the area by the construction industry; and (C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

iii. If the Developer and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

iv. In the event the Developer, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

v. The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in classification.

vi. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Developer shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

vii. If the Developer does not make payments to a trustee or other third person, the Developer may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Developer, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Developer to set aside in a separate

account assets for the meeting of obligations under the plan or program.

(b) Withholding of funds. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Developer under this contract or any other Federal contract with the same prime Developer, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Developer, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Developer or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working in the construction or development of the project, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Developer, disburse such amounts withheld for and on account of the Developer or subcontractor to the respective employees to whom they are due.

(c) Payrolls and basic records.

i. Payrolls and basic records relating thereto shall be maintained by the Developer during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Developer shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Developers employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

ii. The Developer shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Developer is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)

iii. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Developer or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under paragraph (c) (1) of this clause and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

iv. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.

v. The falsification of any of the above certifications may subject the Developer or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

vi. The Developer or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives

to interview employees during working hours on the job. If the Developer or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) Apprentices.

i. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Developer as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Developer's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency

recognized by OATELS, withdraws approval of an apprenticeship program, the Developer will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

ii. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Developer will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

iii. Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(e) Compliance with Copeland Act requirements. The Developer shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

(f) Contract termination; debarment. A breach of this contract clause may be grounds for termination of the contract and for debarment as a Developer and a

subcontractor as provided in 29 CFR 5.12.

(g) Compliance with Davis-Bacon and related Act requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(h) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Developer (or any of its subcontractors) and the County, HUD, the U.S. Department of Labor, or the employees or their representatives.

(i) Certification of eligibility.

i. By entering into this contract, the Developer certifies that neither it (nor he or she) nor any person or firm who has an interest in the Developer's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

iii. The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

(j) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

i. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

ii. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in subparagraph (j)(1) of this clause, the Developer and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Developer and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to

such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic (including watchmen and guards) employed in violation of the provisions set forth in subparagraph (j)(1) of this clause, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in subparagraph (j)(1) of this clause.

iii. Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Developer or subcontractor under any such contract or any Federal contract with the same prime Developer, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Developer, such sums as may be determined to be necessary to satisfy any liabilities of such Developer or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in subparagraph (j)(2) of this clause.

(k) Subcontracts. The Developer or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Developer shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

16. Non-Federal Prevailing Wage Rates

(a) Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State or tribal law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Developer or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:

i. The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;

(b) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or

(c) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

17. Procurement of Recovered Materials.

(a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Developer shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Developer shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Developer determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

(b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Developer purchases in excess of $10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Developer: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.

Exhibit G

Vacancy Preparation Work

(Required to prepare existing vacant Public Housing units for temporary relocations of residents affected by the work covered by this MDA)

Should the County provide vacant units to the developer for its use for temporary relocation, the developer shall provide vacancy preparation;

1. Prior to being occupied by first relocated residents.
2. Perform maintenance and/or repairs to units during temporary occupancy period.
3. Perform a final vacancy preparation of unit after final resident(s) have been relocated back and prior to turn-over back to PHCD for its use.

Developer agrees to perform vacancy preparation work in accordance with PHCD requirements, that will be provided when this vacant unit option is used for temporary relocation.

Exhibit H

Key Development Team Members

(see attached)

Jack Orr Plaza Preservation Phase One

Key Development Team Members

Name:	Role:
Jorge M. Perez	President & Principal
Alberto Milo Jr.	Senior Vice President & Principal
Matthew J. Allen	Vice President
Jeffery Hoyos	Vice President & Secretary
Tony Del Pozzo	Vice President & Director of Finance
Luis Castellon	Project Manager
Brian Latta	Project Manager
Larry Lennon	President - TRG Management Company of Florida
Marilyn Pascual	Regional Manager - TRG Management Company of Florida

AMENDMENT NO. 3 TO THE GROUND LEASE BETWEEN
MIAMI-DADE COUNTY AND
JOE MORETTI PRESERVATION PHASE ONE, LLC

This Lease Amendment (this "Third Amendment") entered into as of November __, 2012 by and between Miami-Dade County, a political subdivision of the State of Florida and "public housing agency" as defined in the United States Housing Act of 1937 (42 USC 1437 et seq., as amended) ("Landlord"), and Joe Moretti Preservation Phase One, LLC, a Florida limited liability company ("Tenant").

WITNESSETH:

A. By that certain Ground Lease dated as of December 5, 2011 (the "Original Lease"), Landlord demised and leased to RUDG, LLC ("RUDG") certain real property, as more specifically described in Exhibit A attached hereto.

B. By that certain Assignment and Acceptance Agreement dated as of December 5, 2011, RUDG assigned to Tenant all of its right, title and interest in and to the Original Lease, and Tenant assumed all of the obligations, rights and responsibilities of RUDG under the Original Lease.

C. Landlord and Tenant modified the Original Lease pursuant to Amendment No. 1 to Ground Lease dated as of February 23, 2012 (the "First Amendment") and Amendment No. 2 to Ground Lease also dated as of February 23, 2012 (the "Second Amendment"). The Original Lease, as assigned to Tenant and as modified by the First Amendment and the Second Amendment, is hereinafter referred to as the "Existing Lease".

D. Tenant desires to construct the Improvements on the Land and thereafter to operate and maintain the Premises as a public housing development pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, comprised of a 116-unit apartment project to be known as Joe Moretti Preservation Phase One (the "Project").

E. In connection with the financing of the development of the Project, BANK OF AMERICA, N.A., a national banking association (the "Investor Member") has agreed or will agree pursuant to the Amended and Restated Operating Agreement of Tenant, dated as of November __, 2012 (the "Operating Agreement"), to acquire a membership interest in Tenant and become Tenant's Investor Member and to make certain capital contributions to Tenant in accordance with the terms and conditions set forth in the Operating Agreement.

D. Landlord and Tenant desire to supplement and modify certain terms and provisions of the Existing Lease as hereinafter set forth. The Existing Lease, as modified by this Third Amendment, is hereinafter referred to as the "Lease".

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Existing Lease is hereby amended, and Landlord and Tenant further covenant and agree, as follows:

1. Recitals. The forgoing recitals are true and correct and by this reference are incorporated into this Third Amendment as if fully set forth herein. Terms which are capitalized but not defined herein shall have the meanings given to such terms in the Existing Lease.

2. ACC Amendment--Definition. Section 1.1(b) of the Existing Lease is modified to change the words therein "dated on or about the date hereof" to be "dated on or about the Commencement Date" (as the same is defined in the First Amendment).

3. Declaration of Restrictive Covenants--Definition. Section 1.1(h) of the Existing Lease is hereby clarified to provide that the document defined therein shall be recorded on or about the Commencement Date (as the same is defined in the First Amendment).

4. Term--Definition. Section 1.1(gg) of the Existing Lease is hereby modified to provide that the Term of the Lease means seventy five (75) years from the Lease Date.

5. Taxes. The following is hereby added to the Existing Lease as new Section 3.5:

> 3.5 Taxes. Tenant understands and agrees that as a result of the Landlord's fee ownership of the Premises, for State law purposes, the Premises currently is exempt from any ad valorem taxes. Landlord represents to Tenant that such exemption should remain in effect notwithstanding that Landlord is entering into this Lease. However, during the Term of this Lease, should, for any reason whatsoever, the Premises become subject to ad valorem taxes or any other real estate taxes, fees, impositions and/or charges imposed during the Term and any Extensions upon the Premises and the building and/or other improvements constructed on the Premises by Tenant ("Real Estate Taxes"), Tenant shall be required to pay all Real Estate Taxes, prior to delinquency without notice or demand and without set-off, abatement, suspension or deduction. In the event that the folio identification number applicable to the Premises shall also contain other property not specifically included in, or a part of, the Premises, then Tenant shall only be required to pay the portion of such taxes exclusively attributable to the Premises. In addition, Tenant shall be required to pay for any water, electric, sewer, telephone or other utility charges incurred by Tenant during the Term or any Extensions which are limited solely to the Premises and/or any structures and/or improvements thereon.

6. Use; Covenants. Section 5.1(a)(i) is hereby deleted from the Existing Lease.

7. Residential Improvements. Section 5.2(a) of the Existing Lease is hereby modified by deleting the word "affect" in the parenthetical contained in the third sentence and replacing it with the word "reduce".

8. Ownership of Improvements. The first sentence of Section 5.5 of the Existing Lease is hereby deleted and replaced with the following:

> At all times during the Term, Tenant shall be deemed to exclusively own the Improvements and the Personal Property for federal tax purposes, and Tenant alone shall be entitled to all of the tax attributes of ownership thereof, including,

without limitation, the right to claim depreciation or cost recovery deductions and the right to claim the low-income housing tax credit described in Section 42 of the Code, with respect to the Improvements and the Personal Property, and Tenant shall have the right to amortize capital costs and to claim any other federal tax benefits attributable to the Improvements and the Personal Property.

9. Transfer. Section 5.7 of the Existing Lease is hereby modified by inserting the words "Except as otherwise permitted hereunder" at the beginning thereof.

10. Casualty. Section 6.1 of the Existing Lease is hereby modified by (A) inserting the words "subject to the terms and provisions of any Permitted Leasehold Mortgagee" in the three following places:

- After the words "and/or debris therefrom."
- After the words (as determined by tenant in its sole and absolute discretion)"
- After the words "One Hundred Twenty (120) days,"

and (B) inserting the words "so long as any applicable Leasehold Mortgagee with the right to control the disbursement of such proceeds has released such proceeds to Tenant for such restoration or repair" after the end of the second and fourth sentences thereof.

Further, Section 6.1 of the Existing Lease is modified by the insertion of the following therein:

Notwithstanding anything contained in this Section 6.1, or otherwise in this Lease to the contrary, as long as the Tenant's leasehold interest is encumbered by any Permitted Leasehold Mortgage, this Lease shall not be terminated by Landlord or Tenant in the event that the Premises is partially or totally destroyed, and, in the event of such partial or total destruction, all insurance proceeds from casualty insurance as provided herein shall be paid to and held by the Permitted Leasehold Mortgagee, or an insurance trustee selected by the Permitted Leasehold Mortgagee to be used for the purpose of restoration or repair of the Premises. Permitted Leasehold Mortgagee shall have the right to participate in adjustment of losses as to casualty insurance proceeds and any settlement discussion relating to casualty or condemnation.

11. Award. Section 6.2(b) of the Existing Lease is hereby deleted in its entirety and replaced by the following:

(b) Award. Subject to the terms of the Permitted Leasehold Mortgages (as defined in Section 8.10), the Landlord and the Tenant agree that, in the event of a Taking that does not result in the termination of this Lease pursuant to Section 6.2(c) or 6.2(d), this Lease shall continue in effect as to the remainder of the Premises, and the net amounts owed or paid to the Landlord or pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any costs and expenses incurred by the Landlord in collecting such award or payment (the "Award") will be disbursed in

accordance with Section 6.2(c) or 6.2(d) (as the case may be) to the Landlord and/or Tenant. The Tenant and, to the extent permitted by law, any Permitted Leasehold Mortgagee, shall have the right to participate in negotiations of and to approve any such settlement with a condemning authority (which approval shall not be unreasonably withheld).

12. Partial Taking. Section 6.2(d) of the Existing Lease is hereby modified as follows:

By deleting the third and fourth sentences thereof and replacing them with the following:

Subject to the terms of the Permitted Leasehold Mortgages, if there is a Partial Taking and the Tenant does not terminate this Lease, the Tenant shall be entitled to receive and retain the Award and shall apply such portion of the Award necessary to repair or restore the Premises or the Improvements as nearly as possible to the condition the Premises or the Improvements were in immediately prior to such Partial Taking. Subject to the terms of the Permitted Leasehold Mortgages, if there is a Partial Taking which affects the use of the Premises after the term hereof, the Award shall be apportioned between the Tenant and the Landlord based on the ratio of the remaining term hereof and the remaining expected useful life of the Premises following the term hereof. Subject to the terms of the Permitted Leasehold Mortgages, notwithstanding any provision herein to the contrary, the Landlord shall be entitled to receive and retain any portion of the Award apportioned to the land upon which the Improvements are located.

By deleting the fifth sentence thereof and replacing it with the following: "Should such award be insufficient to accomplish the restoration, such additional costs shall be paid by Tenant."

13. Termination Upon Non-Restoration. Section 6.3 of the Existing Lease is hereby deleted in its entirety and replaced by the following:

6.3 Termination Upon Non-Restoration. Following a Partial Taking, if a decision is made pursuant to this Article VI that the remaining portion of the Premises is not to be restored, and Tenant shall have determined that the continued development, use or occupancy of the remainder of the Premises by Tenant cannot be made economically viable or structurally sound, Tenant shall surrender the entire remaining portion of the Premises to Landlord and this Lease shall thereupon be terminated without liability or further recourse to the parties hereto, provided that any Rent, impositions and other amounts payable or obligations hereunder owed by Tenant to Landlord as of the date of the Partial Taking shall be paid in full.

14. Mortgagee Clauses. The following is hereby added to the Existing Lease as new Section 8.10:

8.10. Permitted Leasehold Mortgages. Neither the Tenant nor any permitted successor in interest to the Premises or any part thereof shall, without the prior written consent of the Landlord in each instance, engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Premises, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Premises, except for the encumbrances set forth on Exhibit B hereto (the "**Permitted Encumbrances**") and the leasehold mortgages securing the loans described on Exhibit B attached hereto (the "**Permitted Leasehold Mortgages**"). With respect to the Permitted Leasehold Mortgages, the following provisions shall apply:

(a) When giving notice to the Tenant with respect to any default under the provisions of this Lease, the Landlord will also send a copy of such notice to the holder of each Permitted Leasehold Mortgage (each a "**Permitted Leasehold Mortgagee**"), provided that each such Permitted Leasehold Mortgagee shall have delivered to the Landlord in writing a notice naming itself as the holder of a Permitted Leasehold Mortgage and registering the name and post office address to which all notices and other communications to it may be addressed.

(b) Each Permitted Leasehold Mortgagee shall be permitted, but not obligated, to cure any default by the Tenant under this Lease within the same period of time specified for the Tenant to cure such default. The Tenant authorizes each Permitted Leasehold Mortgagee to take any such action at such Permitted Leasehold Mortgagee's option and does hereby authorize entry upon the Premises for such purpose.

(c) The Landlord agrees to accept payment or performance by any Permitted Leasehold Mortgagee as though the same had been done by the Tenant.

(d) In the case of a default by the Tenant other than in the payment of money, and provided that a Permitted Leasehold Mortgagee has commenced to cure the default and is proceeding with due diligence to cure the default, the Landlord will refrain from terminating this Lease for a reasonable period of time (not to exceed 120 days from the date of the notice of default, unless (i) such cure cannot reasonably be completed within 120 days from the date of the notice of default, and (ii) a Permitted Leasehold Mortgagee continues to diligently pursue such cure to the reasonable satisfaction of the Landlord) within which time the Permitted Leasehold Mortgagee may either (i) obtain possession of the Premises (including possession by receiver); (ii) institute foreclosure proceedings and complete such foreclosure; or (iii) otherwise acquire the Tenant's interest under this Lease. The Permitted Leasehold Mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which was the subject of the notice shall have been cured. Notwithstanding the foregoing, the Landlord will refrain from terminating this Lease in the event such Permitted Leasehold Mortgagee is enjoined or stayed in such possession or such foreclosure proceedings, and provided that the Permitted Leasehold Mortgagee has delivered to Landlord copies of any and all orders enjoining or staying such action,

Landlord will grant such Permitted Leasehold Mortgagee such additional time as is required for such Permitted Leasehold Mortgagee to complete steps to acquire or sell Tenant's leasehold estate and interest in this Lease by foreclosure of its Permitted Leasehold Mortgage or by other appropriate means with due diligence; however, nothing in this Section shall be construed to extend this Lease beyond the term.

(e) Any Permitted Leasehold Mortgagee or other acquirer of Tenant's leasehold estate and interest in this Lease pursuant to foreclosure, an assignment in lieu of foreclosure or other proceedings, any of which are permitted without the Landlord's consent, may, upon acquiring the Tenant's leasehold estate and interest in this Lease, without further consent of the Landlord and without HUD's consent, sell and assign the leasehold estate and interest in this Lease on such terms and to such persons and organizations as are acceptable to such Permitted Leasehold Mortgagee or acquirer and thereafter be relieved of all obligations under this Lease, provided such assignee has delivered to the Landlord its written agreement to be bound by all of the provisions of this Lease. Permitted Leasehold Mortgagee, or its nominee or designee, shall also have the right to further assign, sublease or sublet all or any part of the leasehold interest hereunder to a third party without the consent or approval of Landlord.

(f) In the event of a termination of this Lease prior to its stated expiration date, the Landlord will enter into a new lease for the Premises with the Permitted Leasehold Mortgagee (or its nominee), for the remainder of the term, effective as of the date of such termination, at the same Rent payment and subject to the same covenants and agreements, terms, provisions, and limitations herein contained, provided that:

(i) The Landlord receives the Permitted Leasehold Mortgagee's written request for such new lease within 30 days from the date of such termination and notice thereof by the Landlord to the Permitted Leasehold Mortgagee (including an itemization of amounts then due and owing to the Landlord under this Lease), and such written request is accompanied by payment to the Landlord of all amounts then due and owing to Landlord under this Lease and, within 10 days after the delivery of an accounting therefor by the Landlord, pays any and all costs and expenses incurred by the Landlord in connection with the execution and delivery of the new lease, less the net income collected by the Landlord from the Premises subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Rent payment thereafter becoming due under the new lease, provided, however, that the Permitted Leasehold Mortgagee shall receive full credit for all capitalized lease and Rent payments previously delivered by the Tenant to the Landlord; and

(ii) Upon the execution and delivery of the new lease at the time payment is made in (i) above, all subleases which thereafter may have been assigned and transferred to the Landlord shall thereupon be assigned and

transferred without recourse by the Landlord to the Permitted Leasehold Mortgagee (or its nominee), as the new Tenant.

(iii) If a Permitted Leasehold Mortgagee acquires the leasehold estate created hereunder or otherwise acquires possession of the Premises pursuant to available legal remedies, Landlord will look to such holder to perform the obligations of Tenant hereunder only from and after the date of foreclosure or possession and will not hold such holder responsible for the past actions or inactions of the prior Tenant. Permitted Leasehold Mortgagee's liability shall be limited to the value of such Permitted Leasehold Mortgagee's interest in this Lease and in the leasehold estate created thereby.

Notwithstanding the foregoing and to the extent permitted by Section 42 of the Code, the deadline to complete construction of the Improvements set forth in Article V shall be extended for such period of time as may be reasonably required by the Permitted Leasehold Mortgagee or its nominee to complete construction.

15. Estoppel Certificates. Section 10.8 of the Existing Lease is hereby modified by inserting the words "or to any Permitted Leasehold Mortgagee" after the words "deliver to the other".

16. Amendment. Section 10.12 of the Existing Lease is hereby modified by adding the following thereto: Tenant and Landlord hereby expressly stipulate and agree that, they will not modify this Lease in any way nor cancel or terminate this Lease by mutual agreement nor will Tenant surrender its interest in this Lease, including but not limited to pursuant to the provisions of Section 6.3, without the prior written consent of all Permitted Leasehold Mortgagees and the Tenant's Investor Member. No amendment to or termination of this Lease shall become effective without all such required consents. Tenant and Landlord further agree that they will not, respectively, take advantage of any provisions of the United States Bankruptcy Code that would result in a termination of this Lease or make it unenforceable.

17. Compliance with Governing Requirements. The following language is added as new Section 10.18 to the Existing lease:

10.18. Compliance with Governing Requirements. Notwithstanding anything to the contrary herein, Landlord and Tenant hereby agree to comply with any and all applicable HUD notice and consent requirements set forth in the Governing Documents by providing notice to HUD as required in the Governing Documents, at the address for HUD set forth in Section 10.10 hereof.

18. Tenant's Options. The following is added as new Section 11.3 to the Existing Lease:

11.3. Mortgagee Rights. Tenant's rights with respect to any option to purchase the Premises as set forth in this Section 11 shall be assignable to and may be exercised by any Permitted Leasehold Mortgagee which succeeds in interest to the Tenant, without requiring any consent or approval by Landlord.

19. Default. The following is hereby added to the Existing Lease as new Section 12:

12. Defaults; Remedies

12.1 Defaults. Notwithstanding anything to the contrary contained in the Lease, at any time that Landlord or any affiliate of Landlord is a member of Tenant or owns a controlling interest in a member of Tenant, an Event of Default or a Regulatory Default shall not have occurred if the action or inaction that otherwise would constitute an Event of Default or a Regulatory Default was caused by the actions or inactions of Landlord or its affiliate in its capacity as a direct or indirect member of Tenant.

12.2 Remedies.

(a) Notwithstanding anything to the contrary contained in the Lease, in the event Landlord exercises its remedies pursuant to Article VIII and terminates this Lease, Tenant may, within 90 days following such termination reinstate this Lease for the balance of the Term by paying to Landlord an amount equal to the actual damages incurred by Landlord as a result of the breach that resulted in such termination and any actual costs or expenses incurred by Landlord as a result of such reinstatement of this Lease.

(b) Notwithstanding anything to the contrary contained in the Lease, Landlord shall not exercise any of its remedies hereunder without having given notice of the Event of Default or other breach or default to the Investor Member of Tenant simultaneously with the giving of notice to Tenant as required under the provisions of Article VIII of the Lease. The Investor Member shall have the same cure period after the giving of a notice as provided to Tenant, plus an additional period of 60 days. If the Investor Member elects to cure the Event of Default or other breach or default, Landlord agrees to accept such performance as though the same had been done or performed by Tenant.

(c) Notwithstanding anything to the contrary contained in the Lease, the Investor Member shall be deemed a third-party beneficiary of the provisions of this Section for the sole and exclusive purpose of entitling the Investor Member to exercise its rights to notice and cure, as expressly stated herein. The foregoing right of the Investor Member to be a third-party beneficiary under the Lease shall be the only right of Investor Member (express or implied) to be a third-party beneficiary hereunder.

(d) Notwithstanding anything to the contrary contained in the Lease, Landlord agrees that it will take no action to effect a termination of the Lease by reason of any Event of Default or any other breach or default (i) at any time that Landlord or its affiliate is a member of Tenant or owns a controlling interest in a member of Tenant or (ii), if Landlord or its affiliate is not a member of Tenant and does not own a controlling interest in a member of Tenant, without first giving to the Investor Member reasonable time, not to exceed 60 days, to replace Tenant's managing member and/or admit an additional managing member and

cause the new managing member to cure the Event of Default or other breach or default; provided, however, that as a condition of such forbearance, Landlord must receive notice from the Investor Member of the substitution or admission of a new managing member of Tenant within 30 days following Landlord's notice to Tenant and the Investor Member of the Event of Default or other breach or default, and Tenant, following such substitution or admission of the managing member, shall thereupon proceed with due diligence to cure such Event of Default or other breach or default.

20. Intention of the Parties. It is the intention of Landlord and Tenant that, pursuant to the terms of the Lease, the full burdens and benefits associated with ownership of the Premises, except those pertaining to ownership of the Land solely for state law purposes, shall pass to Tenant during the Term of the Lease.

21. Notices.

Copies of all notices given to Tenant under the Lease shall be concurrently transmitted to Tenant's Investor Member at the following address:

Bank of America
Community Development Banking
MA1-225-02-02
225 Franklin Street
Boston, MA 02110
Attention: Asset Management – Joe Moretti Preservation Phase One

with copies to:

Holland & Knight LLP
10 St. James Avenue, 11th Floor
Boston, MA 02116
Attention: James E. McDermott, Esq.

Copies of all notices given to Tenant under the Lease shall be concurrently transmitted to Tenant's Permitted Mortgagee at the following address:

Bank of America, N.A.
Mail Code: FL1-400-06-08
101 E. Kennedy Blvd., 6th Floor
Tampa, FL 33602-5179
Attn: Community Development Lending
Fax Number: (813) 225-8426

with a copy to:

Bank of America, N.A.
Mail Code: FL1-400-06-13
101 E. Kennedy Blvd., 6th Floor

Tampa, FL 33602-5179
Attn: _____
Fax Number: (____) _____

22. Permitted Encumbrances. Exhibit B to the Existing Lease is hereby modified by inserting therein:

> Leasehold Mortgage from Joe Moretti Preservation Phase One, LLC, a Florida limited liability company, as Mortgagor, to Bank of America, N.A., a national banking association, as Mortgagee.

23. Counterparts. This Third Amendment may be executed in one or more counterparts, which, taken together, shall constitute a single document.

24. No Conflicts. In the event of any conflict between the terms and provisions of the Existing Lease and the terms and provisions of this Third Amendment, the terms and provisions of this Third Amendment shall prevail.

25. Ratification. Except as expressly modified and supplemented by this Third Amendment, the terms and provisions of the Existing Lease are hereby ratified and affirmed in their entirety.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Third Amendment effective as of the date first set forth above.

TENANT:

Witnesses:

JOE MORETTI PRESERVATION PHASE ONE, LLC, a Florida limited liability company

By: Joe Moretti Phase One Manager, LLC, a Florida limited liability company

_____

_____

By: _____
Alberto Milo, Jr., Vice President

LANDLORD:

MIAMI-DADE COUNTY, a political subdivision of the State of Florida

_____

_____

By: _____
Name: _____
Title: _____

Approved as to form and legal sufficiency:

By: _____
Terrence A. Smith, Assistant County Attorney

EXHIBIT A

REAL PROPERTY DESCRIPTION

The Land is described as follows:

Lots 3 and 4, 13, 14, 15, 16, 17, 18, 19 and Lot 20 LESS the East 10 feet, all in Block 69 South, CITY OF MIAMI, according to the Plat thereof as recorded in Plat Book B, Page 41, of the Public Records of Miami-Dade County, Florida.

AMENDMENT NO. 3 TO THE GROUND LEASE BETWEEN
MIAMI-DADE COUNTY AND
DANTE FASCELL PRESERVATION, LLC

This Lease Amendment (this "Third Amendment") entered into as of November __, 2012 by and between Miami-Dade County, a political subdivision of the State of Florida and "public housing agency" as defined in the United States Housing Act of 1937 (42 USC 1437 et seq., as amended) ("Landlord"), and Dante Fascell Preservation, LLC, a Florida limited liability company ("Tenant").

WITNESSETH:

A. By that certain Ground Lease dated as of December 5, 2011 (the "Original Lease"), Landlord demised and leased to RUDG, LLC ("RUDG") certain real property, as more specifically described in Exhibit A attached hereto.

B. By that certain Assignment and Acceptance Agreement dated as of December 5, 2011, RUDG assigned to Tenant all of its right, title and interest in and to the Original Lease, and Tenant assumed all of the obligations, rights and responsibilities of RUDG under the Original Lease.

C. Landlord and Tenant modified the Original Lease pursuant to Amendment No. 1 to Ground Lease dated as of February 23, 2012 (the "First Amendment") and Amendment No. 2 to Ground Lease also dated as of February 23, 2012 (the "Second Amendment"). The Original Lease, as assigned to Tenant and as modified by the First Amendment and the Second Amendment, is hereinafter referred to as the "Existing Lease".

D. Tenant desires to construct the Improvements on the Land and thereafter to operate and maintain the Premises as a public housing development pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, comprised of a 151-unit apartment project to be known as Dante Fascell Preservation (the "Project").

E. In connection with the financing of the development of the Project, BF Dante Fascell, LLC (the "Investor Member") has agreed or will agree pursuant to the Amended and Restated Operating Agreement of Tenant, dated as of November __, 2012 (the "Operating Agreement"), to acquire a membership interest in Tenant and become Tenant's Investor Member and to make certain capital contributions to Tenant in accordance with the terms and conditions set forth in the Operating Agreement.

D. Landlord and Tenant desire to supplement and modify certain terms and provisions of the Existing Lease as hereinafter set forth. The Existing Lease, as modified by this Third Amendment, is hereinafter referred to as the "Lease".

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Existing Lease is hereby amended, and Landlord and Tenant further covenant and agree, as follows:

1. Recitals. The forgoing recitals are true and correct and by this reference are incorporated into this Third Amendment as if fully set forth herein. Terms which are capitalized but not defined herein shall have the meanings given to such terms in the Existing Lease.

2. ACC Amendment--Definition. Section 1.1(b) of the Existing Lease is modified to change the words therein "dated on or about the date hereof" to be "dated on or about the Commencement Date" (as the same is defined in the First Amendment).

3. Declaration of Restrictive Covenants--Definition. Section 1.1(h) of the Existing Lease is hereby clarified to provide that the document defined therein shall be recorded on or about the Commencement Date (as the same is defined in the First Amendment).

4. Term--Definition. Section 1.1(gg) of the Existing Lease is hereby modified to provide that the Term of the Lease means seventy five (75) years from the Lease Date.

5. Taxes. The following is hereby added to the Existing Lease as new Section 3.5:

> 3.5 Taxes. Tenant understands and agrees that as a result of the Landlord's fee ownership of the Premises, for State law purposes, the Premises currently is exempt from any ad valorem taxes. Landlord represents to Tenant that such exemption should remain in effect notwithstanding that Landlord is entering into this Lease. However, during the Term of this Lease, should, for any reason whatsoever, the Premises become subject to ad valorem taxes or any other real estate taxes, fees, impositions and/or charges imposed during the Term and any Extensions upon the Premises and the building and/or other improvements constructed on the Premises by Tenant ("Real Estate Taxes"), Tenant shall be required to pay all Real Estate Taxes, prior to delinquency without notice or demand and without set-off, abatement, suspension or deduction. In the event that the folio identification number applicable to the Premises shall also contain other property not specifically included in, or a part of, the Premises, then Tenant shall only be required to pay the portion of such taxes exclusively attributable to the Premises. In addition, Tenant shall be required to pay for any water, electric, sewer, telephone or other utility charges incurred by Tenant during the Term or any Extensions which are limited solely to the Premises and/or any structures and/or improvements thereon.

6. Use; Covenants. Section 5.1(a)(i) is hereby deleted from the Existing Lease.

7. Residential Improvements. Section 5.2(a) of the Existing Lease is hereby modified by deleting the word "affect" in the parenthetical contained in the third sentence and replacing it with the word "reduce".

8. Ownership of Improvements. The first sentence of Section 5.5 of the Existing Lease is hereby deleted and replaced with the following:

> At all times during the Term, Tenant shall be deemed to exclusively own the Improvements and the Personal Property for federal tax purposes, and Tenant alone shall be entitled to all of the tax attributes of ownership thereof, including,

without limitation, the right to claim depreciation or cost recovery deductions and the right to claim the low-income housing tax credit described in Section 42 of the Code, with respect to the Improvements and the Personal Property, and Tenant shall have the right to amortize capital costs and to claim any other federal tax benefits attributable to the Improvements and the Personal Property.

9. Transfer. Section 5.7 of the Existing Lease is hereby modified by inserting the words "Except as otherwise permitted hereunder" at the beginning thereof.

10. Casualty. Section 6.1 of the Existing Lease is hereby modified by (A) inserting the words "subject to the terms and provisions of any Permitted Leasehold Mortgagee" in the three following places:

- After the words "and/or debris therefrom."
- After the words (as determined by tenant in its sole and absolute discretion)"
- After the words "One Hundred Twenty (120) days,"

and (B) inserting the words "so long as any applicable Leasehold Mortgagee with the right to control the disbursement of such proceeds has released such proceeds to Tenant for such restoration or repair" after the end of the second and fourth sentences thereof.

Further, Section 6.1 of the Existing Lease is modified by the insertion of the following therein:

Notwithstanding anything contained in this Section 6.1, or otherwise in this Lease to the contrary, as long as the Tenant's leasehold interest is encumbered by any Permitted Leasehold Mortgage, this Lease shall not be terminated by Landlord or Tenant in the event that the Premises is partially or totally destroyed, and, in the event of such partial or total destruction, all insurance proceeds from casualty insurance as provided herein shall be paid to and held by the Permitted Leasehold Mortgagee, or an insurance trustee selected by the Permitted Leasehold Mortgagee to be used for the purpose of restoration or repair of the Premises. Permitted Leasehold Mortgagee shall have the right to participate in adjustment of losses as to casualty insurance proceeds and any settlement discussion relating to casualty or condemnation.

11. Award. Section 6.2(b) of the Existing Lease is hereby deleted in its entirety and replaced by the following:

(b) Award. Subject to the terms of the Permitted Leasehold Mortgages (as defined in Section 8.10), the Landlord and the Tenant agree that, in the event of a Taking that does not result in the termination of this Lease pursuant to Section 6.2(c) or 6.2(d), this Lease shall continue in effect as to the remainder of the Premises, and the net amounts owed or paid to the Landlord or pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any costs and expenses incurred by the Landlord in collecting such award or payment (the "Award") will be disbursed in

accordance with Section 6.2(c) or 6.2(d) (as the case may be) to the Landlord and/or Tenant. The Tenant and, to the extent permitted by law, any Permitted Leasehold Mortgagee, shall have the right to participate in negotiations of and to approve any such settlement with a condemning authority (which approval shall not be unreasonably withheld).

12. Partial Taking. Section 6.2(d) of the Existing Lease is hereby modified as follows:

By deleting the third and fourth sentences thereof and replacing them with the following:

Subject to the terms of the Permitted Leasehold Mortgages, if there is a Partial Taking and the Tenant does not terminate this Lease, the Tenant shall be entitled to receive and retain the Award and shall apply such portion of the Award necessary to repair or restore the Premises or the Improvements as nearly as possible to the condition the Premises or the Improvements were in immediately prior to such Partial Taking. Subject to the terms of the Permitted Leasehold Mortgages, if there is a Partial Taking which affects the use of the Premises after the term hereof, the Award shall be apportioned between the Tenant and the Landlord based on the ratio of the remaining term hereof and the remaining expected useful life of the Premises following the term hereof. Subject to the terms of the Permitted Leasehold Mortgages, notwithstanding any provision herein to the contrary, the Landlord shall be entitled to receive and retain any portion of the Award apportioned to the land upon which the Improvements are located.

By deleting the fifth sentence thereof and replacing it with the following: "Should such award be insufficient to accomplish the restoration, such additional costs shall be paid by Tenant."

13. Termination Upon Non-Restoration. Section 6.3 of the Existing Lease is hereby deleted in its entirety and replaced by the following:

6.3 Termination Upon Non-Restoration. Following a Partial Taking, if a decision is made pursuant to this Article VI that the remaining portion of the Premises is not to be restored, and Tenant shall have determined that the continued development, use or occupancy of the remainder of the Premises by Tenant cannot be made economically viable or structurally sound, Tenant shall surrender the entire remaining portion of the Premises to Landlord and this Lease shall thereupon be terminated without liability or further recourse to the parties hereto, provided that any Rent, impositions and other amounts payable or obligations hereunder owed by Tenant to Landlord as of the date of the Partial Taking shall be paid in full.

14. Mortgagee Clauses. The following is hereby added to the Existing Lease as new Section 8.10:

8.10. Permitted Leasehold Mortgages. Neither the Tenant nor any permitted successor in interest to the Premises or any part thereof shall, without the prior written consent of the Landlord in each instance, engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Premises, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Premises, except for the encumbrances set forth on Exhibit B hereto (the "**Permitted Encumbrances**") and the leasehold mortgages securing the loans described on Exhibit B attached hereto (the "**Permitted Leasehold Mortgages**"). With respect to the Permitted Leasehold Mortgages, the following provisions shall apply:

(a) When giving notice to the Tenant with respect to any default under the provisions of this Lease, the Landlord will also send a copy of such notice to the holder of each Permitted Leasehold Mortgage (each a "**Permitted Leasehold Mortgagee**"), provided that each such Permitted Leasehold Mortgagee shall have delivered to the Landlord in writing a notice naming itself as the holder of a Permitted Leasehold Mortgage and registering the name and post office address to which all notices and other communications to it may be addressed.

(b) Each Permitted Leasehold Mortgagee shall be permitted, but not obligated, to cure any default by the Tenant under this Lease within the same period of time specified for the Tenant to cure such default. The Tenant authorizes each Permitted Leasehold Mortgagee to take any such action at such Permitted Leasehold Mortgagee's option and does hereby authorize entry upon the Premises for such purpose.

(c) The Landlord agrees to accept payment or performance by any Permitted Leasehold Mortgagee as though the same had been done by the Tenant.

(d) In the case of a default by the Tenant other than in the payment of money, and provided that a Permitted Leasehold Mortgagee has commenced to cure the default and is proceeding with due diligence to cure the default, the Landlord will refrain from terminating this Lease for a reasonable period of time (not to exceed 120 days from the date of the notice of default, unless (i) such cure cannot reasonably be completed within 120 days from the date of the notice of default, and (ii) a Permitted Leasehold Mortgagee continues to diligently pursue such cure to the reasonable satisfaction of the Landlord) within which time the Permitted Leasehold Mortgagee may either (i) obtain possession of the Premises (including possession by receiver); (ii) institute foreclosure proceedings and complete such foreclosure; or (iii) otherwise acquire the Tenant's interest under this Lease. The Permitted Leasehold Mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which was the subject of the notice shall have been cured. Notwithstanding the foregoing, the Landlord will refrain from terminating this Lease in the event such Permitted Leasehold Mortgagee is enjoined or stayed in such possession or such foreclosure proceedings, and provided that the Permitted Leasehold Mortgagee has delivered to Landlord copies of any and all orders enjoining or staying such action,

Landlord will grant such Permitted Leasehold Mortgagee such additional time as is required for such Permitted Leasehold Mortgagee to complete steps to acquire or sell Tenant's leasehold estate and interest in this Lease by foreclosure of its Permitted Leasehold Mortgage or by other appropriate means with due diligence; however, nothing in this Section shall be construed to extend this Lease beyond the term.

(e) Any Permitted Leasehold Mortgagee or other acquirer of Tenant's leasehold estate and interest in this Lease pursuant to foreclosure, an assignment in lieu of foreclosure or other proceedings, any of which are permitted without the Landlord's consent, may, upon acquiring the Tenant's leasehold estate and interest in this Lease, without further consent of the Landlord and without HUD's consent, sell and assign the leasehold estate and interest in this Lease on such terms and to such persons and organizations as are acceptable to such Permitted Leasehold Mortgagee or acquirer and thereafter be relieved of all obligations under this Lease, provided such assignee has delivered to the Landlord its written agreement to be bound by all of the provisions of this Lease. Permitted Leasehold Mortgagee, or its nominee or designee, shall also have the right to further assign, sublease or sublet all or any part of the leasehold interest hereunder to a third party without the consent or approval of Landlord.

(f) In the event of a termination of this Lease prior to its stated expiration date, the Landlord will enter into a new lease for the Premises with the Permitted Leasehold Mortgagee (or its nominee), for the remainder of the term, effective as of the date of such termination, at the same Rent payment and subject to the same covenants and agreements, terms, provisions, and limitations herein contained, provided that:

(i) The Landlord receives the Permitted Leasehold Mortgagee's written request for such new lease within 30 days from the date of such termination and notice thereof by the Landlord to the Permitted Leasehold Mortgagee (including an itemization of amounts then due and owing to the Landlord under this Lease), and such written request is accompanied by payment to the Landlord of all amounts then due and owing to Landlord under this Lease and, within 10 days after the delivery of an accounting therefor by the Landlord, pays any and all costs and expenses incurred by the Landlord in connection with the execution and delivery of the new lease, less the net income collected by the Landlord from the Premises subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Rent payment thereafter becoming due under the new lease, provided, however, that the Permitted Leasehold Mortgagee shall receive full credit for all capitalized lease and Rent payments previously delivered by the Tenant to the Landlord; and

(ii) Upon the execution and delivery of the new lease at the time payment is made in (i) above, all subleases which thereafter may have been assigned and transferred to the Landlord shall thereupon be assigned and

transferred without recourse by the Landlord to the Permitted Leasehold Mortgagee (or its nominee), as the new Tenant.

(iii) If a Permitted Leasehold Mortgagee acquires the leasehold estate created hereunder or otherwise acquires possession of the Premises pursuant to available legal remedies, Landlord will look to such holder to perform the obligations of Tenant hereunder only from and after the date of foreclosure or possession and will not hold such holder responsible for the past actions or inactions of the prior Tenant. Permitted Leasehold Mortgagee's liability shall be limited to the value of such Permitted Leasehold Mortgagee's interest in this Lease and in the leasehold estate created thereby.

Notwithstanding the foregoing and to the extent permitted by Section 42 of the Code, the deadline to complete construction of the Improvements set forth in Article V shall be extended for such period of time as may be reasonably required by the Permitted Leasehold Mortgagee or its nominee to complete construction.

15. Estoppel Certificates. Section 10.8 of the Existing Lease is hereby modified by inserting the words "or to any Permitted Leasehold Mortgagee" after the words "deliver to the other".

16. Amendment. Section 10.12 of the Existing Lease is hereby modified by adding the following thereto: Tenant and Landlord hereby expressly stipulate and agree that, they will not modify this Lease in any way nor cancel or terminate this Lease by mutual agreement nor will Tenant surrender its interest in this Lease, including but not limited to pursuant to the provisions of Section 6.3, without the prior written consent of all Permitted Leasehold Mortgagees and the Tenant's Investor Member. No amendment to or termination of this Lease shall become effective without all such required consents. Tenant and Landlord further agree that they will not, respectively, take advantage of any provisions of the United States Bankruptcy Code that would result in a termination of this Lease or make it unenforceable.

17. Compliance with Governing Requirements. The following language is added as new Section 10.18 to the Existing lease:

10.18. Compliance with Governing Requirements. Notwithstanding anything to the contrary herein, Landlord and Tenant hereby agree to comply with any and all applicable HUD notice and consent requirements set forth in the Governing Documents by providing notice to HUD as required in the Governing Documents, at the address for HUD set forth in Section 10.10 hereof.

18. Tenant's Options. The following is added as new Section 11.3 to the Existing Lease:

11.3. Mortgagee Rights. Tenant's rights with respect to any option to purchase the Premises as set forth in this Section 11 shall be assignable to and may be exercised by any Permitted Leasehold Mortgagee which succeeds in interest to the Tenant, without requiring any consent or approval by Landlord.

19. Default. The following is hereby added to the Existing Lease as new Section 12:

12. Defaults; Remedies

12.1 Defaults. Notwithstanding anything to the contrary contained in the Lease, at any time that Landlord or any affiliate of Landlord is a member of Tenant or owns a controlling interest in a member of Tenant, an Event of Default or a Regulatory Default shall not have occurred if the action or inaction that otherwise would constitute an Event of Default or a Regulatory Default was caused by the actions or inactions of Landlord or its affiliate in its capacity as a direct or indirect member of Tenant.

12.2 Remedies.

(a) Notwithstanding anything to the contrary contained in the Lease, in the event Landlord exercises its remedies pursuant to Article VIII and terminates this Lease, Tenant may, within 90 days following such termination reinstate this Lease for the balance of the Term by paying to Landlord an amount equal to the actual damages incurred by Landlord as a result of the breach that resulted in such termination and any actual costs or expenses incurred by Landlord as a result of such reinstatement of this Lease.

(b) Notwithstanding anything to the contrary contained in the Lease, Landlord shall not exercise any of its remedies hereunder without having given notice of the Event of Default or other breach or default to the Investor Member of Tenant simultaneously with the giving of notice to Tenant as required under the provisions of Article VIII of the Lease. The Investor Member shall have the same cure period after the giving of a notice as provided to Tenant, plus an additional period of 60 days. If the Investor Member elects to cure the Event of Default or other breach or default, Landlord agrees to accept such performance as though the same had been done or performed by Tenant.

(c) Notwithstanding anything to the contrary contained in the Lease, the Investor Member shall be deemed a third-party beneficiary of the provisions of this Section for the sole and exclusive purpose of entitling the Investor Member to exercise its rights to notice and cure, as expressly stated herein. The foregoing right of the Investor Member to be a third-party beneficiary under the Lease shall be the only right of Investor Member (express or implied) to be a third-party beneficiary hereunder.

(d) Notwithstanding anything to the contrary contained in the Lease, Landlord agrees that it will take no action to effect a termination of the Lease by reason of any Event of Default or any other breach or default (i) at any time that Landlord or its affiliate is a member of Tenant or owns a controlling interest in a member of Tenant or (ii), if Landlord or its affiliate is not a member of Tenant and does not own a controlling interest in a member of Tenant, without first giving to the Investor Member reasonable time, not to exceed 60 days, to replace Tenant's managing member and/or admit an additional managing member and

cause the new managing member to cure the Event of Default or other breach or default; provided, however, that as a condition of such forbearance, Landlord must receive notice from the Investor Member of the substitution or admission of a new managing member of Tenant within 30 days following Landlord's notice to Tenant and the Investor Member of the Event of Default or other breach or default, and Tenant, following such substitution or admission of the managing member, shall thereupon proceed with due diligence to cure such Event of Default or other breach or default.

20. Intention of the Parties. It is the intention of Landlord and Tenant that, pursuant to the terms of the Lease, the full burdens and benefits associated with ownership of the Premises, except those pertaining to ownership of the Land solely for state law purposes, shall pass to Tenant during the Term of the Lease.

21. Notices.

Copies of all notices given to Tenant under the Lease shall be concurrently transmitted to Tenant's Investor Member at the following address:

BF Dante Fascell, LLC
c/o Boston Financial Investment Management, LP
101 Arch Street, 13th Floor
Boston, MA 02110
Attn: Greg Voyentzie
Fax: (617) 790-4403

with copies to:

Holland & Knight LLP
10 St. James Avenue, 11th Floor
Boston, MA 02116
Attention: James McDermott, Esq.
Fax: (617) 523-6850

Copies of all notices given to Tenant under the Lease shall be concurrently transmitted to Tenant's Permitted Mortgagee at the following address:

Citibank, N.A.
c/o Citi Community Capital
998 S. Federal Hwy. Ste. 203
Boca Raton, FL 33432
Attn: Barry Krinsky
Fax: (954) 734-8646

with a copy to:

Robinson & Cole LLP
885 Third Avenue, 28th Floor
New York, NY 10022-4834
Andrew L. Kramer, Esq.
Fax: (212) 451-2999

22. Permitted Encumbrances. Exhibit B to the Existing Lease is hereby modified by inserting therein:

Leasehold Mortgage from Dante Fascell Preservation, LLC, a Florida limited liability company, as Mortgagor, to Citibank, N.A., a national banking association, as Mortgagee.

Leasehold Mortgage from Dante Fascell Preservation, LLC, a Florida limited liability company, as Mortgagor, to Miami-Dade County, a political subdivision of the State of Florida as Mortgagee (Surtax loan).

23. Counterparts. This Third Amendment may be executed in one or more counterparts, which, taken together, shall constitute a single document.

24. No Conflicts. In the event of any conflict between the terms and provisions of the Existing Lease and the terms and provisions of this Third Amendment, the terms and provisions of this Third Amendment shall prevail.

25. Ratification. Except as expressly modified and supplemented by this Third Amendment, the terms and provisions of the Existing Lease are hereby ratified and affirmed in their entirety.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Third Amendment effective as of the date first set forth above.

TENANT:

Witnesses:

DANTE FASCELL PRESERVATION, LLC, a Florida limited liability company

By: Dante Fascell Manager, LLC, a Florida limited liability company

_____

_____

By: _____
Alberto Milo, Jr., Vice President

LANDLORD:

MIAMI-DADE COUNTY, a political subdivision of the State of Florida

_____

_____

By: _____
Name: _____
Title: _____

Approved as to form and legal sufficiency:

By: _____
Terrence A. Smith, Assistant County Attorney

EXHIBIT A

REAL PROPERTY DESCRIPTION

The Land is described as follows:

Tract "A" of E.D.C. SUBDIVISION, according to the Plat thereof as recorded in Plat Book 91, Page 59, of the Public Records of Miami-Dade County, Florida.

AMENDMENT NO. 3 TO THE GROUND LEASE BETWEEN
MIAMI-DADE COUNTY AND
STIRRUP PLAZA PRESERVATION PHASE ONE, LLC

This Lease Amendment (this "Third Amendment") entered into as of November __, 2012 by and between Miami-Dade County, a political subdivision of the State of Florida and "public housing agency" as defined in the United States Housing Act of 1937 (42 USC 1437 et seq., as amended) ("Landlord"), and Stirrup Plaza Preservation Phase One, LLC a Florida limited liability company ("Tenant").

WITNESSETH:

A. By that certain Ground Lease dated as of December 5, 2011 (the "Original Lease"), Landlord demised and leased to RUDG, LLC ("RUDG") certain real property, as more specifically described in Exhibit A attached hereto.

B. By that certain Assignment and Acceptance Agreement dated as of December 5, 2011, RUDG assigned to Tenant all of its right, title and interest in and to the Original Lease, and Tenant assumed all of the obligations, rights and responsibilities of RUDG under the Original Lease.

C. Landlord and Tenant modified the Original Lease pursuant to Amendment No. 1 to Ground Lease dated as of February 23, 2012 (the "First Amendment") and Amendment No. 2 to Ground Lease also dated as of February 23, 2012 (the "Second Amendment"). The Original Lease, as assigned to Tenant and as modified by the First Amendment and the Second Amendment, is hereinafter referred to as the "Existing Lease".

D. Tenant desires to construct the Improvements on the Land and thereafter to operate and maintain the Premises as a public housing development pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, comprised of a 100-unit apartment project to be known as Dante Fascell Preservation (the "Project").

E. In connection with the financing of the development of the Project, BF Stirrup Plaza, LLC (the "Investor Member") has agreed or will agree pursuant to the Amended and Restated Operating Agreement of Tenant, dated as of November __, 2012 (the "Operating Agreement"), to acquire a membership interest in Tenant and become Tenant's Investor Member and to make certain capital contributions to Tenant in accordance with the terms and conditions set forth in the Operating Agreement.

D. Landlord and Tenant desire to supplement and modify certain terms and provisions of the Existing Lease as hereinafter set forth. The Existing Lease, as modified by this Third Amendment, is hereinafter referred to as the "Lease".

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Existing Lease is hereby amended, and Landlord and Tenant further covenant and agree, as follows:

1. Recitals. The forgoing recitals are true and correct and by this reference are incorporated into this Third Amendment as if fully set forth herein. Terms which are capitalized but not defined herein shall have the meanings given to such terms in the Existing Lease.

2. ACC Amendment--Definition. Section 1.1(b) of the Existing Lease is modified to change the words therein "dated on or about the date hereof" to be "dated on or about the Commencement Date" (as the same is defined in the First Amendment).

3. Declaration of Restrictive Covenants--Definition. Section 1.1(h) of the Existing Lease is hereby clarified to provide that the document defined therein shall be recorded on or about the Commencement Date (as the same is defined in the First Amendment).

4. Term--Definition. Section 1.1(gg) of the Existing Lease is hereby modified to provide that the Term of the Lease means seventy five (75) years from the Lease Date.

5. Taxes. The following is hereby added to the Existing Lease as new Section 3.5:

> 3.5 Taxes. Tenant understands and agrees that as a result of the Landlord's fee ownership of the Premises, for State law purposes, the Premises currently is exempt from any ad valorem taxes. Landlord represents to Tenant that such exemption should remain in effect notwithstanding that Landlord is entering into this Lease. However, during the Term of this Lease, should, for any reason whatsoever, the Premises become subject to ad valorem taxes or any other real estate taxes, fees, impositions and/or charges imposed during the Term and any Extensions upon the Premises and the building and/or other improvements constructed on the Premises by Tenant ("Real Estate Taxes"), Tenant shall be required to pay all Real Estate Taxes, prior to delinquency without notice or demand and without set-off, abatement, suspension or deduction. In the event that the folio identification number applicable to the Premises shall also contain other property not specifically included in, or a part of, the Premises, then Tenant shall only be required to pay the portion of such taxes exclusively attributable to the Premises. In addition, Tenant shall be required to pay for any water, electric, sewer, telephone or other utility charges incurred by Tenant during the Term or any Extensions which are limited solely to the Premises and/or any structures and/or improvements thereon.

6. Use; Covenants. Section 5.1(a)(i) is hereby deleted from the Existing Lease.

7. Residential Improvements. Section 5.2(a) of the Existing Lease is hereby modified by deleting the word "affect" in the parenthetical contained in the third sentence and replacing it with the word "reduce".

8. Ownership of Improvements. The first sentence of Section 5.5 of the Existing Lease is hereby deleted and replaced with the following:

> At all times during the Term, Tenant shall be deemed to exclusively own the Improvements and the Personal Property for federal tax purposes, and Tenant alone shall be entitled to all of the tax attributes of ownership thereof, including,

without limitation, the right to claim depreciation or cost recovery deductions and the right to claim the low-income housing tax credit described in Section 42 of the Code, with respect to the Improvements and the Personal Property, and Tenant shall have the right to amortize capital costs and to claim any other federal tax benefits attributable to the Improvements and the Personal Property.

9. Transfer. Section 5.7 of the Existing Lease is hereby modified by inserting the words "Except as otherwise permitted hereunder" at the beginning thereof.

10. Casualty. Section 6.1 of the Existing Lease is hereby modified by (A) inserting the words "subject to the terms and provisions of any Permitted Leasehold Mortgagee" in the three following places:

- After the words "and/or debris therefrom."
- After the words (as determined by tenant in its sole and absolute discretion)"
- After the words "One Hundred Twenty (120) days,"

and (B) inserting the words "so long as any applicable Leasehold Mortgagee with the right to control the disbursement of such proceeds has released such proceeds to Tenant for such restoration or repair" after the end of the second and fourth sentences thereof.

Further, Section 6.1 of the Existing Lease is modified by the insertion of the following therein:

Notwithstanding anything contained in this Section 6.1, or otherwise in this Lease to the contrary, as long as the Tenant's leasehold interest is encumbered by any Permitted Leasehold Mortgage, this Lease shall not be terminated by Landlord or Tenant in the event that the Premises is partially or totally destroyed, and, in the event of such partial or total destruction, all insurance proceeds from casualty insurance as provided herein shall be paid to and held by the Permitted Leasehold Mortgagee, or an insurance trustee selected by the Permitted Leasehold Mortgagee to be used for the purpose of restoration or repair of the Premises. Permitted Leasehold Mortgagee shall have the right to participate in adjustment of losses as to casualty insurance proceeds and any settlement discussion relating to casualty or condemnation.

11. Award. Section 6.2(b) of the Existing Lease is hereby deleted in its entirety and replaced by the following:

(b) Award. Subject to the terms of the Permitted Leasehold Mortgages (as defined in Section 8.10), the Landlord and the Tenant agree that, in the event of a Taking that does not result in the termination of this Lease pursuant to Section 6.2(c) or 6.2(d), this Lease shall continue in effect as to the remainder of the Premises, and the net amounts owed or paid to the Landlord or pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any costs and expenses incurred by the Landlord in collecting such award or payment (the "Award") will be disbursed in

accordance with Section 6.2(c) or 6.2(d) (as the case may be) to the Landlord and/or Tenant. The Tenant and, to the extent permitted by law, any Permitted Leasehold Mortgagee, shall have the right to participate in negotiations of and to approve any such settlement with a condemning authority (which approval shall not be unreasonably withheld).

12. Partial Taking. Section 6.2(d) of the Existing Lease is hereby modified as follows:

By deleting the third and fourth sentences thereof and replacing them with the following:

Subject to the terms of the Permitted Leasehold Mortgages, if there is a Partial Taking and the Tenant does not terminate this Lease, the Tenant shall be entitled to receive and retain the Award and shall apply such portion of the Award necessary to repair or restore the Premises or the Improvements as nearly as possible to the condition the Premises or the Improvements were in immediately prior to such Partial Taking. Subject to the terms of the Permitted Leasehold Mortgages, if there is a Partial Taking which affects the use of the Premises after the term hereof, the Award shall be apportioned between the Tenant and the Landlord based on the ratio of the remaining term hereof and the remaining expected useful life of the Premises following the term hereof. Subject to the terms of the Permitted Leasehold Mortgages, notwithstanding any provision herein to the contrary, the Landlord shall be entitled to receive and retain any portion of the Award apportioned to the land upon which the Improvements are located.

By deleting the fifth sentence thereof and replacing it with the following: "Should such award be insufficient to accomplish the restoration, such additional costs shall be paid by Tenant."

13. Termination Upon Non-Restoration. Section 6.3 of the Existing Lease is hereby deleted in its entirety and replaced by the following:

6.3 Termination Upon Non-Restoration. Following a Partial Taking, if a decision is made pursuant to this Article VI that the remaining portion of the Premises is not to be restored, and Tenant shall have determined that the continued development, use or occupancy of the remainder of the Premises by Tenant cannot be made economically viable or structurally sound, Tenant shall surrender the entire remaining portion of the Premises to Landlord and this Lease shall thereupon be terminated without liability or further recourse to the parties hereto, provided that any Rent, impositions and other amounts payable or obligations hereunder owed by Tenant to Landlord as of the date of the Partial Taking shall be paid in full.

14. Mortgagee Clauses. The following is hereby added to the Existing Lease as new Section 8.10:

8.10. Permitted Leasehold Mortgages. Neither the Tenant nor any permitted successor in interest to the Premises or any part thereof shall, without the prior written consent of the Landlord in each instance, engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Premises, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Premises, except for the encumbrances set forth on Exhibit B hereto (the "**Permitted Encumbrances**") and the leasehold mortgages securing the loans described on Exhibit B attached hereto (the "**Permitted Leasehold Mortgages**"). With respect to the Permitted Leasehold Mortgages, the following provisions shall apply:

(a) When giving notice to the Tenant with respect to any default under the provisions of this Lease, the Landlord will also send a copy of such notice to the holder of each Permitted Leasehold Mortgage (each a "**Permitted Leasehold Mortgagee**"), provided that each such Permitted Leasehold Mortgagee shall have delivered to the Landlord in writing a notice naming itself as the holder of a Permitted Leasehold Mortgage and registering the name and post office address to which all notices and other communications to it may be addressed.

(b) Each Permitted Leasehold Mortgagee shall be permitted, but not obligated, to cure any default by the Tenant under this Lease within the same period of time specified for the Tenant to cure such default. The Tenant authorizes each Permitted Leasehold Mortgagee to take any such action at such Permitted Leasehold Mortgagee's option and does hereby authorize entry upon the Premises for such purpose.

(c) The Landlord agrees to accept payment or performance by any Permitted Leasehold Mortgagee as though the same had been done by the Tenant.

(d) In the case of a default by the Tenant other than in the payment of money, and provided that a Permitted Leasehold Mortgagee has commenced to cure the default and is proceeding with due diligence to cure the default, the Landlord will refrain from terminating this Lease for a reasonable period of time (not to exceed 120 days from the date of the notice of default, unless (i) such cure cannot reasonably be completed within 120 days from the date of the notice of default, and (ii) a Permitted Leasehold Mortgagee continues to diligently pursue such cure to the reasonable satisfaction of the Landlord) within which time the Permitted Leasehold Mortgagee may either (i) obtain possession of the Premises (including possession by receiver); (ii) institute foreclosure proceedings and complete such foreclosure; or (iii) otherwise acquire the Tenant's interest under this Lease. The Permitted Leasehold Mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which was the subject of the notice shall have been cured. Notwithstanding the foregoing, the Landlord will refrain from terminating this Lease in the event such Permitted Leasehold Mortgagee is enjoined or stayed in such possession or such foreclosure proceedings, and provided that the Permitted Leasehold Mortgagee has delivered to Landlord copies of any and all orders enjoining or staying such action,

Landlord will grant such Permitted Leasehold Mortgagee such additional time as is required for such Permitted Leasehold Mortgagee to complete steps to acquire or sell Tenant's leasehold estate and interest in this Lease by foreclosure of its Permitted Leasehold Mortgage or by other appropriate means with due diligence; however, nothing in this Section shall be construed to extend this Lease beyond the term.

(e) Any Permitted Leasehold Mortgagee or other acquirer of Tenant's leasehold estate and interest in this Lease pursuant to foreclosure, an assignment in lieu of foreclosure or other proceedings, any of which are permitted without the Landlord's consent, may, upon acquiring the Tenant's leasehold estate and interest in this Lease, without further consent of the Landlord and without HUD's consent, sell and assign the leasehold estate and interest in this Lease on such terms and to such persons and organizations as are acceptable to such Permitted Leasehold Mortgagee or acquirer and thereafter be relieved of all obligations under this Lease, provided such assignee has delivered to the Landlord its written agreement to be bound by all of the provisions of this Lease. Permitted Leasehold Mortgagee, or its nominee or designee, shall also have the right to further assign, sublease or sublet all or any part of the leasehold interest hereunder to a third party without the consent or approval of Landlord.

(f) In the event of a termination of this Lease prior to its stated expiration date, the Landlord will enter into a new lease for the Premises with the Permitted Leasehold Mortgagee (or its nominee), for the remainder of the term, effective as of the date of such termination, at the same Rent payment and subject to the same covenants and agreements, terms, provisions, and limitations herein contained, provided that:

(i) The Landlord receives the Permitted Leasehold Mortgagee's written request for such new lease within 30 days from the date of such termination and notice thereof by the Landlord to the Permitted Leasehold Mortgagee (including an itemization of amounts then due and owing to the Landlord under this Lease), and such written request is accompanied by payment to the Landlord of all amounts then due and owing to Landlord under this Lease and, within 10 days after the delivery of an accounting therefor by the Landlord, pays any and all costs and expenses incurred by the Landlord in connection with the execution and delivery of the new lease, less the net income collected by the Landlord from the Premises subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Rent payment thereafter becoming due under the new lease, provided, however, that the Permitted Leasehold Mortgagee shall receive full credit for all capitalized lease and Rent payments previously delivered by the Tenant to the Landlord; and

(ii) Upon the execution and delivery of the new lease at the time payment is made in (i) above, all subleases which thereafter may have been assigned and transferred to the Landlord shall thereupon be assigned and

transferred without recourse by the Landlord to the Permitted Leasehold Mortgagee (or its nominee), as the new Tenant.

(iii) If a Permitted Leasehold Mortgagee acquires the leasehold estate created hereunder or otherwise acquires possession of the Premises pursuant to available legal remedies, Landlord will look to such holder to perform the obligations of Tenant hereunder only from and after the date of foreclosure or possession and will not hold such holder responsible for the past actions or inactions of the prior Tenant. Permitted Leasehold Mortgagee's liability shall be limited to the value of such Permitted Leasehold Mortgagee's interest in this Lease and in the leasehold estate created thereby.

Notwithstanding the foregoing and to the extent permitted by Section 42 of the Code, the deadline to complete construction of the Improvements set forth in Article V shall be extended for such period of time as may be reasonably required by the Permitted Leasehold Mortgagee or its nominee to complete construction.

15. Estoppel Certificates. Section 10.8 of the Existing Lease is hereby modified by inserting the words "or to any Permitted Leasehold Mortgagee" after the words "deliver to the other".

16. Amendment. Section 10.12 of the Existing Lease is hereby modified by adding the following thereto: Tenant and Landlord hereby expressly stipulate and agree that, they will not modify this Lease in any way nor cancel or terminate this Lease by mutual agreement nor will Tenant surrender its interest in this Lease, including but not limited to pursuant to the provisions of Section 6.3, without the prior written consent of all Permitted Leasehold Mortgagees and the Tenant's Investor Member. No amendment to or termination of this Lease shall become effective without all such required consents. Tenant and Landlord further agree that they will not, respectively, take advantage of any provisions of the United States Bankruptcy Code that would result in a termination of this Lease or make it unenforceable.

17. Compliance with Governing Requirements. The following language is added as new Section 10.18 to the Existing lease:

10.18. Compliance with Governing Requirements. Notwithstanding anything to the contrary herein, Landlord and Tenant hereby agree to comply with any and all applicable HUD notice and consent requirements set forth in the Governing Documents by providing notice to HUD as required in the Governing Documents, at the address for HUD set forth in Section 10.10 hereof.

18. Tenant's Options. The following is added as new Section 11.3 to the Existing Lease:

11.3. Mortgagee Rights. Tenant's rights with respect to any option to purchase the Premises as set forth in this Section 11 shall be assignable to and may be exercised by any Permitted Leasehold Mortgagee which succeeds in interest to the Tenant, without requiring any consent or approval by Landlord.

19. Default. The following is hereby added to the Existing Lease as new Section 12:

12. Defaults; Remedies

12.1 Defaults. Notwithstanding anything to the contrary contained in the Lease, at any time that Landlord or any affiliate of Landlord is a member of Tenant or owns a controlling interest in a member of Tenant, an Event of Default or a Regulatory Default shall not have occurred if the action or inaction that otherwise would constitute an Event of Default or a Regulatory Default was caused by the actions or inactions of Landlord or its affiliate in its capacity as a direct or indirect member of Tenant.

12.2 Remedies.

(a) Notwithstanding anything to the contrary contained in the Lease, in the event Landlord exercises its remedies pursuant to Article VIII and terminates this Lease, Tenant may, within 90 days following such termination reinstate this Lease for the balance of the Term by paying to Landlord an amount equal to the actual damages incurred by Landlord as a result of the breach that resulted in such termination and any actual costs or expenses incurred by Landlord as a result of such reinstatement of this Lease.

(b) Notwithstanding anything to the contrary contained in the Lease, Landlord shall not exercise any of its remedies hereunder without having given notice of the Event of Default or other breach or default to the Investor Member of Tenant simultaneously with the giving of notice to Tenant as required under the provisions of Article VIII of the Lease. The Investor Member shall have the same cure period after the giving of a notice as provided to Tenant, plus an additional period of 60 days. If the Investor Member elects to cure the Event of Default or other breach or default, Landlord agrees to accept such performance as though the same had been done or performed by Tenant.

(c) Notwithstanding anything to the contrary contained in the Lease, the Investor Member shall be deemed a third-party beneficiary of the provisions of this Section for the sole and exclusive purpose of entitling the Investor Member to exercise its rights to notice and cure, as expressly stated herein. The foregoing right of the Investor Member to be a third-party beneficiary under the Lease shall be the only right of Investor Member (express or implied) to be a third-party beneficiary hereunder.

(d) Notwithstanding anything to the contrary contained in the Lease, Landlord agrees that it will take no action to effect a termination of the Lease by reason of any Event of Default or any other breach or default (i) at any time that Landlord or its affiliate is a member of Tenant or owns a controlling interest in a member of Tenant or (ii), if Landlord or its affiliate is not a member of Tenant and does not own a controlling interest in a member of Tenant, without first giving to the Investor Member reasonable time, not to exceed 60 days, to replace Tenant's managing member and/or admit an additional managing member and

cause the new managing member to cure the Event of Default or other breach or default; provided, however, that as a condition of such forbearance, Landlord must receive notice from the Investor Member of the substitution or admission of a new managing member of Tenant within 30 days following Landlord's notice to Tenant and the Investor Member of the Event of Default or other breach or default, and Tenant, following such substitution or admission of the managing member, shall thereupon proceed with due diligence to cure such Event of Default or other breach or default.

20. Intention of the Parties. It is the intention of Landlord and Tenant that, pursuant to the terms of the Lease, the full burdens and benefits associated with ownership of the Premises, except those pertaining to ownership of the Land solely for state law purposes, shall pass to Tenant during the Term of the Lease.

21. Notices.

Copies of all notices given to Tenant under the Lease shall be concurrently transmitted to Tenant's Investor Member at the following address:

BF Stirrup Plaza, LLC
c/o Boston Financial Investment Management, LP
101 Arch Street, 13th Floor
Boston, MA 02110
Attn: Greg Voyentzic
Fax: (617) 790-4403

with copies to:

Holland & Knight LLP
10 St. James Avenue, 11th Floor
Boston, MA 02116
Attention: James McDermott, Esq.
Fax: (617) 523-6850

Copies of all notices given to Tenant under the Lease shall be concurrently transmitted to Tenant's Permitted Mortgagee at the following address:

Citibank, N.A.
c/o Citi Community Capital
998 S. Federal Hwy. Ste. 203
Boca Raton, FL 33432
Attn: Barry Krinsky
Fax: (954) 734-8646

with a copy to:

Robinson & Cole LLP
885 Third Avenue, 28th Floor
New York, NY 10022-4834
Andrew L. Kramer, Esq.
Fax: (212) 451-2999

22. Permitted Encumbrances. Exhibit B to the Existing Lease is hereby modified by inserting therein:

Leasehold Mortgage from Stirrup Plaza Preservation Phase One, LLC, a Florida limited liability company, as Mortgagor, to Citibank, N.A., a national banking association, as Mortgagee.

Leasehold Mortgage from Stirrup Plaza Preservation Phase One, LLC a Florida limited liability company, as Mortgagor, to Miami-Dade County, a political subdivision of the State of Florida as Mortgagee (Surtax loan).

23. Counterparts. This Third Amendment may be executed in one or more counterparts, which, taken together, shall constitute a single document.

24. No Conflicts. In the event of any conflict between the terms and provisions of the Existing Lease and the terms and provisions of this Third Amendment, the terms and provisions of this Third Amendment shall prevail.

25. Ratification. Except as expressly modified and supplemented by this Third Amendment, the terms and provisions of the Existing Lease are hereby ratified and affirmed in their entirety.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Third Amendment effective as of the date first set forth above.

TENANT:

Witnesses:

STIRRUP PLAZA PRESERVATION PHASE ONE, LLC a Florida limited liability company

By: Stirrup Plaza Phase One Manager, LLC, a Florida limited liability company

_____

_____

By: _____
Alberto Milo, Jr., Vice President

LANDLORD:

MIAMI-DADE COUNTY, a political subdivision of the State of Florida

_____

_____

By: _____
Name: _____
Title: _____

Approved as to form and legal sufficiency:

By: _____
Terrence A. Smith, Assistant County Attorney

#2440707 v1
30364-0883

EXHIBIT A

REAL PROPERTY DESCRIPTION

The Land is described as follows:

That portion of Lots 1, 2 and Lot 3 LESS the West 20.00 feet thereof, E.W.F. STIRRUP SUBDIVISION, according to the plat thereof as recorded in Plat Book 1, Page 12, of the Public Records of Miami - Dade County, Florida, and that portion of Lots 29 and 30, MUNDY'S ADDITION, according to the plat thereof as recorded in Plat Book 15, Page 29, of the Public Records of Miami - Dade County, Florida, lying South of the Southeasterly Right of Way line of State Road No. 5 (U.S. Highway No. 1), as it now exist and Lots 4, 5, 6 and 7 of said E.W.F. STIRRUP SUBDIVISION, LESS the West 20.00 feet thereof and the East 20.00 feet of Lots 8, 9, 10 and 11 AND LESS the South 20 feet of said Lot 11, E.W.F. STIRRUP SUBDIVISION, and Lots 1, 2, 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40 of said MUNDY'S ADDITION.

LESS AND EXCEPT the external area of a 25.00 foot radius curve on the Southeast corner of Lot 2 of said MUNDY'S ADDITION, concave to the Northwest and perpendicular to the East and South lines of said Lot 2, having a central angle of 90° 51' 14" and an arc distance of 39.64 feet.

ALSO KNOWN AS:

A portion of land in the Northwest 1/4 of the Northwest 1/4 of Section 21, Township 54 South, Range 41 East, City of Miami, Miami-Dade County, Florida, more particularly described as follows:

Commence at the Southwest corner of Northwest 1/4, Northwest 1/4 of said Section 21; thence South 89° 10' 30" East a distance of 242.60 feet; thence North a distance of 25.00 feet to the Point of Beginning said point also being the North Right of Way of Day Avenue as it now exists; thence North a distance of 201.00 feet; thence North 89° 55' 44" West a distance of 207.98 feet; thence North a distance of 229.04 feet; thence North 29° 35' 10" East a distance of 18.49 feet; thence North 47° 56' 42" East a distance of 156.35 feet; thence South 89° 55' 44" East a distance of 102.78 feet; thence North a distance of 92.86 feet; thence North 47° 56' 42" East a distance of 114.35 feet; thence South 89° 10' 30" East a distance of 23.23 feet; thence South 00° 01' 44" East for 696.57 feet to a point of curvature; thence South and Southwesterly along the arc of a 25.00 feet radius curve and a central angle of 90° 51' 14" a distance of 39.64 feet to a point of tangency, said point being on the North Right of Way of Day Avenue; thence North 89° 10' 30" West along said North Right of Way line a distance of 103.16 feet to the Point of Beginning.

AMENDMENT NO. 3 TO THE GROUND LEASE BETWEEN
MIAMI-DADE COUNTY AND
SOUTH MIAMI PLAZA PRESERVATION, LLC

This Lease Amendment (this "Third Amendment") entered into as of November __, 2012 by and between Miami-Dade County, a political subdivision of the State of Florida and "public housing agency" as defined in the United States Housing Act of 1937 (42 USC 1437 et seq., as amended) ("Landlord"), and South Miami Plaza Preservation, LLC, a Florida limited liability company ("Tenant").

WITNESSETH:

A. By that certain Ground Lease dated as of December 5, 2011 (the "Original Lease"), Landlord demised and leased to RUDG, LLC ("RUDG") certain real property, as more specifically described in Exhibit A attached hereto.

B. By that certain Assignment and Acceptance Agreement dated as of December 5, 2011, RUDG assigned to Tenant all of its right, title and interest in and to the Original Lease, and Tenant assumed all of the obligations, rights and responsibilities of RUDG under the Original Lease.

C. Landlord and Tenant modified the Original Lease pursuant to Amendment No. 1 to Ground Lease dated as of February 23, 2012 (the "First Amendment") and Amendment No. 2 to Ground Lease also dated as of February 23, 2012 (the "Second Amendment"). The Original Lease, as assigned to Tenant and as modified by the First Amendment and the Second Amendment, is hereinafter referred to as the "Existing Lease".

D. Tenant desires to construct the Improvements on the Land and thereafter to operate and maintain the Premises as a public housing development pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, comprised of a 97-unit apartment project to be known as South Miami Plaza (the "Project").

E. In connection with the financing of the development of the Project, BANK OF AMERICA, N.A., a national banking association (the "Investor Member") has agreed or will agree pursuant to the Amended and Restated Operating Agreement of Tenant, dated as of November __, 2012 (the "Operating Agreement"), to acquire a membership interest in Tenant and become Tenant's Investor Member and to make certain capital contributions to Tenant in accordance with the terms and conditions set forth in the Operating Agreement.

D. Landlord and Tenant desire to supplement and modify certain terms and provisions of the Existing Lease as hereinafter set forth. The Existing Lease, as modified by this Third Amendment, is hereinafter referred to as the "Lease".

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Existing Lease is hereby amended, and Landlord and Tenant further covenant and agree, as follows:

1. Recitals. The forgoing recitals are true and correct and by this reference are incorporated into this Third Amendment as if fully set forth herein. Terms which are capitalized but not defined herein shall have the meanings given to such terms in the Existing Lease.

2. ACC Amendment--Definition. Section 1.1(b) of the Existing Lease is modified to change the words therein "dated on or about the date hereof" to be "dated on or about the Commencement Date" (as the same is defined in the First Amendment).

3. Declaration of Restrictive Covenants--Definition. Section 1.1(h) of the Existing Lease is hereby clarified to provide that the document defined therein shall be recorded on or about the Commencement Date (as the same is defined in the First Amendment).

4. Term--Definition. Section 1.1(gg) of the Existing Lease is hereby modified to provide that the Term of the Lease means seventy five (75) years from the Lease Date.

5. Taxes. The following is hereby added to the Existing Lease as new Section 3.5:

> 3.5 Taxes. Tenant understands and agrees that as a result of the Landlord's fee ownership of the Premises, for State law purposes, the Premises currently is exempt from any ad valorem taxes. Landlord represents to Tenant that such exemption should remain in effect notwithstanding that Landlord is entering into this Lease. However, during the Term of this Lease, should, for any reason whatsoever, the Premises become subject to ad valorem taxes or any other real estate taxes, fees, impositions and/or charges imposed during the Term and any Extensions upon the Premises and the building and/or other improvements constructed on the Premises by Tenant ("Real Estate Taxes"), Tenant shall be required to pay all Real Estate Taxes, prior to delinquency without notice or demand and without set-off, abatement, suspension or deduction. In the event that the folio identification number applicable to the Premises shall also contain other property not specifically included in, or a part of, the Premises, then Tenant shall only be required to pay the portion of such taxes exclusively attributable to the Premises. In addition, Tenant shall be required to pay for any water, electric, sewer, telephone or other utility charges incurred by Tenant during the Term or any Extensions which are limited solely to the Premises and/or any structures and/or improvements thereon.

6. Use; Covenants. Section 5.1(a)(i) is hereby deleted from the Existing Lease.

7. Residential Improvements. Section 5.2(a) of the Existing Lease is hereby modified by deleting the word "affect" in the parenthetical contained in the third sentence and replacing it with the word "reduce".

8. Ownership of Improvements. The first sentence of Section 5.5 of the Existing Lease is hereby deleted and replaced with the following:

> At all times during the Term, Tenant shall be deemed to exclusively own the Improvements and the Personal Property for federal tax purposes, and Tenant alone shall be entitled to all of the tax attributes of ownership thereof, including,

without limitation, the right to claim depreciation or cost recovery deductions and the right to claim the low-income housing tax credit described in Section 42 of the Code, with respect to the Improvements and the Personal Property, and Tenant shall have the right to amortize capital costs and to claim any other federal tax benefits attributable to the Improvements and the Personal Property.

9. Transfer. Section 5.7 of the Existing Lease is hereby modified by inserting the words "Except as otherwise permitted hereunder" at the beginning thereof.

10. Casualty. Section 6.1 of the Existing Lease is hereby modified by (A) inserting the words "subject to the terms and provisions of any Permitted Leasehold Mortgagee" in the three following places:

- After the words "and/or debris therefrom."
- After the words (as determined by tenant in its sole and absolute discretion)"
- After the words "One Hundred Twenty (120) days,"

and (B) inserting the words "so long as any applicable Leasehold Mortgagee with the right to control the disbursement of such proceeds has released such proceeds to Tenant for such restoration or repair" after the end of the second and fourth sentences thereof.

Further, Section 6.1 of the Existing Lease is modified by the insertion of the following therein:

Notwithstanding anything contained in this Section 6.1, or otherwise in this Lease to the contrary, as long as the Tenant's leasehold interest is encumbered by any Permitted Leasehold Mortgage, this Lease shall not be terminated by Landlord or Tenant in the event that the Premises is partially or totally destroyed, and, in the event of such partial or total destruction, all insurance proceeds from casualty insurance as provided herein shall be paid to and held by the Permitted Leasehold Mortgagee, or an insurance trustee selected by the Permitted Leasehold Mortgagee to be used for the purpose of restoration or repair of the Premises. Permitted Leasehold Mortgagee shall have the right to participate in adjustment of losses as to casualty insurance proceeds and any settlement discussion relating to casualty or condemnation.

11. Award. Section 6.2(b) of the Existing Lease is hereby deleted in its entirety and replaced by the following:

(b) Award. Subject to the terms of the Permitted Leasehold Mortgages (as defined in Section 8.10), the Landlord and the Tenant agree that, in the event of a Taking that does not result in the termination of this Lease pursuant to Section 6.2(c) or 6.2(d), this Lease shall continue in effect as to the remainder of the Premises, and the net amounts owed or paid to the Landlord or pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any costs and expenses incurred by the Landlord in collecting such award or payment (the "Award") will be disbursed in

accordance with Section 6.2(c) or 6.2(d) (as the case may be) to the Landlord and/or Tenant. The Tenant and, to the extent permitted by law, any Permitted Leasehold Mortgagee, shall have the right to participate in negotiations of and to approve any such settlement with a condemning authority (which approval shall not be unreasonably withheld).

12. Partial Taking. Section 6.2(d) of the Existing Lease is hereby modified as follows:

By deleting the third and fourth sentences thereof and replacing them with the following:

Subject to the terms of the Permitted Leasehold Mortgages, if there is a Partial Taking and the Tenant does not terminate this Lease, the Tenant shall be entitled to receive and retain the Award and shall apply such portion of the Award necessary to repair or restore the Premises or the Improvements as nearly as possible to the condition the Premises or the Improvements were in immediately prior to such Partial Taking. Subject to the terms of the Permitted Leasehold Mortgages, if there is a Partial Taking which affects the use of the Premises after the term hereof, the Award shall be apportioned between the Tenant and the Landlord based on the ratio of the remaining term hereof and the remaining expected useful life of the Premises following the term hereof. Subject to the terms of the Permitted Leasehold Mortgages, notwithstanding any provision herein to the contrary, the Landlord shall be entitled to receive and retain any portion of the Award apportioned to the land upon which the Improvements are located.

By deleting the fifth sentence thereof and replacing it with the following: "Should such award be insufficient to accomplish the restoration, such additional costs shall be paid by Tenant."

13. Termination Upon Non-Restoration. Section 6.3 of the Existing Lease is hereby deleted in its entirety and replaced by the following:

6.3 Termination Upon Non-Restoration. Following a Partial Taking, if a decision is made pursuant to this Article VI that the remaining portion of the Premises is not to be restored, and Tenant shall have determined that the continued development, use or occupancy of the remainder of the Premises by Tenant cannot be made economically viable or structurally sound, Tenant shall surrender the entire remaining portion of the Premises to Landlord and this Lease shall thereupon be terminated without liability or further recourse to the parties hereto, provided that any Rent, impositions and other amounts payable or obligations hereunder owed by Tenant to Landlord as of the date of the Partial Taking shall be paid in full.

14. Mortgagee Clauses. The following is hereby added to the Existing Lease as new Section 8.10:

8.10. Permitted Leasehold Mortgages. Neither the Tenant nor any permitted successor in interest to the Premises or any part thereof shall, without the prior written consent of the Landlord in each instance, engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Premises, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Premises, except for the encumbrances set forth on Exhibit B hereto (the "**Permitted Encumbrances**") and the leasehold mortgages securing the loans described on Exhibit B attached hereto (the "**Permitted Leasehold Mortgages**"). With respect to the Permitted Leasehold Mortgages, the following provisions shall apply:

(a) When giving notice to the Tenant with respect to any default under the provisions of this Lease, the Landlord will also send a copy of such notice to the holder of each Permitted Leasehold Mortgage (each a "**Permitted Leasehold Mortgagee**"), provided that each such Permitted Leasehold Mortgagee shall have delivered to the Landlord in writing a notice naming itself as the holder of a Permitted Leasehold Mortgage and registering the name and post office address to which all notices and other communications to it may be addressed.

(b) Each Permitted Leasehold Mortgagee shall be permitted, but not obligated, to cure any default by the Tenant under this Lease within the same period of time specified for the Tenant to cure such default. The Tenant authorizes each Permitted Leasehold Mortgagee to take any such action at such Permitted Leasehold Mortgagee's option and does hereby authorize entry upon the Premises for such purpose.

(c) The Landlord agrees to accept payment or performance by any Permitted Leasehold Mortgagee as though the same had been done by the Tenant.

(d) In the case of a default by the Tenant other than in the payment of money, and provided that a Permitted Leasehold Mortgagee has commenced to cure the default and is proceeding with due diligence to cure the default, the Landlord will refrain from terminating this Lease for a reasonable period of time (not to exceed 120 days from the date of the notice of default, unless (i) such cure cannot reasonably be completed within 120 days from the date of the notice of default, and (ii) a Permitted Leasehold Mortgagee continues to diligently pursue such cure to the reasonable satisfaction of the Landlord) within which time the Permitted Leasehold Mortgagee may either (i) obtain possession of the Premises (including possession by receiver); (ii) institute foreclosure proceedings and complete such foreclosure; or (iii) otherwise acquire the Tenant's interest under this Lease. The Permitted Leasehold Mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which was the subject of the notice shall have been cured. Notwithstanding the foregoing, the Landlord will refrain from terminating this Lease in the event such Permitted Leasehold Mortgagee is enjoined or stayed in such possession or such foreclosure proceedings, and provided that the Permitted Leasehold Mortgagee has delivered to Landlord copies of any and all orders enjoining or staying such action,

Landlord will grant such Permitted Leasehold Mortgagee such additional time as is required for such Permitted Leasehold Mortgagee to complete steps to acquire or sell Tenant's leasehold estate and interest in this Lease by foreclosure of its Permitted Leasehold Mortgage or by other appropriate means with due diligence; however, nothing in this Section shall be construed to extend this Lease beyond the term.

(e) Any Permitted Leasehold Mortgagee or other acquirer of Tenant's leasehold estate and interest in this Lease pursuant to foreclosure, an assignment in lieu of foreclosure or other proceedings, any of which are permitted without the Landlord's consent, may, upon acquiring the Tenant's leasehold estate and interest in this Lease, without further consent of the Landlord and without HUD's consent, sell and assign the leasehold estate and interest in this Lease on such terms and to such persons and organizations as are acceptable to such Permitted Leasehold Mortgagee or acquirer and thereafter be relieved of all obligations under this Lease, provided such assignee has delivered to the Landlord its written agreement to be bound by all of the provisions of this Lease. Permitted Leasehold Mortgagee, or its nominee or designee, shall also have the right to further assign, sublease or sublet all or any part of the leasehold interest hereunder to a third party without the consent or approval of Landlord.

(f) In the event of a termination of this Lease prior to its stated expiration date, the Landlord will enter into a new lease for the Premises with the Permitted Leasehold Mortgagee (or its nominee), for the remainder of the term, effective as of the date of such termination, at the same Rent payment and subject to the same covenants and agreements, terms, provisions, and limitations herein contained, provided that:

(i) The Landlord receives the Permitted Leasehold Mortgagee's written request for such new lease within 30 days from the date of such termination and notice thereof by the Landlord to the Permitted Leasehold Mortgagee (including an itemization of amounts then due and owing to the Landlord under this Lease), and such written request is accompanied by payment to the Landlord of all amounts then due and owing to Landlord under this Lease and, within 10 days after the delivery of an accounting therefor by the Landlord, pays any and all costs and expenses incurred by the Landlord in connection with the execution and delivery of the new lease, less the net income collected by the Landlord from the Premises subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Rent payment thereafter becoming due under the new lease, provided, however, that the Permitted Leasehold Mortgagee shall receive full credit for all capitalized lease and Rent payments previously delivered by the Tenant to the Landlord; and

(ii) Upon the execution and delivery of the new lease at the time payment is made in (i) above, all subleases which thereafter may have been assigned and transferred to the Landlord shall thereupon be assigned and

transferred without recourse by the Landlord to the Permitted Leasehold Mortgagee (or its nominee), as the new Tenant.

(iii) If a Permitted Leasehold Mortgagee acquires the leasehold estate created hereunder or otherwise acquires possession of the Premises pursuant to available legal remedies, Landlord will look to such holder to perform the obligations of Tenant hereunder only from and after the date of foreclosure or possession and will not hold such holder responsible for the past actions or inactions of the prior Tenant. Permitted Leasehold Mortgagee's liability shall be limited to the value of such Permitted Leasehold Mortgagee's interest in this Lease and in the leasehold estate created thereby.

Notwithstanding the foregoing and to the extent permitted by Section 42 of the Code, the deadline to complete construction of the Improvements set forth in Article V shall be extended for such period of time as may be reasonably required by the Permitted Leasehold Mortgagee or its nominee to complete construction.

15. Estoppel Certificates. Section 10.8 of the Existing Lease is hereby modified by inserting the words "or to any Permitted Leasehold Mortgagee" after the words "deliver to the other".

16. Amendment. Section 10.12 of the Existing Lease is hereby modified by adding the following thereto: Tenant and Landlord hereby expressly stipulate and agree that, they will not modify this Lease in any way nor cancel or terminate this Lease by mutual agreement nor will Tenant surrender its interest in this Lease, including but not limited to pursuant to the provisions of Section 6.3, without the prior written consent of all Permitted Leasehold Mortgagees and the Tenant's Investor Member. No amendment to or termination of this Lease shall become effective without all such required consents. Tenant and Landlord further agree that they will not, respectively, take advantage of any provisions of the United States Bankruptcy Code that would result in a termination of this Lease or make it unenforceable.

17. Compliance with Governing Requirements. The following language is added as new Section 10.18 to the Existing lease:

10.18. Compliance with Governing Requirements. Notwithstanding anything to the contrary herein, Landlord and Tenant hereby agree to comply with any and all applicable HUD notice and consent requirements set forth in the Governing Documents by providing notice to HUD as required in the Governing Documents, at the address for HUD set forth in Section 10.10 hereof.

18. Tenant's Options. The following is added as new Section 11.3 to the Existing Lease:

11.3. Mortgagee Rights. Tenant's rights with respect to any option to purchase the Premises as set forth in this Section 11 shall be assignable to and may be exercised by any Permitted Leasehold Mortgagee which succeeds in interest to the Tenant, without requiring any consent or approval by Landlord.

19. Default. The following is hereby added to the Existing Lease as new Section 12:

12. Defaults; Remedies

12.1 Defaults. Notwithstanding anything to the contrary contained in the Lease, at any time that Landlord or any affiliate of Landlord is a member of Tenant or owns a controlling interest in a member of Tenant, an Event of Default or a Regulatory Default shall not have occurred if the action or inaction that otherwise would constitute an Event of Default or a Regulatory Default was caused by the actions or inactions of Landlord or its affiliate in its capacity as a direct or indirect member of Tenant.

12.2 Remedies.

(a) Notwithstanding anything to the contrary contained in the Lease, in the event Landlord exercises its remedies pursuant to Article VIII and terminates this Lease, Tenant may, within 90 days following such termination reinstate this Lease for the balance of the Term by paying to Landlord an amount equal to the actual damages incurred by Landlord as a result of the breach that resulted in such termination and any actual costs or expenses incurred by Landlord as a result of such reinstatement of this Lease.

(b) Notwithstanding anything to the contrary contained in the Lease, Landlord shall not exercise any of its remedies hereunder without having given notice of the Event of Default or other breach or default to the Investor Member of Tenant simultaneously with the giving of notice to Tenant as required under the provisions of Article VIII of the Lease. The Investor Member shall have the same cure period after the giving of a notice as provided to Tenant, plus an additional period of 60 days. If the Investor Member elects to cure the Event of Default or other breach or default, Landlord agrees to accept such performance as though the same had been done or performed by Tenant.

(c) Notwithstanding anything to the contrary contained in the Lease, the Investor Member shall be deemed a third-party beneficiary of the provisions of this Section for the sole and exclusive purpose of entitling the Investor Member to exercise its rights to notice and cure, as expressly stated herein. The foregoing right of the Investor Member to be a third-party beneficiary under the Lease shall be the only right of Investor Member (express or implied) to be a third-party beneficiary hereunder.

(d) Notwithstanding anything to the contrary contained in the Lease, Landlord agrees that it will take no action to effect a termination of the Lease by reason of any Event of Default or any other breach or default (i) at any time that Landlord or its affiliate is a member of Tenant or owns a controlling interest in a member of Tenant or (ii), if Landlord or its affiliate is not a member of Tenant and does not own a controlling interest in a member of Tenant, without first giving to the Investor Member reasonable time, not to exceed 60 days, to replace Tenant's managing member and/or admit an additional managing member and

cause the new managing member to cure the Event of Default or other breach or default; provided, however, that as a condition of such forbearance, Landlord must receive notice from the Investor Member of the substitution or admission of a new managing member of Tenant within 30 days following Landlord's notice to Tenant and the Investor Member of the Event of Default or other breach or default, and Tenant, following such substitution or admission of the managing member, shall thereupon proceed with due diligence to cure such Event of Default or other breach or default.

20. Intention of the Parties. It is the intention of Landlord and Tenant that, pursuant to the terms of the Lease, the full burdens and benefits associated with ownership of the Premises, except those pertaining to ownership of the Land solely for state law purposes, shall pass to Tenant during the Term of the Lease.

21. Notices.

Copies of all notices given to Tenant under the Lease shall be concurrently transmitted to Tenant's Investor Member at the following address:

Bank of America
Community Development Banking
MA1-225-02-02
225 Franklin Street
Boston, MA 02110
Attention: Asset Management – South Miami Plaza

with copies to:

Holland & Knight LLP
10 St. James Avenue, 11th Floor
Boston, MA 02116
Attention: James E. McDermott, Esq.

Copies of all notices given to Tenant under the Lease shall be concurrently transmitted to Tenant's Permitted Mortgagee at the following address:

Bank of America, N.A.
Mail Code: FL1-400-06-08
101 E. Kennedy Blvd., 6th Floor
Tampa, FL 33602-5179
Attn: Community Development Lending
Fax Number: (813) 225-8426

with a copy to:

Bank of America, N.A.
Mail Code: FL1-400-06-13
101 E. Kennedy Blvd., 6th Floor

Tampa, FL 33602-5179
Attn: _____
Fax Number: (___) _____

22. Permitted Encumbrances. Exhibit B to the Existing Lease is hereby modified by inserting therein:

Leasehold Mortgage from South Miami Plaza Preservation, LLC, a Florida limited liability company, as Mortgagor, to Bank of America, N.A., a national banking association, as Mortgagee.

Leasehold Mortgage from South Miami Plaza Preservation, LLC, a Florida limited liability company, as Mortgagor, to Miami-Dade County, a political subdivision of the State of Florida as Mortgagee (Surtax loan).

23. Counterparts. This Third Amendment may be executed in one or more counterparts, which, taken together, shall constitute a single document.

24. No Conflicts. In the event of any conflict between the terms and provisions of the Existing Lease and the terms and provisions of this Third Amendment, the terms and provisions of this Third Amendment shall prevail.

25. Ratification. Except as expressly modified and supplemented by this Third Amendment, the terms and provisions of the Existing Lease are hereby ratified and affirmed in their entirety.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Third Amendment effective as of the date first set forth above.

TENANT:

Witnesses:

SOUTH MIAMI PRESERVATION, LLC, a Florida limited liability company

By: South Miami Plaza Manager, LLC, a Florida limited liability company

_____

_____

By: _____
Alberto Milo, Jr., Vice President

LANDLORD:

MIAMI-DADE COUNTY, a political subdivision of the State of Florida

_____

_____

By: _____
Name: _____
Title: _____

Approved as to form and legal sufficiency:

By: _____
Terrence A. Smith, Assistant County Attorney

EXHIBIT A

REAL PROPERTY DESCRIPTION

The Land is described as follows:

Tract "F" of UNIVERSITY GARDENS SUBDIVISION NO. 3, according to the Plat thereof as recorded in Plat Book 102, Page 19, of the Public Records of Miami-Dade County, Florida.

AMENDMENT NO. 3 TO THE GROUND LEASE BETWEEN
MIAMI-DADE COUNTY AND
JACK ORR PLAZA PRESERVATION PHASE ONE, LLC

This Lease Amendment (this "Third Amendment") entered into as of November __, 2012 by and between Miami-Dade County, a political subdivision of the State of Florida and "public housing agency" as defined in the United States Housing Act of 1937 (42 USC 1437 et seq., as amended) ("Landlord"), and Jack Orr Plaza Preservation Phase One, LLC, a Florida limited liability company ("Tenant").

WITNESSETH:

A. By that certain Ground Lease dated as of December 5, 2011 (the "Original Lease"), Landlord demised and leased to RUDG, LLC ("RUDG") certain real property, as more specifically described in Exhibit A attached hereto.

B. By that certain Assignment and Acceptance Agreement dated as of December 5, 2011, RUDG assigned to Tenant all of its right, title and interest in and to the Original Lease, and Tenant assumed all of the obligations, rights and responsibilities of RUDG under the Original Lease.

C. Landlord and Tenant modified the Original Lease pursuant to Amendment No. 1 to Ground Lease dated as of February 23, 2012 (the "First Amendment") and Amendment No. 2 to Ground Lease also dated as of February 23, 2012 (the "Second Amendment"). The Original Lease, as assigned to Tenant and as modified by the First Amendment and the Second Amendment, is hereinafter referred to as the "Existing Lease".

D. Tenant desires to construct the Improvements on the Land and thereafter to operate and maintain the Premises as a public housing development pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, comprised of a 200-unit apartment project to be known as Jack Orr Plaza Phase One (the "Project").

E. In connection with the financing of the development of the Project, BANK OF AMERICA, N.A., a national banking association (the "Investor Member") has agreed or will agree pursuant to the Amended and Restated Operating Agreement of Tenant, dated as of November __, 2012 (the "Operating Agreement"), to acquire a membership interest in Tenant and become Tenant's Investor Member and to make certain capital contributions to Tenant in accordance with the terms and conditions set forth in the Operating Agreement.

D. Landlord and Tenant desire to supplement and modify certain terms and provisions of the Existing Lease as hereinafter set forth. The Existing Lease, as modified by this Third Amendment, is hereinafter referred to as the "Lease".

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Existing Lease is hereby amended, and Landlord and Tenant further covenant and agree, as follows:

1. Recitals. The forgoing recitals are true and correct and by this reference are incorporated into this Third Amendment as if fully set forth herein. Terms which are capitalized but not defined herein shall have the meanings given to such terms in the Existing Lease.

2. ACC Amendment--Definition. Section 1.1(b) of the Existing Lease is modified to change the words therein "dated on or about the date hereof" to be "dated on or about the Commencement Date" (as the same is defined in the First Amendment).

3. Declaration of Restrictive Covenants--Definition. Section 1.1(h) of the Existing Lease is hereby clarified to provide that the document defined therein shall be recorded on or about the Commencement Date (as the same is defined in the First Amendment).

4. Term--Definition. Section 1.1(gg) of the Existing Lease is hereby modified to provide that the Term of the Lease means seventy five (75) years from the Lease Date.

5. Taxes. The following is hereby added to the Existing Lease as new Section 3.5:

> 3.5 Taxes. Tenant understands and agrees that as a result of the Landlord's fee ownership of the Premises, for State law purposes, the Premises currently is exempt from any ad valorem taxes. Landlord represents to Tenant that such exemption should remain in effect notwithstanding that Landlord is entering into this Lease. However, during the Term of this Lease, should, for any reason whatsoever, the Premises become subject to ad valorem taxes or any other real estate taxes, fees, impositions and/or charges imposed during the Term and any Extensions upon the Premises and the building and/or other improvements constructed on the Premises by Tenant ("Real Estate Taxes"), Tenant shall be required to pay all Real Estate Taxes, prior to delinquency without notice or demand and without set-off, abatement, suspension or deduction. In the event that the folio identification number applicable to the Premises shall also contain other property not specifically included in, or a part of, the Premises, then Tenant shall only be required to pay the portion of such taxes exclusively attributable to the Premises. In addition, Tenant shall be required to pay for any water, electric, sewer, telephone or other utility charges incurred by Tenant during the Term or any Extensions which are limited solely to the Premises and/or any structures and/or improvements thereon.

6. Use; Covenants. Section 5.1(a)(i) is hereby deleted from the Existing Lease.

7. Residential Improvements. Section 5.2(a) of the Existing Lease is hereby modified by deleting the word "affect" in the parenthetical contained in the third sentence and replacing it with the word "reduce".

8. Ownership of Improvements. The first sentence of Section 5.5 of the Existing Lease is hereby deleted and replaced with the following:

> At all times during the Term, Tenant shall be deemed to exclusively own the Improvements and the Personal Property for federal tax purposes, and Tenant alone shall be entitled to all of the tax attributes of ownership thereof, including,

without limitation, the right to claim depreciation or cost recovery deductions and the right to claim the low-income housing tax credit described in Section 42 of the Code, with respect to the Improvements and the Personal Property, and Tenant shall have the right to amortize capital costs and to claim any other federal tax benefits attributable to the Improvements and the Personal Property.

9. Transfer. Section 5.7 of the Existing Lease is hereby modified by inserting the words "Except as otherwise permitted hereunder" at the beginning thereof.

10. Casualty. Section 6.1 of the Existing Lease is hereby modified by (A) inserting the words "subject to the terms and provisions of any Permitted Leasehold Mortgagee" in the three following places:

- After the words "and/or debris therefrom."
- After the words (as determined by tenant in its sole and absolute discretion)"
- After the words "One Hundred Twenty (120) days,"

and (B) inserting the words "so long as any applicable Leasehold Mortgagee with the right to control the disbursement of such proceeds has released such proceeds to Tenant for such restoration or repair" after the end of the second and fourth sentences thereof.

Further, Section 6.1 of the Existing Lease is modified by the insertion of the following therein:

Notwithstanding anything contained in this Section 6.1, or otherwise in this Lease to the contrary, as long as the Tenant's leasehold interest is encumbered by any Permitted Leasehold Mortgage, this Lease shall not be terminated by Landlord or Tenant in the event that the Premises is partially or totally destroyed, and, in the event of such partial or total destruction, all insurance proceeds from casualty insurance as provided herein shall be paid to and held by the Permitted Leasehold Mortgagee, or an insurance trustee selected by the Permitted Leasehold Mortgagee to be used for the purpose of restoration or repair of the Premises. Permitted Leasehold Mortgagee shall have the right to participate in adjustment of losses as to casualty insurance proceeds and any settlement discussion relating to casualty or condemnation.

11. Award. Section 6.2(b) of the Existing Lease is hereby deleted in its entirety and replaced by the following:

(b) Award. Subject to the terms of the Permitted Leasehold Mortgages (as defined in Section 8.10), the Landlord and the Tenant agree that, in the event of a Taking that does not result in the termination of this Lease pursuant to Section 6.2(c) or 6.2(d), this Lease shall continue in effect as to the remainder of the Premises, and the net amounts owed or paid to the Landlord or pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any costs and expenses incurred by the Landlord in collecting such award or payment (the "Award") will be disbursed in

accordance with Section 6.2(c) or 6.2(d) (as the case may be) to the Landlord and/or Tenant. The Tenant and, to the extent permitted by law, any Permitted Leasehold Mortgagee, shall have the right to participate in negotiations of and to approve any such settlement with a condemning authority (which approval shall not be unreasonably withheld).

12. Partial Taking. Section 6.2(d) of the Existing Lease is hereby modified as follows:

By deleting the third and fourth sentences thereof and replacing them with the following:

Subject to the terms of the Permitted Leasehold Mortgages, if there is a Partial Taking and the Tenant does not terminate this Lease, the Tenant shall be entitled to receive and retain the Award and shall apply such portion of the Award necessary to repair or restore the Premises or the Improvements as nearly as possible to the condition the Premises or the Improvements were in immediately prior to such Partial Taking. Subject to the terms of the Permitted Leasehold Mortgages, if there is a Partial Taking which affects the use of the Premises after the term hereof, the Award shall be apportioned between the Tenant and the Landlord based on the ratio of the remaining term hereof and the remaining expected useful life of the Premises following the term hereof. Subject to the terms of the Permitted Leasehold Mortgages, notwithstanding any provision herein to the contrary, the Landlord shall be entitled to receive and retain any portion of the Award apportioned to the land upon which the Improvements are located.

By deleting the fifth sentence thereof and replacing it with the following: "Should such award be insufficient to accomplish the restoration, such additional costs shall be paid by Tenant."

13. Termination Upon Non-Restoration. Section 6.3 of the Existing Lease is hereby deleted in its entirety and replaced by the following:

6.3 Termination Upon Non-Restoration. Following a Partial Taking, if a decision is made pursuant to this Article VI that the remaining portion of the Premises is not to be restored, and Tenant shall have determined that the continued development, use or occupancy of the remainder of the Premises by Tenant cannot be made economically viable or structurally sound, Tenant shall surrender the entire remaining portion of the Premises to Landlord and this Lease shall thereupon be terminated without liability or further recourse to the parties hereto, provided that any Rent, impositions and other amounts payable or obligations hereunder owed by Tenant to Landlord as of the date of the Partial Taking shall be paid in full.

14. Mortgagee Clauses. The following is hereby added to the Existing Lease as new Section 8.10:

8.10. Permitted Leasehold Mortgages. Neither the Tenant nor any permitted successor in interest to the Premises or any part thereof shall, without the prior written consent of the Landlord in each instance, engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Premises, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Premises, except for the encumbrances set forth on Exhibit B hereto (the "**Permitted Encumbrances**") and the leasehold mortgages securing the loans described on Exhibit B attached hereto (the "**Permitted Leasehold Mortgages**"). With respect to the Permitted Leasehold Mortgages, the following provisions shall apply:

(a) When giving notice to the Tenant with respect to any default under the provisions of this Lease, the Landlord will also send a copy of such notice to the holder of each Permitted Leasehold Mortgage (each a "**Permitted Leasehold Mortgagee**"), provided that each such Permitted Leasehold Mortgagee shall have delivered to the Landlord in writing a notice naming itself as the holder of a Permitted Leasehold Mortgage and registering the name and post office address to which all notices and other communications to it may be addressed.

(b) Each Permitted Leasehold Mortgagee shall be permitted, but not obligated, to cure any default by the Tenant under this Lease within the same period of time specified for the Tenant to cure such default. The Tenant authorizes each Permitted Leasehold Mortgagee to take any such action at such Permitted Leasehold Mortgagee's option and does hereby authorize entry upon the Premises for such purpose.

(c) The Landlord agrees to accept payment or performance by any Permitted Leasehold Mortgagee as though the same had been done by the Tenant.

(d) In the case of a default by the Tenant other than in the payment of money, and provided that a Permitted Leasehold Mortgagee has commenced to cure the default and is proceeding with due diligence to cure the default, the Landlord will refrain from terminating this Lease for a reasonable period of time (not to exceed 120 days from the date of the notice of default, unless (i) such cure cannot reasonably be completed within 120 days from the date of the notice of default, and (ii) a Permitted Leasehold Mortgagee continues to diligently pursue such cure to the reasonable satisfaction of the Landlord) within which time the Permitted Leasehold Mortgagee may either (i) obtain possession of the Premises (including possession by receiver); (ii) institute foreclosure proceedings and complete such foreclosure; or (iii) otherwise acquire the Tenant's interest under this Lease. The Permitted Leasehold Mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which was the subject of the notice shall have been cured. Notwithstanding the foregoing, the Landlord will refrain from terminating this Lease in the event such Permitted Leasehold Mortgagee is enjoined or stayed in such possession or such foreclosure proceedings, and provided that the Permitted Leasehold Mortgagee has delivered to Landlord copies of any and all orders enjoining or staying such action,

Landlord will grant such Permitted Leasehold Mortgagee such additional time as is required for such Permitted Leasehold Mortgagee to complete steps to acquire or sell Tenant's leasehold estate and interest in this Lease by foreclosure of its Permitted Leasehold Mortgage or by other appropriate means with due diligence; however, nothing in this Section shall be construed to extend this Lease beyond the term.

(e) Any Permitted Leasehold Mortgagee or other acquirer of Tenant's leasehold estate and interest in this Lease pursuant to foreclosure, an assignment in lieu of foreclosure or other proceedings, any of which are permitted without the Landlord's consent, may, upon acquiring the Tenant's leasehold estate and interest in this Lease, without further consent of the Landlord and without HUD's consent, sell and assign the leasehold estate and interest in this Lease on such terms and to such persons and organizations as are acceptable to such Permitted Leasehold Mortgagee or acquirer and thereafter be relieved of all obligations under this Lease, provided such assignee has delivered to the Landlord its written agreement to be bound by all of the provisions of this Lease. Permitted Leasehold Mortgagee, or its nominee or designee, shall also have the right to further assign, sublease or sublet all or any part of the leasehold interest hereunder to a third party without the consent or approval of Landlord.

(f) In the event of a termination of this Lease prior to its stated expiration date, the Landlord will enter into a new lease for the Premises with the Permitted Leasehold Mortgagee (or its nominee), for the remainder of the term, effective as of the date of such termination, at the same Rent payment and subject to the same covenants and agreements, terms, provisions, and limitations herein contained, provided that:

(i) The Landlord receives the Permitted Leasehold Mortgagee's written request for such new lease within 30 days from the date of such termination and notice thereof by the Landlord to the Permitted Leasehold Mortgagee (including an itemization of amounts then due and owing to the Landlord under this Lease), and such written request is accompanied by payment to the Landlord of all amounts then due and owing to Landlord under this Lease and, within 10 days after the delivery of an accounting therefor by the Landlord, pays any and all costs and expenses incurred by the Landlord in connection with the execution and delivery of the new lease, less the net income collected by the Landlord from the Premises subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Rent payment thereafter becoming due under the new lease, provided, however, that the Permitted Leasehold Mortgagee shall receive full credit for all capitalized lease and Rent payments previously delivered by the Tenant to the Landlord; and

(ii) Upon the execution and delivery of the new lease at the time payment is made in (i) above, all subleases which thereafter may have been assigned and transferred to the Landlord shall thereupon be assigned and

transferred without recourse by the Landlord to the Permitted Leasehold Mortgagee (or its nominee), as the new Tenant.

(iii) If a Permitted Leasehold Mortgagee acquires the leasehold estate created hereunder or otherwise acquires possession of the Premises pursuant to available legal remedies, Landlord will look to such holder to perform the obligations of Tenant hereunder only from and after the date of foreclosure or possession and will not hold such holder responsible for the past actions or inactions of the prior Tenant. Permitted Leasehold Mortgagee's liability shall be limited to the value of such Permitted Leasehold Mortgagee's interest in this Lease and in the leasehold estate created thereby.

Notwithstanding the foregoing and to the extent permitted by Section 42 of the Code, the deadline to complete construction of the Improvements set forth in Article V shall be extended for such period of time as may be reasonably required by the Permitted Leasehold Mortgagee or its nominee to complete construction.

15. Estoppel Certificates. Section 10.8 of the Existing Lease is hereby modified by inserting the words "or to any Permitted Leasehold Mortgagee" after the words "deliver to the other".

16. Amendment. Section 10.12 of the Existing Lease is hereby modified by adding the following thereto: Tenant and Landlord hereby expressly stipulate and agree that, they will not modify this Lease in any way nor cancel or terminate this Lease by mutual agreement nor will Tenant surrender its interest in this Lease, including but not limited to pursuant to the provisions of Section 6.3, without the prior written consent of all Permitted Leasehold Mortgagees and the Tenant's Investor Member. No amendment to or termination of this Lease shall become effective without all such required consents. Tenant and Landlord further agree that they will not, respectively, take advantage of any provisions of the United States Bankruptcy Code that would result in a termination of this Lease or make it unenforceable.

17. Compliance with Governing Requirements. The following language is added as new Section 10.18 to the Existing lease:

10.18. Compliance with Governing Requirements. Notwithstanding anything to the contrary herein, Landlord and Tenant hereby agree to comply with any and all applicable HUD notice and consent requirements set forth in the Governing Documents by providing notice to HUD as required in the Governing Documents, at the address for HUD set forth in Section 10.10 hereof.

18. Tenant's Options. The following is added as new Section 11.3 to the Existing Lease:

11.3. Mortgagee Rights. Tenant's rights with respect to any option to purchase the Premises as set forth in this Section 11 shall be assignable to and may be exercised by any Permitted Leasehold Mortgagee which succeeds in interest to the Tenant, without requiring any consent or approval by Landlord.

19. Default. The following is hereby added to the Existing Lease as new Section 12:

12. Defaults; Remedies

12.1 Defaults. Notwithstanding anything to the contrary contained in the Lease, at any time that Landlord or any affiliate of Landlord is a member of Tenant or owns a controlling interest in a member of Tenant, an Event of Default or a Regulatory Default shall not have occurred if the action or inaction that otherwise would constitute an Event of Default or a Regulatory Default was caused by the actions or inactions of Landlord or its affiliate in its capacity as a direct or indirect member of Tenant.

12.2 Remedies.

(a) Notwithstanding anything to the contrary contained in the Lease, in the event Landlord exercises its remedies pursuant to Article VIII and terminates this Lease, Tenant may, within 90 days following such termination reinstate this Lease for the balance of the Term by paying to Landlord an amount equal to the actual damages incurred by Landlord as a result of the breach that resulted in such termination and any actual costs or expenses incurred by Landlord as a result of such reinstatement of this Lease.

(b) Notwithstanding anything to the contrary contained in the Lease, Landlord shall not exercise any of its remedies hereunder without having given notice of the Event of Default or other breach or default to the Investor Member of Tenant simultaneously with the giving of notice to Tenant as required under the provisions of Article VIII of the Lease. The Investor Member shall have the same cure period after the giving of a notice as provided to Tenant, plus an additional period of 60 days. If the Investor Member elects to cure the Event of Default or other breach or default, Landlord agrees to accept such performance as though the same had been done or performed by Tenant.

(c) Notwithstanding anything to the contrary contained in the Lease, the Investor Member shall be deemed a third-party beneficiary of the provisions of this Section for the sole and exclusive purpose of entitling the Investor Member to exercise its rights to notice and cure, as expressly stated herein. The foregoing right of the Investor Member to be a third-party beneficiary under the Lease shall be the only right of Investor Member (express or implied) to be a third-party beneficiary hereunder.

(d) Notwithstanding anything to the contrary contained in the Lease, Landlord agrees that it will take no action to effect a termination of the Lease by reason of any Event of Default or any other breach or default (i) at any time that Landlord or its affiliate is a member of Tenant or owns a controlling interest in a member of Tenant or (ii), if Landlord or its affiliate is not a member of Tenant and does not own a controlling interest in a member of Tenant, without first giving to the Investor Member reasonable time, not to exceed 60 days, to replace Tenant's managing member and/or admit an additional managing member and

cause the new managing member to cure the Event of Default or other breach or default; provided, however, that as a condition of such forbearance, Landlord must receive notice from the Investor Member of the substitution or admission of a new managing member of Tenant within 30 days following Landlord's notice to Tenant and the Investor Member of the Event of Default or other breach or default, and Tenant, following such substitution or admission of the managing member, shall thereupon proceed with due diligence to cure such Event of Default or other breach or default.

20. Intention of the Parties. It is the intention of Landlord and Tenant that, pursuant to the terms of the Lease, the full burdens and benefits associated with ownership of the Premises, except those pertaining to ownership of the Land solely for state law purposes, shall pass to Tenant during the Term of the Lease.

21. Notices.

Copies of all notices given to Tenant under the Lease shall be concurrently transmitted to Tenant's Investor Member at the following address:

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Community Development Banking
MA1-225-02-02
225 Franklin Street
Boston, MA 02110
Attention: Asset Management –Jack Orr Plaza Phase One

with copies to:

Holland & Knight LLP
10 St. James Avenue, 11th Floor
Boston, MA 02116
Attention: James E. McDermott, Esq.

Copies of all notices given to Tenant under the Lease shall be concurrently transmitted to Tenant's Permitted Mortgagee at the following address:

Bank of America, N.A.
Mail Code: FL1-400-06-08
101 E. Kennedy Blvd., 6th Floor
Tampa, FL 33602-5179
Attn: Community Development Lending
Fax Number: (813) 225-8426

with a copy to:

Bank of America, N.A.
Mail Code: FL1-400-06-13
101 E. Kennedy Blvd., 6th Floor

Tampa, FL 33602-5179
Attn: _____
Fax Number: (___) _____

22. Permitted Encumbrances. Exhibit B to the Existing Lease is hereby modified by inserting therein:

Leasehold Mortgage from Jack Orr Plaza Preservation Phase One, LLC, a Florida limited liability company, as Mortgagor, to Bank of America, N.A., a national banking association, as Mortgagee.

Leasehold Mortgage from Jack Orr Plaza Preservation Phase One, LLC, a Florida limited liability company, as Mortgagor, to Miami-Dade County, a political subdivision of the State of Florida as Mortgagee (Surtax loan).

23. Counterparts. This Third Amendment may be executed in one or more counterparts, which, taken together, shall constitute a single document.

24. No Conflicts. In the event of any conflict between the terms and provisions of the Existing Lease and the terms and provisions of this Third Amendment, the terms and provisions of this Third Amendment shall prevail.

25. Ratification. Except as expressly modified and supplemented by this Third Amendment, the terms and provisions of the Existing Lease are hereby ratified and affirmed in their entirety.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Third Amendment effective as of the date first set forth above.

TENANT:

Witnesses:

JACK ORR PLAZA PRESERVATION PHASE ONE, LLC, a Florida limited liability company

By: Jack Orr Plaza Phase One Manager, LLC, a Florida limited liability company

_____

_____

By: _____
Alberto Milo, Jr., Vice President

LANDLORD:

MIAMI-DADE COUNTY, a political subdivision of the State of Florida

_____

_____

By: _____
Name: _____
Title: _____

Approved as to form and legal sufficiency:

By: _____
Terrence A. Smith, Assistant County Attorney

EXHIBIT A

REAL PROPERTY DESCRIPTION

The Land is described as follows:

Lot 1 through Lot 10 less the North 10 feet thereof, Lots 11 through 14 less the Southwesterly 5 feet thereof, Lot 15 less the Southwesterly 5 feet of the West 20.33 feet, Lot 18 less the North 50.99 feet, the West 12.50 feet of the South 100 feet of Lot 19 AND all of Lots 16 and 17, Block 72N, MIAMI NORTH, according to the Plat thereof as recorded in Plat Book 2, Page 99, of the Public Records of Miami-Dade County, Florida.