MEMORANDUM

Agenda Item No. 14(A)(16)

TO:	Honorable Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners	**DATE**:	October 20, 2020
FROM:	Abigail Price-Williams County Attorney	**SUBJECT:**	Resolution approving the terms of and authorizing the County Mayor to execute a 90-year Amended And Restated Master Ground Lease between Miami-Dade County and Quail Roost Holdings, LLC, f/k/a Quail Roost Transit Village I, Ltd., a Florida limited liability company and a subsidiary of Atlantic Pacific Communities, LLC, with a capitalized minimum rent payment of $5,000.00 per residential unit in the total amount of $2,500,000.00 and for any residential units beyond the 500 residential units, an additional $5,000.00 per unit, plus five percent of the developer's fee and two and a half percent of the net rent paid by each retail subtenant for the development of the Quail Roost Transit Village, to exercise all provisions, including, but not limited to, exercising any amendments, modifications, cancellation, termination and renewal provisions and any other rights contained in therein, to execute a partial assignment, assumption, and Bifurcation of Agreement of Lease between the County, Quail Roost Holdings, LLC f/k/a Quail Roost Transit Village I, Ltd. and other related entities, for the purpose of bifurcating such ground lease into two leases, and to exercise all provisions therein

The accompanying resolution was prepared by the Public Housing and Community Development Department and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.

Abigail Price-Williams
County Attorney

APW/smm

Memorandum

Date: October 20, 2020

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

From: Carlos A. Gimenez
Mayor

Subject: Amended and Restated Ground Lease and a Bifurcation of Ground Lease Agreement Between Miami-Dade County and Quail Roost Holdings, LLC, a Florida Limited Liability Company, f/k/a Quail Roost Transit Village I, Ltd. for the Quail Roost Mixed-Use Housing and Commercial Transit-Oriented Development

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Recommendation

It is recommended that the Board of County Commissioners (Board) approve the terms of and authorize the County Mayor or the County Mayor's designee to execute a 90-year Amended and Restated Ground Lease (lease) between Miami-Dade County (County) and Quail Roost Holdings, LLC, a Florida limited liability company, f/k/a Quail Roost Transit Village I, Ltd. (Quail Roost) and a subsidiary of Atlantic Pacific Communities, LLC (APC) with a capitalized minimum rent payment of $5,000.00 per residential unit, for each phase, generating a total minimum rent of $2,500,000.00, over the term of the lease. In addition, for any additional residential units beyond 500, an additional minimum rent of $5,000.00 per unit, is generated over the term of the lease for the development of the Quail Roost Transit Village (development), which is a mixed-use housing and commercial transit-oriented development. Further, the County will receive five-percent of the developer's fee, estimated at 16 percent to 18 percent of the total cost of the project, which such amount will be determined when the project's underwriting is complete. The lease also includes the potential for the County to receive to 2.5 half percent of the net rent paid by each retail subtenant.

It is further recommended that the Board authorize the County Mayor or the County Mayor's designee to exercise all provisions, including, but not limited to, any amendments, modification, cancellation, termination, and renewal provisions and any other rights contained in the lease. Finally, it is recommended that the Board authorize the County Mayor or the County Mayor's designee to execute a Bifurcation of Ground Lease Agreement (bifurcation agreement) between the County, Quail Roost and other related entities, and to further authorize the County Mayor or the County Mayor's designee to exercise all provisions contained therein. The bifurcation of the lease into two leases will result in the partial termination of the lease, and Quail Roost and the County entering into a bifurcated ground lease.

Scope

The proposed Quail Roost Transit Village development is located along the South Dade Transitway Corridor between Quail Roost Drive and Eureka Drive in the West Perrine area located in District 9, represented by Commissioner Dennis C. Moss. This item has a countywide impact because it provides for at least 500 housing units, and provides parking spaces for exclusive use by transit park and ride users.

Fiscal Impact
The execution of the lease and bifurcation agreement will not have a negative fiscal impact on the County's General Fund. The lease requires a capitalized minimum rent payment of $5,000.00 per residential unit in the total amount of $2,500,000.00 and for any residential units beyond the 500 residential units, an additional $5,000.00 per unit, plus five percent of the developer's fee. Further, the County has the potential of receiving additional revenue in the form of 2.5 percent of the net income (rent) paid by each retail subtenant for the development.

Track Record/Monitor
Michael Liu, Director of the Public Housing and Community Development Department (PHCD), and Alice Bravo, Director of the Department of Transportation and Public Works (DTPW) will monitor all activities associated with this project.

Background
An unsolicited proposal was submitted to the County pertaining to the development of a mixed-use, transit-oriented development. On February 6, 2016, the Board adopted Resolution No. R-1151-16, which, in part, authorized the County Mayor or the County Mayor's designee to publish a competitive solicitation for the purpose of selecting a developer to design and build the development. Following the competitive solicitation process, the Board adopted Resolution No. R-169-18 awarding the rights to develop the development to APC, and authorized the execution of a ground lease to provide evidence of site control to APC's subsidiary, Quail Roost, as required by the Florida Housing Finance Corporation (FHFC) in order to apply for low-income housing tax credits (LIHTC). The award of LIHTCs would greatly improve Quail Roost's ability to secure additional financing for the start-up and completion of the development. On March 7, 2018, the ground lease was subsequently executed with Quail Roost. Thereafter, Quail Roost submitted an application to FHFC for LIHTC, which was not approved. Subsequently, on October 2, 2018, the Board adopted Resolution No. R-1001-18, which, in part, approved and authorized the County Mayor or the County Mayor's designee to execute the First Amendment to the Ground Lease for the purpose of (1) granting to Quail Roost continued site control until February 7, 2020, (2) correcting a scrivener's error, (3) establishing a maximum number of affordable housing units to be constructed, i.e., a minimum of 20 residential units (up to a maximum of 350 residential units), (4) modifying the definition of the term "Base Rent," and (5) consenting to Quail Roost subleasing to another affiliate of APC, Quail Roost Transit Village II, Ltd. Both Resolution Nos. R-169-18 and R-1001-18 contemplated that the County Mayor or the County Mayor's designee would not return to the Board for further approvals of a long-term ground lease until APC had successfully obtained LIHTCs.

Notwithstanding the intent of these resolutions and although APC has not been currently awarded LIHTCs from FHFC for the development, DTPW and PHCD recommend that the Board approve the lease (Exhibit 1) in order to allow Quail Roost, in the interim, to design and construct a kiss and ride area, covered walkway and a structured parking garage with 261 parking spaces (transit project) on the DTPW parcel of land, such that design and construction can move forward without the award of LIHTCs. The construction of the transit project can move forward because on August 18, 2011, the County, through DTPW, was awarded $4,327,507.00 by the Federal Transit Administration (FTA) and the Florida Department of Transportation (FDOT) to be used during the 48-month period following the commencement of the lease for the design and construction of the transit project. Moreover, notwithstanding the approval of the lease, Quail Roost will still need to obtain LIHTCs and close on all

construction financing needed for the development no later than 48 months from the commencement date of the lease. If Quail Roost fails to close on the construction financing or the design and construction of the transit project not occur, then the lease or any portion thereof shall automatically terminate.

In addition to terms described in the preceding paragraph, the following terms and conditions are set forth in the lease:

1) The lease shall be for a term of 90 years;

2) Quail Roost is required to pay a capitalized minimum rent payment of $5,000.00 per residential unit in the total amount of $2,500,000.00 and for any residential units beyond the 500 residential units, an additional $5,000.00 per unit;

3) Additionally, for each phase of the development, Quail Roost will pay an amount equal to five percent of the developer's fee paid by Quail Roost to the County payable in one lump sum;

4) Quail Roost shall pay to the County as additional rent, an amount equal to the "Retail Subtenant Percentage Rent," which is defined in the lease as 2.5 percent of the actual rent paid by each retail subtenant, excluding any type of common area maintenance expenses associated with the commercial or retail space, without any mark-up and/or additional fees imposed by Quail Roost to the retail subtenant;

5) Quail Roost will construct a mixed-use, mixed-income residential development adjacent to the transitway and consisting of at least 500 housing units, including affordable housing units set aside for households whose income does not exceed 140 percent of area median income as published by the United States Department of Housing and Urban Development for Miami-Dade County and a 31,900 square feet commercial and/or retail component;

6) Quail Roost will be responsible for all maintenance related activities associated with the property including, but not limited, to fencing, graffiti abatement, debris cleaning and removal landscaping, pest control, sidewalk repair, and any environmental testing and cleanup;

7) Quail Roost and their subcontractors will take appropriate steps to ensure the participation of minority business, women's business enterprises, labor surplus area firms, disadvantaged businesses, and Section 3 businesses as required by applicable laws and regulations; and

8) Quail Roost may mortgage its leasehold interest in the Development.

The Board approved Resolution No. R-109-20 on February 4, 2020, which awarded a total of $6,000,000.00 in Documentary Stamp Surtax (Surtax) program funding to support the Development. A

total of $3,000,000.00 from fiscal year (FY) 2020 Surtax and a total of $3,000,000.00 from FY 2021 Surtax program funding will be provided to Quail Roost to assist in moving the development forward.

The FTA also notified Miami-Dade County on April 20, 2020 of its approval of the County's joint development request (Attachment A). The FTA approved Miami-Dade County to partner with Quail Roost to build the transit and non-transit components of the development.

Additionally, Quail Roost has requested that the County execute the bifurcation agreement. The purpose of the bifurcation agreement is to permit the bifurcation the lease into two leases by (i) partially terminating the lease and (ii) Quail Roost's subsidiary and the County entering into a bifurcated ground lease, and to further authorize the County Mayor or the County Mayor's designee to exercise all provisions contained therein. All terms set forth in the lease will also be set forth in the bifurcated ground lease. Accordingly, PHCD and DTPW believe that it is in the County's best interest to execute the lease and bifurcation agreement.

Attachment

Maurice L. Kemp, Deputy Mayor

U.S. Department of Transportation
Federal Transit Administration

REGION IV
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virgin Islands

230 Peachtree St., NW
Suite 1400
Atlanta, GA 30303
404-865-5600
404-865-5605 (fax)

April 20, 2020

Ms. Alice Bravo, PE Director
Miami-Dade County Dept. of Transportation and Public Works
701 N.W. 1st Court, Suite 1700
Miami, FL 33136

Re: Joint Development-Quail Roost Transit Village

Dear Ms. Bravo:

The Federal Transit Administration (FTA) received your Joint Development Request on October 31, 2019, in which you ask for FTA's approval for a Joint Development proposal with Miami-Dade Department of Public Housing and Community Development, and Quail Roost Holdings, LLC, (the Developer), a subsidiary of Atlantic Pacific Communities, LLC for the development of a mixed-use residential and commercial development. This development is adjacent to the South Miami-Dade TransitWay, a rapid transit system, between SW 184 and 186 Streets in Miami, FL. The transit portion of the land is 3.17 acres, purchased in 2010 with original FTA participation of $1,475,776 under grant FL-95-X052. The remaining 5.35 acres is owned by the Miami-Dade Department of Public Housing and Community Development.

The FTA understands that:

1. Miami-Dade County is proposing to enter a 90-year agreement with Quail Roost Holdings, LLC for the development of a mixed-use residential and commercial development with an associated transit component adjacent to the South Miami-Dade TransitWay, a rapid transit system.
2. Miami-Dade County is partnering with Quail Roost Holdings, LLC to build both the transit and non-transit portions of this project. The transit portion of the project on the 3.17 acres will provide 261 parking spaces for exclusive use of transit patrons, as well as a drop-off and pick-up facility with a passenger shelter, and a covered walkway between the parking garage and the TransitWay station. The construction will be completed using $1,403,300 in federal funds remaining in Grant FL-95-X052 originally reserved for construction, which is now moving forward, and $300,000 private contribution from the developer.
3. The mixed-use portion will consist of a total 500 units of affordable housing and 31,900 square feet of commercial and retail space. Up to 400 of the units of affordable housing and up to 10,633 square feet of commercial/retail space will be constructed on

the 3.17 acres of the property acquired with FTA funding.

4. Quail Roost Holdings, LLC will pay a one-time upfront payment of $5,000 for each residential unit ($2,000,000) and 2.5% of the rent received for use of the commercial and retail space for the duration of the 90-year agreement term ($97,000 present value). Quail Roost Holdings, LLC will also pay a 5% Developer Fee to Miami-Dade County DTPW ($800,000).
5. The fair share of revenue resulting from this joint development totals $3,197,000, which will offset the total FTA contributions of $2,879,076 towards the transit project.
6. Miami-Dade County DTPW shall remain Owner of the property in perpetuity.

The FTA concurs with DTPW's request for approval of this joint development. DTPW is required to maintain satisfactory continuing control over the entire parcel and all improvements. All revenues resulting from this Joint Development shall be considered program income and shall be used towards eligible capital and operating expenses. If you have any questions, please contact Mr. Tyrone Pelt by email, at tyrone.pelt@dot.gov, or by phone at (404) 865-5479.

Sincerely,

Margarita Sandberg
Director, Office of Program Management and Project Oversight

MEMORANDUM

(Revised)

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

DATE: October 20, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 14(A)(16)

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**
_____	**Statement of social equity required**
_____	**Ordinance creating a new board requires detailed County Mayor's report for public hearing**
✓	**No committee review**
_____	**Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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. 14(A)(16)
10-20-20

RESOLUTION NO. _____

RESOLUTION APPROVING THE TERMS OF AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE A 90-YEAR AMENDED AND RESTATED MASTER GROUND LEASE BETWEEN MIAMI-DADE COUNTY AND QUAIL ROOST HOLDINGS, LLC, F/K/A QUAIL ROOST TRANSIT VILLAGE I, LTD., A FLORIDA LIMITED LIABILITY COMPANY AND A SUBSIDIARY OF ATLANTIC PACIFIC COMMUNITIES, LLC, WITH A CAPITALIZED MINIMUM RENT PAYMENT OF $5,000.00 PER RESIDENTIAL UNIT IN THE TOTAL AMOUNT OF $2,500,000.00 AND FOR ANY RESIDENTIAL UNITS BEYOND THE 500 RESIDENTIAL UNITS, AN ADDITIONAL $5,000.00 PER UNIT, PLUS FIVE PERCENT OF THE DEVELOPER'S FEE AND TWO AND A HALF PERCENT OF THE NET RENT PAID BY EACH RETAIL SUBTENANT FOR THE DEVELOPMENT OF THE QUAIL ROOST TRANSIT VILLAGE, TO EXERCISE ALL PROVISIONS, INCLUDING, BUT NOT LIMITED TO, EXERCISING ANY AMENDMENTS, MODIFICATIONS, CANCELLATION, TERMINATION AND RENEWAL PROVISIONS AND ANY OTHER RIGHTS CONTAINED IN THEREIN, TO EXECUTE A PARTIAL ASSIGNMENT, ASSUMPTION, AND BIFURCATION OF AGREEMENT OF LEASE BETWEEN THE COUNTY, QUAIL ROOST HOLDINGS, LLC F/K/A QUAIL ROOST TRANSIT VILLAGE I, LTD. AND OTHER RELATED ENTITIES, FOR THE PURPOSE OF BIFURCATING SUCH GROUND LEASE INTO TWO LEASES, AND TO EXERCISE ALL PROVISIONS THEREIN

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:

Section 1. This Board ratifies and adopts the matters set forth in the accompanying justification memorandum as if fully set forth herein.

Section 2. This Board approves of the terms of and authorizes the County Mayor or the County Mayor's designee to execute a 90-year Amended and Restated Ground Lease ("lease") between Miami-Dade County ("County") and Quail Roost Holdings, LLC, a Florida limited partnership, f/k/a Quail Roost Transit Village I, Ltd. a Florida limited liability company and a subsidiary of Atlantic Pacific Communities, LLC (collectively "Quail Roost"), in substantially the form attached hereto as Exhibit 1 and made a part hereof, with a capitalized minimum rent payment of $5,000.00 per residential unit in the total amount of $2,500,000.00 and for any residential units beyond the 500 residential units, an additional $5,000.00 per unit, plus five percent of the developer's fee and 2.5 percent of the net rent paid by each retail subtenant for the development of the Quail Roost Transit Village, which is a mixed-use housing and commercial transit-oriented development. This Board also authorizes the County Mayor or the County Mayor's designee to exercise all provisions, including, but not limited to, any amendments, modification, cancellation, termination, and renewal provisions and any other rights contained in the lease.

Section 3. This Board authorizes the County Mayor or the County Mayor's designee to execute a Bifurcation of Ground Lease Agreement ("bifurcation agreement") between the County, Quail Roost and other related entities, in substantially the form attached hereto as Schedule 17.1(m) of Exhibit 1 and incorporated herein by reference, for the purpose of bifurcating the lease into two leases by (i) partially terminating the lease and (ii) Quail Roost and the County entering into a bifurcated ground lease. This Board further authorizes the County Mayor or the County Mayor's designee to exercise all provisions contained therein.

Section 4. This Board directs the County Mayor or the County Mayor's designee to provide the Property Appraiser's Office executed copies of the lease, the bifurcation agreement and any other ground leases within 30 days of their execution.

Section 5. This Board directs the County Mayor or the County Mayor's designee, pursuant to Resolution No. R-974-09, to record in the public record all ground leases, covenants, reverters and mortgages creating or reserving a real property interest in favor of the County and shall provide a copy of such recorded instruments to the Clerk of the Board within 30 days of execution and final acceptance. This Board directs the Clerk of the Board, pursuant to Resolution No. R-974-09, to attach and permanently store a recorded copy of any instrument provided in accordance herewith together with this resolution.

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, Chairwoman
Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.	Daniella Levine Cava
Jose "Pepe" Diaz	Sally A. Heyman
Eileen Higgins	Barbara J. Jordan
Joe A. Martinez	Jean Monestime
Dennis C. Moss	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of October, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the 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.

Terrence A. Smith
Bruce Libhaber

AMENDED AND RESTATED GROUND LEASE

(QUAIL ROOST TRANSIT VILLAGE)

THIS AMENDED AND RESTATED GROUND LEASE (the "Lease"), dated as of the _____day of _____, 20__, is made by and between **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, having its principal office and place of business at 111 N.W. First Street, Miami, Florida 33128, through its Public Housing and Community Development Department ("PHCD") and the Department of Transportation and Public Works (DTPW) (together hereinafter called "Landlord"), and **QUAIL ROOST HOLDINGS, LLC,** a Florida limited liability company **(successor by assignment to QUAIL ROOST TRANSIT VILLAGE I, LTD.)**, having its principal office and place of business at 160 NW 7th Street, Suite 1020, Miami, Florida 33136 ("Tenant").

WITNESSETH:

A. Landlord owns and controls certain federally assisted real properties, along with certain other properties which are located in Miami-Dade County, Florida, as more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Property"). Prior to the Commencement Date, Landlord has operated, and continues to operate the South Dade Transitway (as further defined below, the "Transitway") located near the Property. The location of the Transitway and other improvements near the Property, as well as the Property, as currently configured, are depicted in Exhibit "A-1".

B. Landlord has recognized the potential for public and private benefits through the development of the Property. The benefits sought in the development of the Property are perceived to relate to, and to serve as an intended catalyst for, similar initiatives at and around other parts of the System (as hereinafter defined).

C. Tenant submitted to Landlord its response to a Request For Proposals, Number 2017-01, for the Property, which response was selected by Landlord, over and above responses from other entities, as being the most appropriate use for the Property. Tenant's response is referred to herein as the "Proposal." As part of Tenant's Proposal, Tenant included a detailed description and illustration of what Tenant's proposed project on the Property would look like (including site plan and elevations), along with the proposed uses, and various other improvements, which the parties hereto refer to as the Development Plan (as hereinafter defined).

D. Landlord considers that the Development Plan submitted by Tenant reflects the kind of transit-oriented development that Landlord wishes to see implemented, and that the Development Plan will, upon completion, demonstrate and reinforce the link between transit and the community, as well as both promote and increase usage of the entire transit system. Landlord also anticipates that the Development Plan will, upon implementation, provide for important and needed neighborhood improvements and economic stimulus in and to the area around the Property, serve as a positive model for transit-oriented development generally, and promote further economic development in Miami-Dade County.

E. Landlord reasonably believes that the Development Plan submitted by Tenant will benefit the residents of the southern portion of Miami-Dade County, and Miami-Dade County as a whole, and will provide an excellent living environment, add much needed affordable housing for residents of Miami-Dade County, coupled with providing amenities and commercial/retail space to the neighborhood, improve ridership on the Transitway by incorporating parking in the development for the exclusive use of transit riders, and can provide a substantial and long-term income stream to Miami-Dade County. The Development Plan, primarily because of its proximity to the Transitway, will, upon completion of the entire Project (as described below), which will consist of separate Phases (as described below), will strengthen the link between public transportation and the community, and promote an increase ridership in public transportation along the Transitway, as well as overall transit system usage.

F. On February 21, 2018, the Miami-Dade Board of County Commissioners ("Board") adopted Resolution No. R-169-18, authorizing Landlord and Tenant to enter into a Ground Lease for the use of the Property, which Ground Lease provided Tenant with site control of a portion of the Property, and allowed Tenant to seek certain funding from the Florida Housing Finance Corporation in order to move forward with the Project on a portion of the Property.

G. Landlord and Tenant desire to have this Lease supersede and replace the prior Ground Lease, in its entirety, as was amended by the First Amendment to Ground Lease dated October 17, 2018 and approved by the Board upon the adoption of Resolution No. R-1001-18 on October 2, 2018.

H. Landlord therefore desires to lease the entire Property to Tenant, in its "AS-IS" "WHERE-IS" condition, to enable Tenant to develop the Property consistent with the Development Plan, and as otherwise provided for in this Lease. Tenant desires to lease the Property, in its "AS-IS" WHERE-IS" condition, from Landlord for such purposes.

I. Landlord and Tenant mutually covenant and agree that this Lease is made upon the agreements, terms, covenants and conditions hereinafter set forth. Capitalized terms used herein in this Lease without being defined elsewhere herein shall have the definitions set forth in Article 2 hereof.

NOW, THEREFORE, in consideration of the promises and the mutual obligations of the parties set forth herein, Landlord and Tenant covenant and agree that the Ground Lease is hereby superseded and replaced in its entirety as follows:

ARTICLE 1
PROPERTY AND GENERAL TERMS OF LEASE

1.1 Lease of the Property and Air Rights. In accordance with (a) Section 125.35, *Florida Statutes*; (b) the powers granted to Landlord pursuant to the authority properly delegated by the Florida legislature; (c) the authority to lease real property and air rights over real property belonging to Miami-Dade County; and (d) for and in consideration of the rents, covenants and agreements specified herein, and the easements reserved unto Landlord, its successors and assigns, Landlord agrees, pursuant to the terms of this Lease, and does hereby lease and demise unto Tenant, its successors and assigns, and Tenant does hereby take and hire, upon and subject to the

conditions and limitations herein expressed, the Property in its "AS-IS" "WHERE-IS" condition; reserving to Landlord the rights described herein; to have and to hold the same unto Tenant, its successors and assigns, for the Term (as described below). Tenant shall have and hold, exclusively, the Development Rights pertaining to the Property, subject to the terms, conditions, covenants and procedures set forth herein.

1.2 **Term of Lease**.

a.) **Commencement Date**. This Lease shall become effective on the first day of the month after its approval by the Board, and the expiration of the ten (10) day veto period by the Mayor of Miami-Dade County; and if vetoed by the Mayor, shall only become effective upon a two-thirds (2/3) vote of the Board overriding the Mayor's veto ("Commencement Date"), subject to any necessary approvals by the Federal Transit Administration and the Florida Department of Transportation, and execution and delivery by Landlord and Tenant. The Commencement Date shall be referenced on the first (1st) page of this Lease. The Commencement Date will be confirmed in the Confirmation of Commencement Date to be executed by the parties in the form attached as Schedule 1.2 hereto.

b.) **Term**. The term of this Lease shall be for ninety (90) years ("Term"), commencing on the Commencement Date and ending on the date which is ninety (90) years from that date ("Expiration Date"), unless earlier terminated as provided for herein. The parties acknowledge and agree that the obligation to pay Rent shall intentionally be delayed by the parties, and will begin as and when required under Article 3 below. At the Expiration Date, or earlier termination of the Term, the Property shall automatically revert back to Landlord, and all improvements thereon (except Tenant's or third-parties' removable personal property or fixtures) shall become the personal property of Landlord, and without any type of compensation, payment, and/or obligation to Tenant.

c.) **Possession**. Landlord has delivered, or shall deliver, possession of the Property on the Commencement Date, at which time Tenant shall take possession thereof. Landlord and Tenant further agree that after the Commencement Date Tenant shall have permission, without the prior written consent of Landlord to enter upon the Property for the purpose of conducting investigations of the Property, and performing the construction of the Project, which right shall include the responsibility of Tenant to hold Landlord harmless from and against any and all actions, suits claims and causes of action, and to secure and maintain the appropriate insurance in accordance with Article 7 of this Lease and Schedule 7.1 attached hereto.

(i) Tenant hereby acknowledges and agrees that after the Commencement Date Tenant shall be solely responsible for maintaining the Property, irrespective of when the Financing Date occurs, except as otherwise provided in this Lease (including without limitation Section 4.4(f) hereof). Such maintenance by Tenant, in accordance with Article 9 hereof, shall include, but not be limited to, installation and maintenance of a fence(s) surrounding the Property prior to and during periods of active construction, removal of any and all debris and trash, removal of any graffiti, landscaping (including, but not limited to, lawn cutting and tree trimming), pest control, sidewalk repair and/or replacement, any environmental testing and/or cleanup, and repair and/or replacement of any and all utility and/or irrigation lines serving the Project.

(ii) Tenant further acknowledges and agrees that at its sole cost and expense, it shall, promptly after the Commencement Date, undertake a diligent effort to uncover and/or locate any impediments on or about the Property which might be the source of any delay in developing the Property, which hindrance(s) might be either physical or legal in nature, including, but not limited to any environmental condition, and/or any liens, encumbrances, covenants, declaration of restrictions, declaration of restrictive covenants, limitations, easements, licenses and/or other similar impediments toward developing the Property. If, Tenant determines that such conditions or impediments exist, Tenant shall have the right to terminate this Lease and its obligations hereunder in the same manner and to the same effect as provided in Section 3.6 hereof (including the timing of exercise of such termination right and obligation to restore the Property).

1.3 Condition Precedent to Effectiveness of Lease; Financing Date. As stated above in Section 1.2(a), the parties agree that the Commencement Date shall be on the first day of the month following the approval of this Lease by the Board, and the expiration of the ten (10) day veto period by the Mayor of Miami-Dade County, unless vetoed by the Mayor, and if vetoed, shall be effective only upon a two-thirds (2/3) vote of the Board overriding the Mayor's veto, subject to any necessary approvals by the Federal Transit Administration and the Florida Department of Transportation. Specifically, the parties acknowledge and agree that this Lease shall not become effective until approved by the Federal Transit Administration, and the delivery of notice to the Florida Department of Transportation, if necessary, and executed and delivered by Landlord and Tenant. The parties hereby acknowledge and agree that Tenant shall have, as set forth in Section 4.4 of this Lease, a period of forty-eight (48) months following the Commencement Date, subject to extension for Unavoidable Delay, for the design and construction of a Kiss and Ride, covered walkway, and 261 parking spaces on the DTPW Parcel, which parking spaces may be located in a structured parking garage or a combination of both a surface parking lot(s) and a parking garage. Additionally, the parties also hereby acknowledge and agree that Tenant shall have a period of forty-eight (48) months from the Commencement Date to secure all of its financing for the initial Phase of the Project that includes a mixed-use, mixed income[1] residential development, with a commercial and/or retail component. The "Financing Date" shall be the date that Tenant closes on all of its financing for the construction of the initial Phase of the Project that includes a mixed-use, mixed income residential development, with a commercial and/or retail component, irrespective of the type or source of the financing. The parties further agree that in no event shall the Financing Date for the before-mentioned Phase of the Project occur after forty-eight (48) months from the Commencement Date. Should the Financing Date or the commencement of the design and construction of the parking garage, Kiss and Ride and covered walkway not occur by such date as described herein, then this Lease or such portion thereof shall automatically terminate, and Tenant shall have no right to cure such termination. Upon the automatic termination of this Lease or any portion thereof, Tenant agrees that it shall immediately surrender any and all interest in and to the Property, or the relevant portion thereof, to Landlord, without any notice or demand. Any such termination shall be without any compensation and/or reimbursement, whatsoever, to Tenant, and at no cost to Landlord. The parties hereby acknowledge and agree that such financing for the Project, in addition to any funding provided by Landlord for the Project, may include any, all, or none of the following: (a) the proceeds of bonds issued by any applicable state agency or local housing authority, gap financing, state or local loans (including Surtax loans), or other local government subsidy; (b) a binding commitment for the sale or syndication of the low-income

[1] ~~NTD: "Mixed-income" deleted based on discussion with the County.~~

housing tax credits that are issued with bonds; and (c) construction and/or permanent loan financing from a traditional state-chartered bank, or any other Lender.

1.4 Conditions Precedent to Commencement of Construction of any Phase. Before Commencement of Construction of any Phase, and in addition to the submission and approval process specified in Article 4 for construction generally, Tenant shall comply with Landlord's review process, which shall include Tenant submitting any and all Plans and Specifications, as well as any construction documents, to both PHCD and DTPW. The parties hereby agree that Tenant shall also inform Landlord of any and all applicable hearings regarding the Project, irrespective of where such hearings may be held. Further, Tenant shall provide Landlord with a copy, within fourteen (14) days of its receipt of the same, of any and all testing performed on the Property, including, but not limited to, soil compaction testing, percolation tests, and/or groundwater environmental testing, as well as the results of any other inspection or testing. In addition, Tenant shall also supply PHCD and DTPW with a courtesy copy of final Plans and Specifications and construction documents before Commencement of Construction of any Phase of the Project.

1.5 Performance Bonds. Tenant shall deliver to Landlord executed payment and performance bonds, in accordance with Section 255.05, *Florida Statutes* (as amended), to guarantee that the construction of the improvements in each Phase will be completed, unless an alternative form of security, acceptable to Landlord, as outlined below, is agreed upon by the parties, when required by this Lease to obtain such bonds.

a.) Prior to Tenant commencing any construction work or purchasing or contracting for any supplies or construction services related to each Phase of the Project, if required by Landlord, Tenant shall deliver to Landlord one of the following: (i) executed payment and performance bonds, (ii) an irrevocable standby letter of credit, or (iii) other form of security affording comparable protections to the foregoing security and otherwise reasonably acceptable to Landlord. In the instance where Landlord requires Tenant to provide payment and performance bonds, Tenant shall deliver executed payment and performance bonds to guarantee that the construction of the improvements in each Phase of the Project will be completed and shall record the payment and performance bonds in the public records of Miami-Dade County. Such payment and performance bonds will be delivered to Landlord prior to the earlier of the Commencement of Construction of such Phase, or contracting for any materials, supplies, or construction services (as opposed to design services) for such Phase. The amount of such bonds for each Phase of the Project shall be equal to one hundred percent (100%) of the hard construction costs of such construction and improvements in such Phase of the Project under the applicable contract. Each bond shall name Landlord as an obligee on the multiple obligee rider attached to the payment and performance bonds, and shall be issued by a surety reasonably acceptable to Landlord. The rights of Landlord under any payment and performance bonds shall be subordinate to the rights of any Lender providing construction financing for the applicable Phase of the Project. Such bonds shall be subject to review and approval by Miami-Dade County, Internal Services Department, Risk Management Division, as well as by PHCD and DTPW. Each such bond shall be in compliance with the requirements of Section 255.05, *Florida Statutes* (as amended).

b.) In the instance where Landlord agrees to accept from Tenant an irrevocable standby letter of credit in lieu of payment and performance bonds from Tenant, for any Phase of

the Project, which determination shall be in Landlord's sole discretion, by the County Mayor, or Mayor's designee, such alternative form of security shall be for the same purpose and subject to the same conditions as those applicable to the payment and performance bonds required by this Section of the Lease, and the value of security shall be in an amount equal to the Total Cost of the Construction Management Services, as defined below, for that Phase of the Project, to be performed by Tenant, if Tenant is acting as the general contractor for such Phase, or Tenant's general contractor, divided by the total number of months that comprise the construction period, and listing Landlord as the beneficiary, or a dual beneficiary, as Landlord shall direct, through its County Mayor, or Mayor's designee. Further, Landlord shall maintain the right to have the proceeds of such irrevocable standby letter of credit assignable as Landlord, through its County Mayor, shall direct, but the right to demand payment shall not be assignable. The "Total Cost of Construction Management Services" performed by Tenant, if Tenant is acting as the general contractor for a Phase of the Project, or Tenant's general contractor, as used herein is defined as management fee, profit, overhead, general conditions, and cost of work for such Phase that is self-performed by the general contractor if the payment and performance of such work is not covered by a payment and performance bond provided by Tenant, and any other costs or fees due to the general contractor as required by the construction contract for such Phase. Such irrevocable standby letter of credit must be printed on bank letterhead with an authorized signature and bank seal, and must be delivered to Landlord prior to the Commencement of Construction of each Phase of the Project, and shall be subject to review and approval by Miami-Dade County, Internal Services Department, Risk Management Division, as well as PHCD and DTPW. Further, such irrevocable standby letter of credit shall remain in effect through the date that Tenant secures a Certificate of Occupancy, from the appropriate governmental authority, for that Phase of the Project, and the irrevocable standby letter of credit shall be payable in Miami-Dade County. Venue for any litigation regarding the irrevocable standby letter of credit shall be in Miami-Dade County, Florida. In addition to the irrevocable standby letter of credit, the general contractor shall execute, deliver to Landlord and record in the public records of Miami-Dade County a payment and performance bond in an amount equal to the total cost of each Phase of the Project excluding the Total Cost of Construction Management Services, prior to commencement of that Phase, naming Landlord as a joint obligee and each such bond shall be in compliance with the requirements of Section 255.05, *Florida Statutes* (as amended). The rights of Landlord under any irrevocable standby letter of credit and payment and performance bond under this provision shall be subordinate to the rights of any Lender providing construction financing for the applicable Phase of the Project.

ARTICLE 2
CERTAIN DEFINED TERMS

In addition to other capitalized terms as defined in the introductory recitals or elsewhere in this Lease, when used in this Lease, the terms set forth below, shall be defined as follows:

2.1 **Additional Rent** shall mean:

a.) a percentage of the rent Tenant collects from the Retail Subtenants, which shall be referred to herein as "Retail Subtenant Percentage Rent". The amount of the Retail Subtenant Percentage Rent shall be two and one-half percent (2.5%) of the actual rent paid by Retail Subtenants, excluding any type of common area maintenance (CAM) expenses associated

with the commercial or retail space, without any mark-up and/or additional fees imposed by Tenant to the Retail Subtenant. CAM charges are defined herein as overhead costs such as electricity and other utilities, water, insurance and taxes that are being paid or reimbursed to Tenant, from any Retail Subtenant or otherwise incurred with respect to the commercial or retail space. Tenant shall also be permitted to exclude (net out) from the calculation of Retail Subtenant Percentage Rent the following items: (a) the cost of brokerage commissions, tenant improvement allowances and other tenant improvement costs applied against the gross rent amount over the term of the Sublease, and (b) sales tax remitted to the State of Florida, Department of Revenue on such rentals. By way of an example, but in no way by limitation, when the Tenant collects $10,000.00 in rent from the Retail Subtenants, for a six (6) month period, and also collects $3,000.00 in CAM charges from the Retail Subtenants, for the same six (6) month period, the Tenant is required to pay to the Landlord $250.00; and

b.) any and all other costs and expenses relating to the Property, such as electricity, water, sewer, storm water utilities, real estate taxes, sales taxes, other Impositions, and/or other expenses that are the responsibility of Tenant, which, except as otherwise provided herein, Tenant shall pay (or cause to be paid) directly to the service provider or applicable governmental authority, provided that if any of such costs are billed to and are paid by Landlord same shall be reimbursed by Tenant to Landlord. Additional Rent shall not include any costs or expenses associated with the DTPW Parking Areas up until Tenant has completed construction of any Phase of the Project as provided in Section 4.4(f) below. Landlord shall be responsible for all such costs and expenses until such date.

2.2 **Affordable Housing** shall mean housing affordable to natural persons or families whose total annual household incomes does not exceed one hundred forty percent (140%) of the Area Median Income of Miami-Dade County, as published by the United States Department of Housing and Urban Development, adjusted for household size, in accordance with Landlord's internal housing requirements, including, but not limited to the industry guideline that the housing cost shall generally be set at or below thirty percent (30%) of the maximum household income eligible for the unit.

2.3 **Area Median Income or AMI** shall mean the income limits that are determined by the United States Department of Housing and Urban Development ("HUD"), which is calculated by household size for each metropolitan area, and parts of some metropolitan areas. HUD estimates the median family income for an area in the current year and adjusts that amount for different family sizes in order for family incomes to be expressed as a percentage of the area median income. For purposes of this Lease, the Area Median Income or AMI shall be for the Miami-Dade County metropolitan area, as adjusted for household size.

2.4 **As-Built Plans** shall mean the final and permanent record of the actual structures that are developed on the Property. As-Built Plans are the design and Construction Plans checked in the field for accuracy and revised to show the actual condition, locations, elevations, and specifications of materials for the constructed Improvements and utilities, including, but not limited to, storm water management areas such as retention and detention basins. Actual location of structured, including but not limited to, the top of any building(s), foundation(s), grades elevations, and other key locations are to be shown on the As-Built Plans.

2.5 **Board or Board of Commissioners** shall mean the Board of County Commissioners of Miami-Dade County, Florida.

2.6 **Building** or **Buildings** shall mean the buildings, or structures (as the context indicates) and other Improvements to be erected on, above, or below the Property, or a portion thereof, in accordance with Article 4 below (including any replacements, additions and substitutes thereof).

2.7 **Certificate of Occupancy** shall mean the temporary or permanent certificate issued by the governmental agency and/or department authorized to issue a certificate of occupancy or certificate of completion, as applicable, evidencing that the applicable Building(s) is (are) ready for occupancy in accordance with applicable Laws or Ordinances.

2.8 **Code** shall mean the Code of Miami-Dade County.

2.9 **Commencement Date** shall be the date on which this Lease commenced, in accordance with Section 1.2.

2.10 **Commencement of Construction** and **Commenced Construction**, when used in connection with construction of a Phase or the Project, as the case may be, shall mean the earlier of the filing of the notice of commencement under Section 713.13, *Florida Statutes*, or the visible start of infrastructure work on the site of a Phase or the Project, including on-site utility, excavation or soil stabilization work. In order to meet the definition of "Commencement of Construction" or "Commenced Construction," such filing of the notice or visible start of work must occur after Tenant has received any applicable Permits for the work being done on the particular Phase of the Project on which construction is proposed to commence.

2.11 **Completion of Construction** or **Completed Construction** shall mean, for any Phase of the Project, and/or for the parking garage, the date a temporary or permanent Certificate of Occupancy is issued for that Phase of the Project, or separately for the parking garage. If Completion of Construction has occurred based on the issuance of a temporary Certificate of Occupancy, Tenant shall timely satisfy any conditions to the temporary Certificate of Occupancy.

2.12 **Construction Phases** shall mean the division of the Project into separate Phases, as further described in Sections 4.2 and 4.3, and as illustrated in the Development Plan, shown in Exhibit "B". For purposes of development, construction, and mortgaging of each Phase, notwithstanding the fact that Phases are identified numerically, there shall be no obligation to construct any of the Phases in that chronological order. The first Phase to be developed is deemed to be "Phase One" and the use of the words "first Phase" or "initial Phase" and/or "Phase One" in this Lease shall refer to the same portion of the Project. The first phase after Phase One is acknowledged to refer to as "Phase Two" or "second Phase", and any Phases thereafter shall be known, *in seriatim*, as Phase Three, Phase Four, Phase Five (and so on). Finally, the use of the phrase "subsequent Phase" in the Lease is acknowledged to refer to Phase Two or any other Phase after the initial Phase (as the context dictates).

2.13 **Construction Plans** (also known as construction documents) shall consist of the final design plans for the particular improvements comprising each of the Phases, including the

drawings, Plans and Specifications which are in a format with sufficient detail, as required to obtain building permits for such improvements, and as further described in Section 4.7 and 4.8.

2.14 Developer's Fee shall mean compensation to Tenant or Tenant's affiliated development company for the time, resources, and risk spent to develop the Project. The Developer's Fee shall be determined by a percentage (typically ranging from sixteen percent (16%) to eighteen percent (18%)) of the overall cost of the Project or such percentage that is approved by the funding agency(ies) or sources. This fee is included in the development budget and is disclosed in any and all funding applications.

2.15 Development Plan shall mean and refer to the overall site plan, building elevations, space plans, configuration of the Development Plan Improvements and program summary as articulated for the Project, in draft, which, in its current version, as of the Commencement Date, is illustrated in Exhibit "B", and incorporated herein by reference, and as may be amended or modified in accordance with the terms of this Lease.

2.16 Development Plan Improvements shall mean the minimum level of Improvements to the Property to be constructed by Tenant in accordance with this Lease, consisting of five hundred (500) residential units for residents having various income levels, approximately 31,900 square feet of commercial retail space (or so much thereof as is not used as community service facilities), a Kiss and Ride area, covered walkway, and a structured parking garage, consisting of a minimum of 261 parking spaces dedicated to Landlord for the exclusive use of Landlord and DTPW Patrons (subject to the terms of Section 4.4 below, which allows Tenant to provide the DTPW Parking Areas through a combination of structured and surface parking), unless otherwise mutually agreed by Landlord and Tenant.

2.17 Development Rights shall mean, for purposes of the Property and this Lease, the rights granted pursuant to this Lease to Tenant and/or its Sublessees or co-developers to develop the entire Project in Phases as contemplated herein. Additionally, Tenant shall develop the Property in a manner that maximizes the development potential for the Property, which may include developing such Property with more residential housing than originally contemplated by Tenant and which may result in additional Phases for the development of such residential housing.

2.18 DTPW Parking Areas shall have the meaning given to it in Section 4.4.

2.19 DTPW Patrons shall mean and refer to the individual users of the Transitway, and/or Landlord's employees, agents, and vendors.

2.20 Events of Default shall be as defined in Section 19.1 (as to Events of Default by Tenant) and Section 19.7 (as to Events of Default by Landlord).

2.21 Extremely Low-Income shall mean any person or household whose income is less than thirty percent (30%) of the Area Median Income for Miami-Dade County.

2.22 Financing Date shall have the meaning ascribed to it in Section 1.3 of this Lease, which is the date Tenant closes on all of its financing for the initial Phase of the Project (the actual closing date) for the construction of the initial Phase of the Project that includes a mixed-use,

mixed income, residential development, with a commercial and/or retail component, irrespective of the type or source of the financing. The parties further agree that in no event shall the Financing Date be later than forty-eight (48) months from the Commencement Date, as provided in Section 1.3.

2.23 **Foreclosure Purchaser** shall have the meaning ascribed to such term in Section 19.3(b) herein.

2.24 **Funding Agreement** shall mean the agreement(s) to be entered into between DTPW and Tenant, pursuant to which DTPW agrees to fund an amount up to $4,327,507.00 to reimburse the Tenant for the construction of the parking garage, a Kiss and Ride, covered walkway and 261 parking spaces.

2.25 **HUD** shall have the meaning ascribed in Section 2.3.

2.26 **Impositions** shall mean all ad valorem taxes, special assessments, sales taxes or any other levies by any governmental entity with appropriate jurisdiction.

2.27 **Improvements** shall mean the Buildings to be constructed on the Property, and the parking areas (including the parking garage, Kiss and Ride area, and covered walkway), hardscaping and landscaping, other structures, facilities or amenities, and all related infrastructure, installations, fixtures, equipment, utilities, site-work and other improvements existing or to be developed upon the Property.

2.28 **Kiss and Ride** shall mean the passenger drop-off and pick-up area near the bus stop on the Transitway, which is used to discharge and pick-up DTPW Patrons. The Kiss and Ride area permits drivers to stop and park temporarily (with the driver remaining in the vehicle) to discharge or pick-up DTPW Patrons to and from buses traveling on the Transitway.

2.29 **Land** shall mean the approximately 8.51 acre site, inclusive of 5.34 acres owned by PHCD and 3.17 acres owned by DTPW, which site is bordered by residential homes, vacant land, and S.W. 184th Street/Eureka Drive on the north, a private business on the west, S.W. 186th Street/Quail Roost Drive on the south, and the South Miami-Dade Transitway on the east. Homestead Avenue bisects the site, dividing it into west and east portions consisting of approximately 2.88 acres and 5.63 acres respectively. A brief description of the five (5) separate parcels which comprise the Property, including folio numbers, follows:

PHCD Parcels:

30-6005-001-0140 – Consisting of 2.88 acres of vacant land, located west of Homestead Avenue, and north of S.W. 186th Street/Quail Roost Drive.

30-6005-001-0290 – Consisting of 2.02 acres of land with a 14,024 square foot industrial building, and a paved parking lot, and entrance/exit road located east of Homestead Avenue, and north of S.W. 186th Street/Quail Roost Drive.

30-6005-001-0292 – Consisting of 0.44 acres of vacant land, located north of the industrial building, and south of the DTPW parcels.

DTPW Parcels:

30-6005-001-0291 – Consisting of 2.34 acres of vacant land, located at the southeast corner of S.W. 184th Street/Eureka Drive and Homestead Avenue

30-6005-001-0090 – Consisting of 0.83 acres of vacant land, located south of S.W. 184th Street/Eureka Drive and west of the Transitway.

The Land is further described and depicted in Exhibit "A", which exhibit is incorporated herein by this reference.

2.30 **Landlord** shall mean Miami-Dade County, a political subdivision of the State of Florida.

2.31 **Laws and Ordinances** shall mean all present and future applicable laws, ordinances, rules, regulations, authorizations, orders and requirements of all federal, state, county and municipal governments, the departments, bureaus or commissions thereof, authorities, boards or officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions having or acquiring jurisdiction over all or any part of the Property.

2.32 **Lease** shall mean this Lease (including all exhibits and schedules) and all amendments, supplements, modifications, addenda or renewals thereof.

2.33 **Leasehold Mortgage** shall mean a mortgage or mortgages or other similar security agreements given to any Leasehold Mortgagee of the leasehold interest of Tenant (or a Sublessee) hereunder, and shall be deemed to include any mortgage or trust indenture under which this Lease shall have been encumbered.

2.34 **Leasehold Mortgagee** shall mean Lender holding a Leasehold Mortgage.

2.35 **Lender** shall have the meaning ascribed to such term in Section 17.2.

2.36 **Minimum Rent** shall have the meaning ascribed to such term in Section 3.1.

2.37 **Mortgage** shall mean a Leasehold Mortgage or Sublease Mortgage.

2.38 **Parcel** is a portion, subset, of the Land.

2.39 **Permit** shall mean any permit issued or to be issued by the appropriate governmental agency and/or department authorized to issue such permits, including but not limited to applicable permits for construction, demolition, installation, foundation, dredging, filling, the alteration or repair or installation of sanitary plumbing, water supply, gas supply, electrical wiring or equipment, elevator or hoist, HVAC, sidewalk, curbs, gutters, drainage structures, paving and the like.

2.40 **Phase or Phases** shall have the meaning ascribed to such terms in Section 4.3 of this Lease, and shall have the same meaning as Construction Phases.

2.41 Plans and Specifications shall mean the plans and specifications for all the work in connection with the demolition or alteration of existing improvements, if any, and the construction of each Phase of the Project required to be done or performed hereunder and shall include any changes, additions or modifications thereof, provided the same are approved to the extent required herein.

2.42 Project shall mean the overall development, including constructing all of the Improvements described or otherwise illustrated in the Development Plan on the Property, substantially as described in Sections 4.2 and 4.3 of this Lease, and in the Plans and Specifications to be submitted by Tenant, which Plans and Specifications may be amended and/or revised from time to time in accordance with the terms of this Lease. The Project is a mixed-use, mixed-income, residential development, with a commercial and/or retail component adjacent to the Transitway. The Project will include the Development Plan Improvements, provided that Tenant shall construct a minimum of two hundred sixty one (261) parking spaces, a Kiss and Ride area and a covered walkway, and Tenant shall make reasonable efforts to construct more than the five hundred (500) residential units on the Property contemplated by the definition Development Plan Improvements, subject to reasonable considerations, including without limitation market needs and the availability of financing. The Parties acknowledge and agree that the Project will evolve as Plans and Specifications are developed pursuant to this Lease. Accordingly, as used herein, the term "Project" shall mean and refer to the Project as described herein and the Development Plan, as modified from time to time pursuant to the provisions of this Lease.

2.43 Property shall mean collectively the properties described in Exhibit "A", consisting of the Land, the air rights above the Land, and easements, rights-of-way and all appurtenances thereto leased to Tenant, in its "as-is" "where-is" condition, pursuant hereto, as follows, all of which are and shall be subject to the remaining provisions of this Lease:

a.) The "Air Rights" portion of the Property, which shall mean the airspace above the Land;

b.) Except to the extent reserved herein to Landlord, the drains, utility lines, or other easements, and improvements of Landlord located in areas within or adjacent to the Property may be used by Tenant in connection with the Project, and any such use shall be set forth in the Plans and Specifications;

c.) Such rights of support and rights of use in respect of, if necessary, supports, and foundations for the support of the Property and other improvements thereon;

d.) The right of access to erect, maintain, repair, renew and replace such supports, foundations, and other improvements;

e.) The right of pedestrian ingress, egress and passageway to and from the Transitway which shall be necessary or desirable for entrance, exit and passageway to and from the Property, including any parking garage on the Property for use by DTPW Patrons, and to and from the Transitway for the use in common of Landlord and Tenant, and their respective successors, assigns, patrons, tenants, invitees and all other persons having business with any of them;

f.) The right to construct, install and maintain within the area of pedestrian ingress, egress and passageway leading to and from the Transitway, signs for the purpose of advertising the Project, or events, activities or operations in the Project, or other commercial or public service advertising; provided, however, that the design, size and location of the structures on which the signs are posted shall be subject to the approval of Landlord, in accordance with the other terms of this Lease;

g.) All development rights, if any, with respect to the Property, if any, owned or held by, or vested with, or issued in favor of or inuring to Landlord.

RESERVING UNTO LANDLORD, subject to the remaining provisions of this Lease, the following:

(i) the permanent and perpetual non-exclusive right of ingress, egress and passageway in, over, through and across the Public Areas of the Property which shall be necessary or desirable, as determined by Landlord, for entrance, exit and passageway of persons and property, including vehicles, to and from the Transitway, and the DTPW Parking Areas; irrespective of whether or not all entrances, exits and passageways to be used in exercising such right shall be as set forth in the Plans and Specifications, Construction Plans, or the Development Plan for the Project; and

(ii) all subsurface rights under the sidewalks, streets, avenues, curbs, and roadways fronting on and abutting the Property for the purpose of maintaining subsurface supports, utilities, and other infrastructure for the Transitway; and

(iii) the permanent and perpetual non-exclusive right to use the space located in the Public Areas of the Property solely for the purpose of ingress and egress of passengers (DTPW Patrons) using the Transitway, the System, and the DTPW Parking Areas, as well as for the transportation of baggage, mail, supplies and materials of Landlord, and such DTPW Patrons, to and from the Property, public thoroughfares, and the Transitway; and

(iv) the permanent and perpetual non-exclusive right to use and occupy the space located in the Public Areas of the Property to be occupied by Transitway signs, which signs shall be approved by Tenant as to location and size.

IT BEING UNDERSTOOD between the parties hereto that no portion of the Transitway is leased or intended to be leased to Tenant.

2.44 **Public Areas** shall mean the unenclosed areas of the Property, generally available and open to the public during normal business hours, as well as the Kiss and Ride area and the DTPW Parking Areas, but shall not include the common areas in the residential component of the Project.

2.45 **Rent** shall mean Minimum Rent and any Additional Rent that Landlord is entitled to receive in accordance with this Lease.

2.46 **Retail Subtenant** shall mean an entity that has the right to use and occupy commercial or retail rental space within the boundary of the Property that is leased by Tenant from

Landlord as contemplated by this Lease. Unless otherwise provided in this Lease or in any separate recognition or non-disturbance agreement between the parties, the Retail Subtenant shall not have right to sue, or otherwise bring an action or cause of action of any type against Landlord. Tenant remains responsible to Landlord for the payment for any Additional Rent, and for any damages to the Property caused by the Retail Subtenant.

2.47 **Retail Subtenant Percentage Rent** shall have the meaning ascribed to it in Section 2.1(a) hereof.

2.48 **Subleasehold Mortgage** shall mean a mortgage or mortgages or other similar security agreements given to any Subleasehold Mortgagee encumbering the subleasehold interest of a Sublessee under a Sublease, and shall be deemed to include any mortgage or trust indenture under which any Sublease shall have been encumbered.

2.49 **Subleasehold Mortgagee** shall mean the Lender holding a Subleasehold Mortgage.

2.50 **Sublease** shall mean any instrument pursuant to which all or any portion of the Property is subleased, including but not limited to a grant by Tenant to a Sublessee for the right to develop a specific Phase of the Project.

2.51 **Sublessee** shall mean the tenant, lessee, or licensee or their successors or assigns under any Sublease.

2.52 **System** shall mean the Miami-Dade County Transit System including, without limitation, all trains, buses, fixed guideways, train stations, the South Dade Transitway, parking lots and parking structures, drop off and pickup areas, bus stops and shelters, bus bays, streets and sidewalks, maintenance facilities, structures, and all associated facilities required in the operation of the overall public transportation system.

2.53 **Taking** shall mean the exercise of the power of eminent domain as described in Article 18.

2.54 **Taking Authority** shall mean the federal, state, or county government, or any agency or authority possessing the power of eminent domain to transfer title to a property from one owner to the government, or governmental agency or authority.

2.55 **Tenant** shall mean Quail Roost Holdings, LLC, a Florida limited liability company, its successors and assigns.

2.56 **Transitway or South Dade Transitway** shall mean the existing South Dade Transitway (sometimes known as the South Dade Transitway Corridor, or South Miami-Dade Busway) portion of the System for buses, which runs from the Dadeland South Metrorail Station, at the northernmost portion of the Transitway to S.W. 344 Street, at the southernmost portion of the Transitway.

2.57 **Unavoidable Delays** shall mean delays beyond the reasonable control of a party required to perform, such as, but not limited to, delays due to strikes; acts of God; pandemics or

other public health crises (including the economic consequences of same) that impact the Project; floods; fires; any act, neglect or failure to perform of or by Landlord (to the extent that it affects performance by Tenant); enemy action; civil disturbance; sabotage; restraint by court or public authority; litigation or administrative challenges by third parties to the execution or performance of this Lease or the procedures leading to its execution; or moratoriums. The obligated party shall be entitled to an extension of time because of its inability to meet a time frame or deadline specified in this Lease where such inability is caused by an Unavoidable Delay, provided that such party shall, within thirty (30) days after it has become aware of such Unavoidable Delay, give notice to the other party in writing of the causes thereof and the anticipated time extension necessary to perform. Neither party shall be liable for loss or damage or deemed to be in default hereof due to any such Unavoidable Delays, provided that party has notified the other as specified in the preceding sentence and further provided that such Unavoidable Delay did not result from the fault, negligence or failure to act of the party claiming the delay. Failure to notify a party of the existence of Unavoidable Delays within the thirty (30) days of its discovery by a party shall not void the Unavoidable Delays, but the time period between the expiration of the thirty (30) days period and the date actual notice of the Unavoidable Delays is given shall not be credited to the obligated party in determining the anticipated time extension.

ARTICLE 3
RENT

3.1 Minimum Rent. The Minimum Rent described herein and other Rent to be paid by Tenant to Landlord under this Lease shall be made payable to the Public Housing and Community Development Department (PHCD) or the Department of Transportation and Public Works (DTPW) (as applicable), beginning on the Financing Date, as described below, and delivered (i) for Rent due to PHCD to the Accounting Department of the Public Housing and Community Development Department, located 701 N.W. 1st Court, Suite 1400, Miami, Florida 33136, and (ii) for Rent due to DTPW, to the Accounting Department of the Department of Transportation and Public Works, located at 701 N.W. 1st Court, Suite 1700, Miami, Florida 33136, or such other address as may be designated by PHCD or DTPW to Tenant in writing. Rent is comprised of all of the following:

a.) For each Phase, a capitalized minimum rent payment ("Minimum Rent") equal to Five Thousand Dollars ($5,000.00) per residential unit that Tenant has obtained funding to construct in such Phase. Minimum Rent shall be payable in one (1) lump sum payment, on a per Phase basis, within one (1) business day following the date on which Tenant, or its or its applicable Sublessee for that Phase, closes on its construction financing for that Phase of the Project, by check or by wire transfer. For clarity, Minimum Rent shall be paid in installments which correspond with the development of the various Phases of the Project, and the amount or payment for each Phase shall be the product of the number of residential units that Tenant has obtained financing to construct in that particular Phase, multiplied by Five Thousand Dollars ($5,000.00). Minimum Rent shall be payable to PHCD for residential units constructed on Land under the control of PHCD, and DTPW for residential units constructed on Land under the control of DTPW. Minimum Rent for any Phase that includes Land under the control of PHCD and DTPW shall be allocated between each of PHCD and to DTPW based on the ratio that the number of residential units in such Phase to be constructed on its respective Land bears to the total number of residential units in such Phase. By way of example and not limitation, if a Phase consists of 100 units, 65 of

which will be constructed on Land under the control of DTPW and 35 of which will be constructed on Land under the control of PHCD, DTPW shall be entitled to $325,000.00 of Minimum Rent ($5,000.00 x 65 units), and PHCD shall be entitled to $175,000.00 of Minimum Rent ($5,000.00 x 35 units). Landlord and Tenant acknowledge and agree that upon completion of Tenant securing funding for (i) the 500 residential units included in the Development Plan Improvements, Tenant shall have paid Landlord Minimum Rent in the total amount of Two Million Five Hundred Thousand Dollars ($2,500,000.00), and (ii) residential units beyond the 500 residential units included in the Development Plan Improvements, Tenant shall continue to pay Landlord Five Thousand Dollars ($5,000.00) per unit; and

b.) Additionally, for each Phase, an amount equal to five percent (5%) of the Developer's Fee paid by Tenant, or the Sublessee for that Phase, to Tenant's affiliated development company which enters into a development agreement with Tenant, or such Sublessee for that Phase, shall be paid to Landlord, payable in one (1) lump sum, within three (3) business days following the date on which Tenant or such Sublessee makes corresponding installment payments to said development company. If such Phase includes Land under the control of PHCD and DTPW, the payment to Landlord hereunder shall be allocated between each of PHCD and DTPW based on the ratio that the number of residential units in such Phase to be constructed on its respective Land bears to the total number of residential units in such Phase; and

c.) As indicated below in Section 3.2, an amount equal to the Retail Subtenant Percentage Rent. The Additional Rent payments to Landlord for the Retail Subtenant Percentage Rent shall be paid to Landlord in arrears on a bi-annual basis (every six (6) months), without demand, deduction, set-off, or claim.

3.2 Rent on Commercial or Retail Spaces. When Tenant subleases any portion of the Property for a commercial or retail use (such as for a convenience store, sandwich shop, office space, or a commercial resident-oriented amenity) incidental to the primary use of the Project as a residential community, Tenant shall pay to Landlord, as Additional Rent, an amount equal to the Retail Subtenant Percentage Rent. Tenant shall lease approximately 31,900 square feet of the Project for such ground floor commercial or retail use. Tenant shall sublease such commercial or retail space at, or as close to, the fair market value for such spaces as practical. If Tenant is, for any reason, unable to rent the commercial or retail spaces for fair market value, as well as continuously maintain a Retail Subtenant(s) in such commercial or retail areas, then Tenant shall promptly notify Landlord of such, and provide the explanation(s) for its inability to achieve the goal of securing fair market value for the subleases. Further, Tenant shall undertake all reasonable good faith efforts to lease any and all of the commercial and/or retail spaces in a Phase after Completion of Construction of such Phase. Should any of the commercial and/or retail spaces within a Phase not be leased within one (1) year of Completion of Construction for such Phase, then Tenant hereby agrees that it shall notify Landlord in writing of such failure to rent such space, provide eight (8) copies of this Section of this Lease to Landlord, as well as eight (8) copies of any and all brochures developed by Tenant to market such space(s), describe to Landlord any and all marketing efforts by Tenant to lease the space(s), follow Landlord's reasonable suggestions, if any, on how to improve upon Tenant's marketing of the space(s), and consider any of Landlord's reasonable suggestions as to how such space(s) should be filled.

3.3 **Rent Reporting Requirements**.

a.) Tenant shall prepare and submit to Landlord, along with its payment of the Retail Subtenant Percentage Rent, a statement from Tenant describing the total amount of proceeds, by Phase, received from the Project from all sources of income, including, but not limited to the leasing of the residential units, parking garage, and the commercial and retail spaces, and the methodology utilized by Tenant to determine the amount of Rent paid to Landlord for such period.

b.) Tenant shall, annually, submit to Landlord a separate statement of gross revenues received by Tenant, by Phase, from the Project, which statement shall be an audited statement, and certified as being accurate by an independent certified public accountant, which shall be paid for by Tenant.

c.) Should Tenant fail to pay any Rent when due hereunder and such failure continues beyond the notice and cure periods provided in Article 19 of this Lease, Tenant shall then be liable to Landlord for interest on such unpaid Rent at eighteen percent (18%) per annum, plus One Hundred Dollars ($100.00) per month that such Rent is late, or ten percent (10%) of the amount owed, whichever is greater (but in no event will the amount of interest penalty exceed the applicable legal maximum rate of interest). The interest and the penalty amounts are cumulative.

d.) Landlord shall have a separate right, at its own expense, during normal business hours and upon reasonable prior written notice to Tenant, to inspect, review, and/or otherwise audit the books and records of Tenant pertaining to Rent and the payment of Rent to Landlord. With respect to each Phase of the Project, Tenant shall provide to Landlord, promptly following Landlord's written request, copies of financial closing statements, a sources and uses of funds statement and the construction budget, together with such other reasonable supporting documentation as Landlord may request, provided that Tenant shall not be required to provide such information more than once per calendar year for each Phase. Upon Landlord's written request, Tenant shall also promptly furnish to Landlord, from time to time, the most current audited or unaudited financial statements relating to Tenant's financing for any Phase of the Project, as well as the gross income that Tenant receives from its Retail Subtenants, all prepared in accordance with generally acceptable accounting principles, certified by Tenant and/or an independent auditor to be true and correct, reflecting Tenant's then current financial statement with respect to the Property. Landlord reserves the right to obtain audited financial statements during the course of any year, if Landlord specifically requests such information, and agrees to pay for the cost associated to secure such information, so long as Tenant does not otherwise have, or is required to have available audited financial statements or records. In the event that Landlord's examination reveals that an error has been made in Tenant's determination of how much money is payable as Rent to Landlord, and Tenant agrees with such determination, then the amount of such adjustment shall immediately be payable by Tenant to Landlord, along with an additional amount of ten percent (10%) of the amount that was owed but not paid to Landlord. In the event that Landlord's examination reveals that an error has been made in Tenant's determination of Rent, and Tenant disagrees with the conclusion thereof, then Tenant shall have sixty (60) days to obtain a review by a certified public accountant of its choice to determine the payment of Rent to Landlord. In the event Tenant's accountant and Landlord's reviewer are unable to reconcile their reviews of Tenant's books and records, then both Tenant's accountant and Landlord's reviewer shall mutually

agree upon an accountant, which initial cost of which shall be borne by both parties, and the determination by the independent accountant regarding whether or not Tenant owes any sum to Landlord shall be conclusive, and should it be determined that an amount is owed to Landlord, then in addition to the amount owed an additional amount of twenty percent (20%) of the amount owed to Landlord shall be paid to Landlord by Tenant within thirty (30) days of such determination, in addition to reimbursing Landlord any cost or expense regarding the matter, including, but not limited to the cost for any review and/or examination of the documents. Landlord's, Federal Transit Administration, Florida Department of Transportation, United States Department of Housing and Urban Development, or any other governmental entities' right to inspect and/or audit Tenant's books and records pertaining to Rent under this Section shall continue for a period of three (3) year after submittal of any statement or report with respect to such Rent by Tenant hereunder.

3.4 Outside Date for Project Completion. If Tenant has not received a Certificate of Occupancy for all of the Development Plan Improvements within one hundred sixty-eight (168) months following the Commencement Date, subject to Unavoidable Delay, the Property, excluding (i) portions for which a Certificate of Occupancy has been issued and (ii) removable personal property shall, at Landlord's discretion, revert to Landlord, upon Landlord providing notice to Tenant of its desire to exercise its right of reversion by terminating this Lease as to such portion(s) of the Property for which Tenant failed to secure a Certificate of Occupancy, provided that Landlord delivers such notice prior to the date Tenant receives such Certificate of Occupancy. Notwithstanding the foregoing, Landlord may, in its sole and absolute discretion, extend such one hundred sixty-eight (168) month period if Tenant has used and is continuing to use good faith efforts to complete all of the Development Plan Improvements, and Tenant requests such extension in writing.

a.) Tenant acknowledges and agrees that it shall Complete Construction for the first Phase of the Project within eighty-four (84) months from the Commencement Date, as provided in Section 4.3(d) below, subject to Unavoidable Delay.

b.) Except as otherwise provided herein, Tenant hereby acknowledges and agrees that Tenant shall not utilize or encumber any portion of the Property, for any reason whatsoever, without Landlord's prior written consent, that it is not currently developing. As an example, Tenant shall not utilize or otherwise allow a portion of the Land that is earmarked for Phase Two to be utilized as a surface parking lot for the residents of Phase One, but the foregoing shall not limit (i) Tenant's right to construct the DTPW Parking Areas through a combination of a parking garage and surface parking lot(s) as provided in Section 4.4 below, and (ii) Tenant shall have the right to utilize any portion of the Property for ordinary and customary construction related activities, including without limitation, construction staging, parking and storage of materials.

3.5 Discontinued Use of Transitway or System. Landlord covenants and agrees with Tenant that Landlord will not permanently discontinue or cease the operation of the Transitway or the System during the first fifteen (15) years of the Term, except that Landlord might convert all or a portion of the Transitway into an extension of the Metrorail train service or other premium transit service. In the event Landlord determines to permanently discontinue or cease the operation of the Transitway and/or close the bus stop that is near or adjoining the Property, so that there are no bus stops on the Transitway with a one (1) mile radius of the Property, then, despite such

covenant and agreement that Landlord will not permanent discontinue or cease operation of the Transitway, in addition to any other rights Tenant has hereunder, (a) Tenant shall have the right, at its option, to terminate this Lease and its obligations hereunder by giving written termination notice to Landlord within six (6) months after such discontinuance or cessation, and this Lease shall terminate ninety (90) days following the date of Tenant's notice of termination, or (b) Tenant shall have the right to lease and/or purchase from Landlord, at market value, some or all of the parking spaces in the parking garage and/or in a surface parking lot that are dedicated for the sole use of Landlord and its DTPW Patrons. In the event Tenant exercises its option under clause (a) or (b) above, there shall be no reimbursement of Rent paid to Landlord.

3.6 Approved Restriction Adjustments. Landlord and Tenant acknowledge and agree that Tenant plans to develop the Project substantially as described in Section 4.3 and as illustrated in the Development Plan, as found in Exhibit "B", which is incorporated herein by reference. If within one (1) year from the Commencement Date Tenant determines that, due to Laws and Ordinances, Tenant is not able to develop the Project substantially as contemplated in Section 4.3, and as illustrated in the Development Plan, as found in Exhibit "B", then, in addition to any other rights Tenant has hereunder, Tenant shall have the right, upon consulting with Landlord, to terminate this Lease and its obligations hereunder by giving written notice to Landlord within ninety (90) days after such inability becomes known to Tenant, and the obligations of Tenant to pay Rent under this Lease shall be abated as of the date of the giving of such notice, and the Property shall automatically revert to Landlord upon the termination of this Lease. After the termination of this Lease in accordance with this Section, the parties shall be released and relieved of and from all obligations hereunder from and after the date of such termination; however, Tenant shall remain responsible for restoring the Property to its condition as its was found on the Commencement Date, along with paying any and all outstanding costs and expenses, relating to the Property, which were incurred during the Term of this Lease prior to such termination, but Tenant shall have no responsibility for any pre-existing condition or other impediment merely discovered by Tenant (for remediation or otherwise), anything herein to the contrary notwithstanding.

ARTICLE 4
DEVELOPMENT OF LAND AND CONSTRUCTION OF IMPROVEMENTS

4.1 Uses of the Property.

a.) Tenant and Landlord agree, for themselves and their successors and assigns, to devote the Property to the uses specified and contemplated in this Lease, or other or additional uses to which the parties have in good faith agreed, and to be bound by and comply with all of the provisions and conditions of this Lease.

b.) The parties recognize and acknowledge that the manner in which the Improvements are developed, used and operated are matters of critical importance to Landlord and to the general welfare of the community. Tenant agrees that at all times during the Term, Tenant will use reasonable efforts to create a development on the Property which (i) enhances the ridership and usage of the Transitway and the System, (ii) creates strong access links between the Property, the Transitway, and the System, and (iii) creates a mixed-income residential community, having, at minimum 500 units of apartments, which will include: (a) 450 units for households earning, on

average (to the extent FHFC implements income averaging methodology) less than or equal to 60% of the Area Median Income for Miami-Dade County, adjusted for household size; (b) 80 of such 450 units to be set aside for households earning less than or equal to 33% of the Area Median Income for Miami-Dade County, adjusted for household size (subject to modification if permitted by the income averaging methodology referred to above); and (c) 50 market-rate units (in each case either through the foregoing allocation of units or income averaging methods adopted by FHFC; it being acknowledged and agreed that the allocation of units specified in this Section shall not limit or restrict Tenant's ability to achieve the required income mix through such income averaging methods). The Project will include the Development Plan Improvements. Further, regarding the residential units, of the 500 units included in the Development Plan Improvements, 413 units will consist of one-bedroom, one-bath units, being at least 600 square feet in size, 58 units will be two-bedroom, two-bath units, being at least 850 square feet in size, and 29 units will be three-bedroom, two-bath units, being at least 1,040 square feet in size, provided that the foregoing may vary by up to ten percent (10%). All of the units shall contain Energy Star rated appliances, window coverings, ceiling fans, hurricane impact windows and doors, and high-speed internet and Wi-Fi. Additionally, all of the units will be equipped with energy efficient air conditioning, humidistats, low-flow plumbing fixtures, and other energy reduction features.

c.) At Tenant's sole cost and expense, the Project shall also include certain ancillary amenities, including, but not limited to a dedicated on-site management office, maintenance facilities, and recreation space. Further, except as otherwise provided herein, the Project will contain its own community facilities, which will include fully equipped fitness center(s), common area laundry facilities, business center(s), and computer lab(s) with internet access, and a library. Also incorporated into the development will be a community center.

d.) Tenant shall establish such reasonable rules and regulations governing the use and operation by Retail Subtenants of their leased premises as Tenant shall deem necessary or desirable in order to assure the level or quality and character of operation of the Property required herein; and Tenant will use reasonable efforts to enforce such rules and regulations.

4.2 Development Rights and Construction Phases. Prior to the Commencement Date, Tenant formulated the preliminary Development Plan, which, as articulated as of the Commencement Date, is illustrated in Exhibit "B". As of the Commencement Date, Tenant has undertaken economic and feasibility analyses with respect to the Development Plan. Based on the results of such analyses and continuing site plan, feasibility and implementation work to incorporate such results, the Development Plan may be amended in Tenant's discretion, subject to Landlord's reasonable approval. In no event shall those changes or amendments adversely impact the overall intended benefit to Landlord. Tenant may, at its election, construct as many additional residential units, greater than the aggregate of 500 residential units described in Section 4.1 above, as it desires and for which it is able to obtain Permits and other governmental approvals, so long as Tenant compensates Landlord at least Five Thousand Dollars ($5,000.00) for each and every unit above 500 units on the Property, payable in the same manner as Minimum Rent hereunder (i.e., when Tenant obtains funding for construction of such additional units). For example, should Tenant construct 600 units on the Property, then Tenant, in addition to the Rent described above in Article 3, agrees to pay Landlord an additional Five Hundred Thousand Dollars and 00/100 ($500,000.00) in Minimum Rent.

4.3 Phased Development; Amenities. Tenant has currently proposed a phased construction approach and contemplates developing the Property in Phases, as further set forth below, and as illustrated in the Development Plan (see Exhibit "B"). Each of the phases described below is referred to as a "Phase" and when more than one Phase is referred to herein they are referred to as the "Phases." Collectively, all of the Phases together constitute the "Project," except that should Tenant construct more residential units than is contemplated in the Development Plan Improvements as described in this Lease, then such additional building(s), units, and/or Improvements shall also be included in the definition of the term "Project." Each Phase may be constructed and developed independently of the other Phase and in any sequence.

a.) The following is an approximation of the minimum unit count and demographic designation for each Phase of the Project as of the Commencement Date, subject to the approval of Plans and Specifications and further adjustment as hereinafter provided:

(i) DTPW Parcels — On the DTPW Parcels the Tenant intends to develop, in Phases, a minimum of 200+/- residential units in the aggregate. The construction on the DTPW Parcels will also include a structured parking garage, consisting of 261 parking spaces dedicated solely for the exclusive use of the Landlord and its DTPW Patrons (subject to the terms of Section 4.4 below, which allows Tenant to provide the DTPW Parking Areas through a combination of structured and surface parking). Tenant agrees to construct a Kiss and Ride and covered walkway for pedestrians, leading from the parking garage and the Kiss and Ride to the station located at the Transitway.

(ii) PHCD Parcels — On the PHCD Parcels Tenant intends to develop, in Phases, a minimum of 300+/- residential units in the aggregate.

b.) Rental apartment Buildings constructed as part of any Phase of the Project shall include a minimum of 20 residential units.

c.) The forecast unit, size mix and amenities to be included in each residential unit is more fully described in Exhibit "B" attached hereto and incorporated herein by reference.

d.) Tenant agrees that Completion of Construction for Phase One of the Project will be within eighty-four (84) months of the Commencement Date, subject to Unavoidable Delay. Should Completion of Construction for Phase One fail to occur within eighty-four (84) months from the Commencement Date (as may be extended for Unavoidable Delay) it shall be an Event of Default, and Landlord shall be permitted to immediately terminate this Lease, after sixty (60) days from the expiration of the eighty-four (84) month period (for a total of eighty-six (86) months from the Commencement Date) for Phase One, as well as for any remaining undeveloped portion of the Property (i.e., Phases not having been issued Certificates of Occupancy), without any compensation to Tenant, whereby the Property for Phase One, along with the other undeveloped portion of the Property, shall immediately revert to the possession of Landlord. Should Completion of Construction timely occur for Phase One, then Tenant shall have an additional eighty-four (84) months to Complete Construction for all of the other Phases of the Project, subject to extension due to Unavoidable Delay. As a result, Tenant hereby acknowledges and agrees that Completion of Construction for all of the remaining Phases, beyond Phase One, shall occur within one hundred sixty-eight (168) months from the Commencement Date, subject to extension due to

Unavoidable Delay. Should Completion of Construction for all of the remaining Phases fail to occur within one hundred sixty-eight (168) months from the Commencement Date it shall be an Event of Default with respect to any Phase that has not achieved Completion of Construction, and Landlord shall be permitted to immediately terminate this Lease, after sixty (60) days from the expiration of the one hundred sixty-eighth (168) month period (for a total of one hundred seventy (170) months from the Commencement Date) for any and/or all of the undeveloped portion of the Property (i.e., Phases not having been issued Certificates of Occupancy, establishing that the Completion of Construction for such Phase(s) has occurred), without any compensation to Tenant, and such leasehold interest shall immediately become void, and all such interest shall revert to the Landlord.

e.) Tenant shall be solely responsible for incorporating any and all security measures into the Project, including, but not limited to Crime Prevention Through Environmental Design (CPTED) guidelines and best practices. Tenant shall employ a strategic use of shrubbery and other vegetation, construct the Buildings with an opportunity for "eyes on the street," in conjunction with installing any and all necessary energy efficient LED or other lighting throughout the Property (including, but not limited to, lighting along pathways, and other pedestrian-use areas, as well as on fences), security cameras in and about all Buildings (interior and exterior) and within the parking garage. The parking garage shall also have ambient lighting which will come on during evening hours. Further, Tenant agrees to separate the parking spaces in the parking garage, so that the parking spaces for Landlord and its DTPW Patrons is distinct and apart from the parking spaces for residents residing in the Buildings on the Property. Tenant further acknowledges and agrees that neither Landlord nor any of its DTPW Patrons will be charged any fee or cost for utilizing any of the DTPW Parking Areas. Tenant agrees, at its sole cost and expense, to also include in the parking garage electric charging stations, bicycle racks, and appropriately sized parking spaces set-aside for motorcycles and scooters.

f.) Tenant, at its sole cost and expense, shall incorporate a passenger Kiss and Ride area near the entrance of the Transitway, which is used to discharge and pick up passengers at the Transitway. Such area permits drivers to stop and park temporarily (the driver remaining in the vehicle) to discharge or pick up passengers to and from the Transitway.

4.4 Construction of Parking Garage. Landlord has advised the Tenant that Landlord has secured approval for funding from the Federal Transit Administration and the Florida Department of Transportation in the aggregate amount of $4,327,507.00, to be used during the forty-eight (48) month period following the Commencement Date for the design and construction of a Kiss and Ride, covered walkway, and 261 parking spaces on the DTPW Parcel, which parking spaces may be located in a structured parking garage or a combination of both a surface parking lot(s) and a parking garage (collectively, the "DTPW Parking Areas") as set forth below, provided that in the latter case, not less than 121 parking spaces shall be located in a structured parking garage. Notwithstanding anything contained herein or in the Development Plan to the contrary, during the forty-eight (48) month period following the Commencement Date, subject to extension for Unavoidable Delay (herein, the "DTPW Parking Construction Period"), Tenant shall construct the DTPW Parking Areas within the DTPW Parcel to preserve Landlord's funding for such parking. Tenant's failure to obtain a Certificate of Occupancy for the DTPW Parking Areas prior to the expiration of the DTPW Parking Construction Period shall be an Event of Default under this

Lease. Whether or not Tenant elects to construct the DTPW Parking Areas in advance of the remainder of the Project, the following requirements set forth in this Section shall apply.

a.) If Tenant proceeds hereunder with the construction of a structured parking garage only (i) the parking garage shall be located on the Property, adjacent to the Transitway, near the corner on S.W. 184 Street (Eureka Drive) and Homestead Avenue (essentially on those DTPW parcels having the Folio Numbers 30-6005-001-0090 and 30-6005-001-0291), except as otherwise agreed by the parties, and (ii) the 261 parking spaces in the parking garage, shall be for the exclusive use of DTPW Patrons, and all such 261 parking spaces shall be contiguous to one another, except, and only if, separated by a floor(s) in the parking garage. Parking spaces for DTPW Patrons will be clearly marked with appropriate signage, as determined by DTPW and agreed to by Tenant, and such parking spaces shall be separate and apart from the other parking spaces in the garage, which are for residents in the Buildings. Tenant both acknowledges and agrees to seek the approval of the site plan for the parking garage from DTPW, and to secure from DTPW any and all design guidelines dictating or otherwise recommending how the parking garage should be constructed. Such design guidelines shall be obtained by Tenant prior to designing the parking garage and shall be provided by DTPW upon Tenant's request.

b.) Landlord will compensate Tenant for the costs and expenses of constructing the DTPW Parking Areas on a reimbursable basis during the DTPW Parking Construction Period up to $4,327,507.00.

c.) Prior to Tenant undertaking any effort to construct the DTPW Parking Areas, including engaging an architect or consultant to develop Plans and Specifications, Tenant shall enter into the Funding Agreement, in substantially the form attached hereto as Exhibit "E" and incorporated herein by reference with Landlord, specifically DTPW, on customary terms, which shall outline additional duties and responsibilities for both parties regarding the construction of the DTPW Parking Areas, including, but not limited to, the design of the DTPW Parking Areas, as well as any restrictions, limitation, regulations, and/or applicable requirements, including, but not limited to, Tenant's obligation to comply with the Federal Transit Administration's Buy America federal requirements. The parties agree that the funding of the DTPW Parking Areas and other components of the Project funded (in whole or in part) through Federal Transit Administration funds shall be subject to the terms and conditions set forth in the Funding Agreement between the parties and shall comply with the "Federal Requirements and Provisions" set forth in Schedule 4.4(c) attached hereto and incorporated herein by reference.

d.) During the actual construction of the DTPW Parking Areas, Tenant shall, on a quarterly basis, provide a progress report, in writing, with photographs, to Landlord, specifically, DTPW, regarding the status of the construction, the timely acquisition of materials and supplies, any environmental issues or concerns, scheduling, and the hiring and retention of labor. Tenant shall utilize any reasonable form supplied by DTPW to make the quarterly progress reports, and if no form is supplied by DTPW, then Tenant shall be permitted to utilize its own form for making the quarterly reports.

e.) If Tenant has failed to abide by, or otherwise breached the terms of, the Funding Agreement and such breach continues beyond the applicable notice and cure periods provided therein, then in addition to any remedies found in such Funding Agreement that are

available to Landlord, such failure shall be an Event of Default (cross default) under this Lease, and Landlord shall have the right to terminate this Lease, without Tenant having any right to cure such Event of Default, except for timely complying with the terms and conditions of the Funding Agreement.

f.) Landlord and Tenant hereby agree that after the Completion of Construction of the DTPW Parking Areas, Tenant shall be solely responsible for the operation and maintenance thereof, including the DTPW Parking Areas, except as hereinafter provided. Such operation and maintenance shall include, but not be limited to, routine maintenance such as adding and/or replacing backstops, stripping, painting, repair and replacement of light bulbs, light fixtures, and cameras, removal of grease and oil stains, sweeping and washing of floors, maintenance of restrooms in the garage, if any, payment of utilities and collection of parking fees. Maintenance shall also include concrete repairs, elevator repairs, as well as waterproofing and protective coating strategies. Notwithstanding the foregoing, the parties hereby acknowledge and agree that should the Completion of Construction of the DTPW Parking Areas occur prior to the Completion of Construction of any Phase of the Project, then Landlord shall be solely responsible for operating and maintaining the structured parking garage and surface parking lot(s) until Tenant has Completed Construction of Phase One of the Project. All parking fees during the time of Landlord's operation of the parking garage and the surface parking lot(s), shall be for the sole benefit of Landlord, without any requirement to share any of such revenue or income from parking fees with Tenant.

g.) Tenant hereby acknowledges and agrees that DTPW Patrons will not be charged, at any time, any type of fee, charge, or expense for the use of the DTPW Parking Area.

h.) Landlord shall contribute and pay to Tenant its pro rata share of all costs and expenses incurred by Tenant in connection with the ownership, operation, maintenance, repair and/or replacement of the parking facilities in which the DTPW Parking Areas are located, including without limitation the cost of the maintenance described in clause g.) above, maintenance and service agreements, Impositions, insurance premiums, utility costs, and other costs and expenses of such facility up to a maximum annual amount of $50,000.00. Landlord shall pay such contribution as and when billed therefor by Tenant, which shall be in a lump sum payment or on a monthly, quarterly or other periodic basis as mutually agreed to by Tenant and Landlord. Tenant shall maintain records showing its actual receipts and expenditures with respect to the ownership, operation, maintenance, repair and/or replacement of the parking facilities in which the DTPW Spaces are located, which shall be available for inspection from time to time (but no more than once per year) by Landlord during business hours, on a date and at a time mutually agreed to by the parties, solely to verify such expenditures. Any inspection of Tenant's records applicable to any calendar year shall be conducted by Landlord in the next succeeding calendar year. Tenant hereby agrees not to look to, or otherwise seek from, the Landlord any amount beyond the agreed annual amount of $50,000.00, for any and all cost or expenses associated with the parking garage and/or any surface parking lot(s), irrespective of the nature of the cost and expense, unless the cost and expense results from the negligence or willful misconduct of Landlord, its employees, contractors, agents or representatives.

4.5 Construction; Delegation and Landlord Joinders. Tenant shall have the right to develop and to construct or cause construction of the Improvements, subject to the terms and

conditions of this Lease. Consistent with Section 17.1 of this Lease, Tenant, with the prior written consent of Landlord, through its County Mayor, or the Board, may, depending upon Tenant's desire to be relieved of its responsibilities, delegate its authority to develop the Property or any Phase by partial assignment, assignment, or joint venture. Further, as used in this Lease, the term "Developer" shall refer to Tenant or any assignee, successor, Sublessee, co-developer or joint venturer of Tenant, involved in the development of the Project.

a.) Intentionally deleted.

b.) If requested by Tenant, Landlord agrees to join in any plat application, or other applications, easements, reciprocal easement agreements, declarations of covenants, conditions and restrictions, restrictive covenants, easement vacations or modifications, and other documents, including but not limited to estoppels and non-disturbance and attornment agreements as provided in this Lease, as may be necessary for Tenant to finance, develop and use the Property in accordance with the Plans and Specifications and/or the Development Plan as specified herein, and in a manner otherwise permitted hereunder; provided that such participation by Landlord shall be at no cost to Landlord other than its cost of review, and also provided that the location and terms of any such easements or other restrictive covenants, and related documents, shall be reasonably acceptable to Landlord, which acceptance shall not be unreasonably withheld or delayed. In addition, Landlord agrees to reasonably cooperate with Tenant or the Sublessee, Developer, co-developer or Leasehold Mortgagee with respect to and in support of applications dealing with governmental or other financing sources, and possible grants, benefits or incentives to which Tenant or the Sublessee, Developer, co-developer, or Leasehold Mortgagee may be entitled to apply for in connection with the Project.

4.6 Miami-Dade County's Rights As Sovereign and Police Powers. Notwithstanding any provision of this Lease and Miami-Dade County's status as Landlord thereunder:

a.) Miami-Dade County retains all of its sovereign prerogatives and rights as a county under Florida laws (but not in regard to its status as Landlord and the performance of its contractual duties hereunder) and shall in no way be estopped from withholding or refusing to issue any approvals of applications and/or Permits for building or zoning; from exercising its planning or regulatory duties and authority; and from requiring development under present or future Laws and Ordinances of whatever nature applicable to the design, construction and development of the Buildings and Improvements provided for in this Lease; and

b.) Miami-Dade County shall not by virtue of this Lease be obligated to grant Tenant, any Sublessee, Developer, co-developer, or Leasehold Mortgagee, or any other person or entity associated with the Property or the Project or any portions thereof, any approvals of applications for building, zoning, planning or development under present or future Laws and Ordinances of whatever nature applicable to the design, construction and development of the Buildings and other Improvements provided for in this Lease.

c.) Notwithstanding and prevailing over any contrary provision in this Lease, or any Landlord covenant or obligation that may be contained in this Lease, or any implied or perceived duty or obligation, including, but not limited to, any covenant:

i) To cooperate with, or provide good faith, diligent, reasonable or other similar efforts to assist Tenant, regardless of the purpose required for such cooperation;

ii) To execute documents or give approvals, regardless of the purpose required for such execution or approvals;

iii) To apply for or assist Tenant in applying for any county, city or third party permit or needed approval; or

iv) To assist Tenant in contesting or defending against any challenge of any nature;

and, except as otherwise set forth in this Lease, this Lease shall not bind the Board of County Commissioners, the Regulatory and Economic Resource Department, the Property Appraiser or any other county, city, federal or state department or authority, committee or agency to grant or leave in effect any tax exemptions, zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of Landlord or any other applicable governmental agencies in the exercise of its police power; and Landlord shall be released and held harmless, by Tenant from and against any liability, responsibility, claims, consequential or other damages, or losses to Tenant 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 or tax exemption will require Landlord to exercise its quasi-judicial or police powers. Notwithstanding any other provision of this Lease, Landlord shall have no obligation to approve, in whole or in part, any application for any type of tax exemption, permit, license, zoning or any other type of matter requiring government approval or waiver. Landlord's obligation to use reasonable good faith efforts in the permitting of the use of County-owned property shall not extend to any exercise of quasi-judicial or police powers, and shall be limited solely to the express contractual obligations of Landlord set forth herein and ministerial actions, including the timely acceptance and processing of any requests or inquiries by Tenant as authorized by this Lease. Moreover, in no event shall a failure of Landlord, in the exercise of police powers, to adopt any of Tenant'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 Lease.

4.7 Conformity of Plans. Plans and Specifications and Construction Plans, and all work by Tenant or any Developer with respect to the Property and Tenant's or a Developer's construction of Buildings and Improvements thereon shall be in conformity with this Lease, applicable building codes, and all other applicable federal, state, county and local laws and regulations including the applicable requirements of the Federal Transit Administration and the Florida Department of Transportation, with respect to any Improvements on the Property owned by DTPW.

4.8 Design Plans; Review and Approval Process.

a.) Tenant shall submit Plans and Specifications and Construction Plans to PHCD and DTPW for review, coordination and approval of each Phase at the different stages of the Project, as described below. Such submittal shall occur either prior to or simultaneously with any submission to any other governmental department and/or agency, and shall be in addition to any requirement for Tenant to secure any other type of governmental department or agency approval and/or Permit. For each Plan submittal, Tenant shall submit eight (8) sets of prints with the date noted on each print, and also submit eight (8) copies of Article 4 of this Lease. In addition, Tenant shall provide the Internal Services Department with a courtesy copy of the Plans and Specifications and Construction Plans at the time of such submittal to PHCD and DTPW.

b.) Tenant shall submit the Development Plan, as well as its site plan, floor plans, and elevations, to PHCD and DTPW for approval.

c.) All submissions may be by Tenant directly or, in Tenant's discretion, by the Developer involved in a to-be-identified aspect of the Project. Both PHCD and DTPW shall review these plans promptly, in good faith, to ensure that all previous PHCD and DTPW comments to which the parties have agreed have been incorporated therein.

d.) Upon its initial receipt of each of the Plans and Specifications, PHCD and DTPW shall review same, reasonably and in good faith, and shall, within fifteen (15) business days after receipt thereof, advise Tenant, in writing, of its approval or disapproval, setting forth in detail its reasons for any disapproval. In the event of disapproval, Tenant shall, within fifteen (15) business days after the date Tenant receives such disapproval, make those changes necessary to meet PHCD's and DTPW's stated grounds for disapproval. Upon its receipt of revised Plans and Specifications showing the changes requested by PHCD and DTPW, both PHCD and DTPW shall review same, reasonably and in good faith, and shall, within fifteen (15) business days after receipt thereof, advise Tenant in writing of its approval or disapproval, setting forth in detail its reasons for any disapproval.

e.) As an alternative to revising the Plans and Specifications upon receipt of PHCD's and DTPW's disapproval of the initial submission, Tenant may request reconsideration of such comments, by first describing in detail why it reasonably believes that the Plans and Specifications should not be changed or modified, in which case, within thirty (30) business days of such request for reconsideration, PHCD and/or DTPW shall again advise Tenant in writing of its approval or disapproval, setting forth in detail its reasons for any disapproval. If PHCD and/or DTPW continues to disapprove after reconsideration, Tenant shall resubmit revised Plans and Specifications to PHCD and DTPW within thirty (30) calendar days after the date Tenant receives such disapproval. Any resubmission shall be subject to review and approval by PHCD and DTPW, in accordance with the procedures hereinabove provided for an original submission, until the same shall receive final approval by PHCD and DTPW. PHCD and DTPW and Tenant shall in good faith attempt to resolve any disputes concerning the Plans and Specifications in an expeditious manner. If PHCD and/or DTPW shall have approved any aspect of the Plans and Specifications in an earlier Plan Submission, and no portion of the revised Plans and Specifications has affected the earlier-approved aspect, PHCD and/or DTPW shall not have the right to disapprove that which it approved earlier, absent a finding that said aspect of the Plans and Specifications unreasonably interferes with the operation of the Transitway and/or the System, as determined by Landlord, and/or it fails to comply with applicable Laws and Ordinances.

f.) Following completion of the approval process described above, the PHCD and DTPW approved Plans and Specifications for each Phase shall be the Construction Plans for that Phase. PHCD's and DTPW's approval shall be in writing and each party shall have a set of Construction Plans signed by all parties as approved. In the event any material change occurs after approval of the Construction Plans for a Phase, then Tenant must resubmit the changed portion of the Construction Plans for PHCD's and DTPW's reasonable approval (irrespective of whether the change is required by another Miami-Dade County department as part of the permitting process).

4.9 Subdivision of Property and "As-Built" Plans. In proceeding with the approval of the Development Plan, to the extent legally permissible and without waiving any of Landlord's sovereign rights or police powers as set forth in Section 4.6 herein, should Landlord determine that the Property needs to be platted, Tenant shall, at its own cost and expense, undertake such responsibility to secure a plat(s) of the Property or a Waiver of Plat. Landlord agrees to cooperate with Tenant to review and facilitate its applications in connection with any waiver of plat efforts or to secure a plat of the Property. Landlord further agrees to reasonably cooperate with Tenant and to execute any documents that may be reasonably requested by Tenant to accomplish such waiver of plat approval or plat approval. Notwithstanding anything to the contrary in this Lease, in the event the waiver of plat is not approved or is otherwise indefinitely deferred, Landlord consents to Tenant, at Tenant's sole cost and expense, filing and recording a plat to separate the Property from the remaining property owned by Landlord. Alternatively, Tenant may subdivide the Property administratively through a covenant in lieu of unity of title and associated easement and operating agreement if permissible under Laws and Ordinances. Further, at the completion of each Phase and again at the completion of the entire Project, Tenant shall provide Landlord with eight (8) sets of As-Built Plans.

4.10 Tenant Development Obligations. PHCD's and DTPW's approval of the Development Plan and Plans and Specifications pursuant to this Article 4 shall not relieve Tenant (or any Developer) of its obligations under law to file such Plans and Specifications and Construction Plans with any department of Miami-Dade County or any other governmental authority having jurisdiction over the issuance of building, zoning or other Permits and to take such steps as are necessary to obtain issuance of such Permits. Tenant acknowledges that any approval given by PHCD and/or DTPW pursuant to this Article 4, shall not constitute an opinion or agreement by PHCD or DTPW that the Construction Plans are structurally sufficient or in compliance with any Laws or Ordinances, and no such approval shall impose any liability upon PHCD or DTPW. Tenant shall use reasonable efforts to include a provision in each partial assignment, assignment and/or Sublease, and each Leasehold Mortgage (and to cause Sublessees to include a provision in each Subleasehold Mortgage) which will vest Landlord with all right, title and interest in the Construction Plans and Plans and Specifications for the Phase delegated to Tenant, any Sublessee, or a Developer and/or financed by a Lender, subject to the prior rights of the Lender, if (a) an Event of Default occurs, and (b) the affected Lender does not elect to construct and complete the Buildings of such Phase.

4.11 Facilities to be Constructed. Landlord shall not be responsible for any costs or expenses for the construction and/or maintenance of the Buildings and Improvements, except as otherwise provided herein or agreed to by the parties. After Completion of Construction, in each and every Phase, Tenant or its architect of record shall certify to Landlord that the Buildings and

Improvements in such Phase have been completed in compliance with all applicable Laws and Ordinances.

4.12 Progress of Construction. Subsequent to the Financing Date, Tenant shall submit reports to both PHCD and DTPW, quarterly or at some other frequency reasonably and mutually agreed to, of the progress of Tenant with respect to development and construction of the Project. Tenant, by executing this Lease, represents it has visited the site, is familiar with local conditions under which the construction and development is to be performed, will perform or cause the performance of all test borings and subsurface engineering generally required at the site under sound and prudent engineering practices, and will correlate the results of the test borings and subsurface engineering and other available studies and its observations with the requirements of the construction and development of the Buildings and Improvements. Landlord makes no warranty as to soil and subsurface conditions. Subject to the provisions hereof regarding Unavoidable Delays and Tenant's rights under Section 1.2(c)(ii), Tenant shall not be entitled to any adjustment of Rent payments or for any other payments, or for any applicable time frame or deadline under this Lease, in the event of any abnormal subsurface conditions unless the subsurface conditions are so unusual that they could not have reasonably been anticipated, and in such event any resulting delays shall be deemed Unavoidable Delays for purposes of this Lease and time periods shall be extended by the reasonable time necessary to accommodate redesign and lengthened construction schedules resulting from that event or discovery.

During the actual construction of any Phase of the Project, Tenant shall, on a quarterly basis, provide a progress report, in writing, with photographs, to Landlord regarding the status of the construction, any environmental issues or concerns, scheduling, and the hiring and retention of labor. Tenant shall utilize any reasonable form supplied by Landlord to make the quarterly progress reports, and if no form is supplied by Landlord, then Tenant shall be permitted to utilize its own form for making the quarterly reports.

4.13 Ownership of Improvements. All Buildings and Improvements and all material and equipment provided by Tenant or on its behalf which are incorporated into or become a part of the Project (except that connected to the Transitway and/or System utilities or facilities) shall, upon being added thereto or incorporated therein, and the Project itself, be and remain the property of Tenant, but subject to the same (not including personal property of Tenant or Sublessees) becoming the property of Landlord at the expiration or termination of the Term of this Lease.

4.14 Mutual Covenants of Non-Interference. Tenant acknowledges that Landlord's use and operation of the Transitway and of the System is paramount and, therefore, Tenant's development and construction of the Project and its use and operation of the Property shall not materially and adversely interfere with Landlord's customary and reasonable operation of the Transitway and/or the System, unless prior arrangements have been made in writing between Landlord and Tenant. Similarly, Landlord's use of the Transitway area shall not materially and adversely interfere with Tenant's development and construction of the Project and its use and operation of the Property and the Improvements to be constructed thereon, unless prior arrangements have been made in writing between Landlord and Tenant. If during the process of construction, Landlord reasonably determines that the safety of any DTPW Patrons, and/or the Transitway or the System is or reasonably likely to be in jeopardy, Landlord will inform Tenant of such determination and of the basis for it; whereupon Landlord and Tenant will cooperate in

good faith with a view toward abating or effectively managing the source of jeopardy to any DTPW Patrons and/or the Transitway or System. If despite good faith efforts and cooperation the safety of any DTPW Patrons and/or the Transitway or System is adversely affected in a manner that is neither abated nor effectively managed, Landlord may, upon reasonable notice to Tenant, slow down or stop construction by Tenant so as to address the source of the jeopardy. Any such slowdown or stoppage shall be deemed to be an Unavoidable Delay and shall entitle Tenant to appropriate extensions of time hereunder, provided that such safety hazard which caused the slowdown or stoppage is not the result of Tenant's negligence or willful act.

4.15 Connection of Buildings to Utilities.

a.) Tenant, at its sole cost and expense, shall install or cause to be installed all necessary connections between the Buildings constructed or erected by it on the Property, and the water, sanitary and storm drain mains and mechanical and electrical conduits and other utilities, whether or not owned by Landlord. Tenant shall pay for the additional cost, if any, of locating and installing new facilities for sewer, water, electrical, and other utilities as needed to service the Property.

b.) Landlord hereby agrees that as part of Tenant's duties to install, extend, relocate, and/or upgrade any utility lines leading to and from the Property, that Landlord shall cooperate with Tenant, to the extent that Landlord, as the owner of the Property, will need to participate or join in an agreements or contracts and grant easements to utility providers for such installation, extension, relocation, and/or upgrade of utility lines to occur, (i) so long as Landlord shall not be required to expend or incur any sum, or incur any obligation, to cooperate with Tenant, and (ii) subject to Board approval with respect to any such agreements, contracts or easements that will encumber Landlord's fee interest in the Property or any portion thereof.

c.) Tenant's obligations hereunder shall be subject to Landlord's express obligation hereunder to disclose in writing (and accompanied by plats, surveys, legal descriptions or sketches of surveys to the extent applicable and available) the location of all utility fixtures and installations, and all recorded or unrecorded easements or licenses affecting the Property, which disclosure shall be made as soon as practicable after the Commencement Date. If Tenant or another Developer, acting in good faith and in the exercise of commercially reasonable discretion, and within one (1) year of the Commencement Date of this Lease, determine that the Project cannot practicably be developed as contemplated hereunder due to matters affecting title, then Tenant may by written notice to Landlord terminate this Lease prior to the issuance of a building permit whereupon Landlord shall reimburse to Tenant, if paid to Landlord, the amount of the Rent paid to Landlord and neither party shall have any liability to the other thereafter under this Lease.

4.16 Connection Rights. Landlord hereby grants to Tenant, commencing with the Board's approval of this Lease and continuing during the Term, the non-exclusive right to construct utility infrastructure and connections and to tie-into existing infrastructure and utility connections serving the Property, all as to be specified in the Construction Plans; subject to the ongoing right of Landlord to construct above or below grade connections between the Transitway and any land or facilities, excluding the Project, owned or operated by Landlord or another governmental agency or entity.

4.17 Off-Site Improvements. Any off-site improvements required to be paid or contributed as a result of Tenant's development of the Property shall be paid or contributed by Tenant or third-parties to which Tenant delegates such responsibility. Tenant shall have the right and opportunity to perform its due diligence with respect to off-site improvements required to implement the Project, and Tenant may terminate this Lease, in the same manner and to the same effect as provided in Sections 1.2(c) and 3.6, prior to the issuance of a building permit but no later than one (1) year from Commencement Date, if such offsite improvements present any impediment or delay to the development of the Project.

4.18 Introduction of Waste or Hazardous Materials. Tenant agrees that in its use of the Property it shall comply with any and all applicable Laws and Ordinances regarding waste and hazardous materials. Tenant shall not cause or allow on or upon the Property, or as may affect the Property, any act which may result in the discharge of any waste or hazardous materials, or otherwise damage or cause the depreciation in value to the Property, or any part thereof due to the release of any waste or hazardous materials on or about the Property. Tenant further hereby agrees to immediately notify Landlord, in writing, should an accident or incident occur in which any waste and/or hazardous materials are released or otherwise discharged on or about the Property. The term hazardous materials shall mean any explosives, radioactive materials, friable asbestos, electrical transformers, batteries, and any paints, solvents, chemicals, or petroleum products, as well as any substance or material defined or designated as a hazardous or toxic waste material or substance, or other similar, term or substance used by any federal, state, municipal or local environmental statute, regulation or ordinance presently or hereinafter in effect, as such statute, regulation or ordinance may be amended from time to time.

4.19 Designation of Landlord's Representative. The County Mayor, or the Mayor's designee, shall have the power, authority and right, on behalf of Landlord, in its capacity as Landlord hereunder, and without any further resolution or action of the Board to:

a.) Review and approve documents, Plans and Specifications, applications (not funding applications, provided that such funding application(s) does not need approval by Landlord), subleases, requests, estoppels and joinders and consents required or allowed by Tenant to be submitted to Landlord in accordance with the terms of this Lease, and generally take actions on behalf of Landlord to implement the terms hereof;

b.) Consent to actions, events, and undertakings by and/or for Tenant for which consent is required by Landlord;

c.) Make appointments of individuals or entities required to be appointed or designated by Landlord in this Lease;

d.) Modify, or otherwise adjust (increase or decrease) the number of Phases, the number of units for any Phase, or on any Parcel, the square footage of any unit, the timing for when a Phase shall be completed, and the inclusion or removal of any of the amenities that Tenant is required by this Lease to include in the Project. However, a decrease in total number of residential units in the Project below the minimum of 500 shall only be permitted at the sole discretion of the Board.

e.) Execute the Commencement Date Confirmation;

f.) Execute non-disturbance agreements and issue estoppel statements as provided elsewhere in this Lease;

g.) Execute any and all documents on behalf of Landlord necessary or convenient to the foregoing approvals, consents, and appointments;

h.) Execute on behalf of Landlord, consistent with Section 23.6 of this Lease, any and all consents, agreements, easements, applications or other documents, needed to comply with applicable regulatory procedures and secure Permits or other approvals needed to accomplish the construction of any and all improvements in and refurbishments of the Property;

i.) Amend this Lease to correct any typographical or non-material errors, or to address revisions or supplements hereto of a non-material nature; and

j.) Execute on behalf of Landlord any bifurcated leases and any other agreements or instruments necessary to effectuate the bifurcation of this Lease as contemplated herein.

4.20 Developers or Co-Developers. In the event that an assignee or Sublessee is acting as the Developer of a Phase, as designated by Tenant, then Landlord agrees to cooperate with Tenant and such other Developer for purposes of this Lease; provided that Tenant shall have all rights provided to it under the relevant assignments, contracts, or Subleases, and Tenant shall receive copies of all correspondence and be notified of and have rights to attend and participate in all meetings or actions involving a third-party Developer's development.

4.21 Rental Affordability Restrictions. The Tenant hereby agrees that should there be any funding awarded by Landlord or any other governmental entity regarding the apartments, and/or any other Improvements, on the Property, Tenant will enter into an agreement(s) and/or contract(s) with Landlord and/or with such other governmental entity, which shall be in conformance with all applicable rules and regulations of Landlord, and/or the other governmental entity. Tenant hereby agrees that the use of such funds shall be in accordance with the terms and conditions of this Lease, and for developing the Project on the Property. Any failure by Tenant to utilize the funds correctly, pursuant to the terms and conditions of such agreement(s) or contract(s) and not cured within the applicable notice and cure periods under such agreements or contracts (if any), shall be an Event of Default (cross-default) under this Lease.

4.22 Creating Sustainable Buildings. Tenant acknowledges and agrees that it is required to comply with Landlord's rules, regulations, and ordinances pertaining to constructing sustainable (or "green") buildings on the Property that conserve the community's natural resources, save taxpayer dollars, and reduce operating expenses, and create a healthier built environment for employees, tenants, and visitors of the Buildings. As a direct result of Tenant's commitment to build sustainable Buildings, Tenant further agrees to the following:

a.) Tenant is required, at its sole cost and expense, to build each Phase of the Project to ensure that each Phase receives at least a Silver certification rating from the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED), and that each Phase is also in

compliance with any and all of the "green building standards" required by Landlord for new construction projects, in addition to any and all building code restrictions and/or requirements. Tenant acknowledges and agrees that the LEED Silver certification or designation means that each Phase of the Project shall be built to meet certain specifications as outlined by the U.S. Green Building Council, which will include various "green" or environmentally responsible features including, but not limited to, the preparation of the site, as well as the design and construction of Buildings and Improvements; and all shall be reviewed, examined, approved, and certified by a neutral and independent third-party who is certified or approved by the U.S. Green Building Council, and who also regularly certifies such structures as meeting certain LEED standards and/or requirements. Tenant agrees to regularly provide Landlord with copies of any and all records and/or reports (including but not limited to any approvals, rejections and/or comments) from the neutral and independent third-party reviewing each Phase of the Project to establish that Tenant is in fact proceeding with the construction in a manner to ensure that the LEED Silver designation can be secured from the U.S. Green Building Council. Tenant also hereby acknowledges and agrees that it must incorporate high performance building concepts and technologies in order to enhance the overall design and construction of each Phase of the Project, while simultaneously making any and all Buildings, Improvements, and the remaining public spaces environmentally responsible.

b.) Further, Tenant hereby acknowledges and agrees that the LEED Silver certification or designation is a description or label designed to establish the level of energy efficiency and sustainability for Buildings and Improvements in each Phase of the Project, as well as the overall Project; and should substantially improve the "normal" or "regular" energy efficiency and indoor air quality for each Phase of the Project, as well as the overall Project, including, but not limited to, each individual residential unit. Beyond these environmentally responsible steps, Tenant specifically agrees to consider additional areas or means to improve and/or protect the environment with regard to the Project, and inform Landlord of any and all such additional methods or ways that Tenant will utilize "green building standards" in the design and construction of the overall Project in an effort to achieve the important goals of creating a healthy place to live and work as well as an environmentally responsible development in the community.

c.) Substitution of Standard: The requirement for applying the LEED Silver certification or designation may be exempted or modified due to special circumstances of the Project. For example, the Florida Green Building Coalition has a standard for multi-family residential developments that might be equally acceptable to Landlord. Such exemption or modification shall be for the express purpose of ensuring the use of the most appropriate or relevant rating standard or system, and shall not, in any way, exempt the requirement to apply green building practices at the Silver certification, or similar designation as administered by a different organization. This substitution process shall be administered by and through the Sustainability Manager of Landlord.

4.23 Continuing Control. Landlord shall retain the continuing control, right and ability hereunder to cause any development of the Property to have the physical and functional relationship to the Transitway and the System, and to be consistent with the transit uses and goals described in Section 4.1(b). Continuing control shall at all times be retained throughout the term and any extensions of the Lease.

4.24 Construction Related Liens. Tenant hereby agrees that it shall notify and/or otherwise inform any and all persons, firms, entities, companies, and/or contractors and/or subcontractors dealing with Tenant, with respect to furnishing of any labor, services, and/or materials for the Project, that no liens of any nature or character, including, but not limited to mechanic's or materialmen's liens, shall be imposed upon or enforced against Landlord, or Landlord's interest in the Property. Tenant shall also notify and/or otherwise inform any and all persons, firms, entities, companies, and/or contractors and/or subcontractors dealing with Tenant that his/her/its only recourse shall be against the interest of Tenant in the Property and/or Tenant's credit. Tenant shall include language to the effect of the foregoing sentence in all of its contracts and/or agreements, if any. IN THE EVENT THAT ANY MECHANIC'S LIEN SHALL BE FILED AGAINST THE PROPERTY FOR WORK OR MATERIALS FURNISHED BY OR AT THE REQUEST OF TENANT, SUBJECT TO TENANT'S RIGHT TO CONTEST SUCH LIEN AS PROVIDED HEREIN, TENANT SHALL EITHER (A) PROCURE THE RELEASE OR DISCHARGE THEREOF WITHIN NINETY (90) DAYS EITHER BY PAYMENT OR IN SUCH OTHER MANNER AS MAY BE PRESCRIBED BY LAW OR (B) TRANSFER SUCH LIEN TO BOND WITHIN NINETY (90) DAYS FOLLOWING THE FILING THEREOF. NOTICE IS HEREBY GIVEN THAT LANDLORD SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO THE TENANT OR TO ANYONE HOLDING ANY OF THE PROPERTY THROUGH OR UNDER THE TENANT, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE LANDLORD IN AND TO ANY OF THE PROPERTY. THE LANDLORD SHALL BE PERMITTED TO POST ANY NOTICES ON THE PROPERTY REGARDING SUCH NON-LIABILITY OF THE LANDLORD. Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons, firms, and corporations doing any work, furnishing any materials or supplies or renting any equipment to Tenant or any of its contractors or subcontractors in connection with the construction, reconstruction, furnishing, repair, maintenance or operation of the Property and, subject to Tenant's right to contest liens as provided herein, will bond or cause to be bonded, with surety companies reasonably satisfactory to Landlord, or pay or cause to be paid in full forthwith, any mechanic's, materialmen's or other lien or encumbrance that arises, whether due to the actions of Tenant or any person other than Landlord, against the Property. Tenant shall have the right to contest any such lien or encumbrance by appropriate proceedings which shall prevent the collection of or other realization upon such lien or encumbrance so contested, and the sale, forfeiture or loss of the Property to satisfy the same; provided that such contest shall not subject Landlord to the risk of any criminal liability or civil penalty, and provided further that Tenant shall give reasonable security to insure payment of such lien or encumbrance and to prevent any sale or forfeiture of the Property by reason of such nonpayment, and Tenant hereby indemnifies Landlord for any such liability or penalty. Upon the termination after final appeal of any proceeding relating to any amount contested by Tenant pursuant to this Section 4.24, Tenant shall immediately pay any amount determined in such proceeding to be due, and in the event Tenant fails to make such payment, Landlord shall have the right after five (5) business days' notice to Tenant to make any such payment on behalf of Tenant and charge Tenant therefor. Nothing contained in this Lease shall be construed as constituting the consent or request of Landlord, expressed or implied, to or for the performance of any labor or services or the furnishing of any materials for construction, alteration, addition, repair or demolition of or to the Property or of any part thereof

4.25 Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms Participation. For each Phase of the Project in which the parcels that will be developed are owned by Landlord through PHCD and federal funds (such as HOME Investment Partnership or Community Development Block Grant funds) are utilized for the development of such Phase of the Project or such funds were used by Landlord to acquire such parcels, then Tenant shall comply, and shall cause its contractor, architect/design professionals, and all subcontractors, sub-consultants, subtenants and licensees to comply with 2 CFR § 200.321, which requires Tenant to take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. For purposes of this Lease, the term "affirmative steps" means (1) placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) 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; (4) establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (5) using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

4.26 Community Business Enterprise Program. In addition to the requirements set forth in Section 4.25 of this Lease, Tenant shall comply, and shall cause its contractor to comply, to the extent applicable, with Landlord's Community Workforce, Residents First Training and Employment, and First Source Hiring Programs as set forth in Sections 2-1701 and 2-11.17, and 2-2113 of the Code of Miami-Dade County, Florida ("Code"), respectively, and, if applicable, the Employ Miami-Dade Program Administrative Order No. 3-63. Notwithstanding the foregoing or anything in Section 4.25 to the contrary, Landlord agrees that certain contracts entered into by Tenant as described on Schedule 4.26 hereof, are hereby approved. Tenant shall require that its contractor(s) shall, at a minimum, use the Small Business Division of the Internal Services Department of Landlord hiring clearinghouse, Employ Miami-Dade Register, and Employ Miami-Dade Project – all available through CareerSource to recruit workers to fill needed positions for skilled laborers on the Project, and any Project enhancements. Tenant shall comply with these requirements during all phases of construction of the Project. Tenant shall require its contractor(s) to include Davis-Bacon Wages or Responsible Wages, as applicable, and Workforce Programs requirements in all subcontractor agreements. Should Tenant fail to comply with any of these requirements, Tenant shall be obligated to make up such deficit in future phases of construction of the Project, and/or pay the applicable monetary penalty pursuant to the Code.

4.27 Disadvantaged Business Enterprises Programs. In addition to any other requirements under this Lease, including but not limited to those set forth in Sections 4.25 and 4.26 of this Lease, Tenant agrees that this Lease, to the extent applicable, is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Financial Assistance Programs", 49 U.S.C. 5315, 20013 of MAP-21, Fixing America's Surface Transportation (FAST) Act Section 3019(c) and FTA Circular 4220.1E (the Circular). As a recipient of FTA funding, DTPW's Disadvantaged Business Enterprise (DBE) Program is to carry out and fully implement the goals of 49 CFR Part 26. Primarily, the DBE Program is to:

i) Ensure that there is a "*leveled playing field*" in Department of Transportation assisted contracts,

ii) Improve the flexibility and efficiency of contracting opportunities by reducing the burdens on small businesses to compete for contracting opportunities.

iii) The DBE program also helps to identify and help remove barriers to the participation of DBE contractors in Department of Transportation -assisted contracts, and

iv) Ultimately to assist the development of firms that can compete successfully in the marketplace outside of the DBE program.

Therefore, it is DTPW's primary objective to ensure that Tenant invite certified DBE firms to have the opportunity to participate in the performance of federally-funded contracts, and that Tenant shall take all necessary and reasonable steps to make such assurances. DBE's and other small businesses, as defined in Title 49 CFR Part 26, are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. Furthermore, FTA Circular 4220.1.E.9.e. Procurement of Construction Services, requires that *Grantees* use qualifications-based competitive proposal procedures (i.e., the Brooks Act) when contracting for construction services as defined in 40 U.S.C. § 1102 and 49 U.S.C. § 5325(b). For purposes of this Lease, Landlord's intended DBE goal is 15%. Tenant and its sub-consultants/contractor shall complete the required DBE Forms attached to this Lease as Exhibit "D" and incorporated herein by reference in order to ensure that DTPW is able to compile statistics for federal reporting purposes.

ARTICLE 5
PAYMENT OF TAXES, AND ASSESSMENTS

5.1 Tenant's Obligations for Impositions. Tenant shall pay or cause to be paid all Impositions, before any fine, penalty, interest or cost may be added thereto, including but not limited to any real estate tax, sales tax, ad valorem tax or similar Impositions which at any time during the Term of this Lease have been, or which may become, a lien on the Property or any part thereof; provided, however, that:

a.) If any Imposition (for which Tenant is liable hereunder) may by law be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), at the option of Landlord or Tenant, Tenant may pay the same in installments, including any accrued interest on the unpaid balance of such Imposition, provided that Tenant shall pay those installments which are to become due and payable after the expiration of the Term of this Lease, but which relate to a fiscal period fully included in the Term of this Lease; and

b.) If any Imposition for which Tenant is liable hereunder relating to a fiscal period, a part of which period is included within the Term of this Lease and a part of which is included in a period of time after the expiration or termination of the Term, shall be adjusted between Landlord and Tenant as of the expiration or termination of the Term so that Tenant shall pay only that portion of such Imposition that is applicable to the period of time prior to expiration

or termination of the Term, and Landlord shall pay the remainder thereof if it is otherwise obligated to do so.

c.) If any Imposition relating to the period prior to the Commencement Date shall be the sole responsibility and obligation of Landlord.

5.2 Contesting Impositions.

a.) Tenant shall have the right to contest the amount or validity, in whole or in part, of any Imposition for which Tenant is or is claimed to be liable, by appropriate proceedings diligently conducted in good faith but only after payment of such Imposition, unless such payment or payment thereof under protest would operate as a bar to such contest or interfere materially with the prosecution thereof, in which event, notwithstanding the provisions of Section 5.1 herein, Tenant may postpone or defer payment of such Imposition if:

(i) Neither the Property nor any part thereof would by reason of such postponement or deferment be in danger of being forfeited or lost; and

(ii) Upon the termination of any such proceedings, Tenant shall pay the amount of such Imposition or part thereof, if any, as finally determined in such proceedings, together with any costs, fees, including attorneys' fees, interest, penalties and any other liability in connection therewith.

b.) Landlord shall not be required to join in any proceedings referred to in this Section 5.2 unless the provisions of any law, rule or regulation at the time in effect shall require that Landlord is a necessary party to such proceedings, in which event Landlord shall participate in such proceedings at Tenant's cost.

ARTICLE 6
SURRENDER

6.1 Surrender of Property. On the last day of the Term, or upon any earlier termination of this Lease, Tenant shall surrender and deliver up the Property to the possession and use of Landlord without delay and, subject to the provisions of Articles 16 and 18 herein, with the Buildings and Improvements in their then "as is" condition and subject to reasonable wear and tear, acts of God, and casualties. Tenant shall take reasonable steps to ensure the safety, security and integrity of Property and Improvements, and shall be obligated to reasonably cooperate with Landlord in the transition of the surrender of same.

6.2 Removal of Personal Property. Where furnished by or at the expense of Tenant or Sublessee, or secured by a lien held by either the owner or a Lender financing same, signs, furniture, furnishings, movable trade fixtures, business equipment and alterations and/or other similar items may be removed by Tenant, or, if approved by Tenant, by such Sublessee, or lien holder at, or prior to, the termination or expiration of this Lease; provided however, that if the removal thereof will damage a Building or necessitate changes in or repairs to a Building, Tenant shall repair or restore (or cause to be repaired or restored) the Building to a condition substantially similar to its condition immediately preceding the removal of such furniture, furnishings, movable

trade fixtures and business equipment, or pay or cause to be paid to Landlord the reasonable cost of repairing any damage arising from such removal.

6.3 Rights to Personal Property after Termination or Surrender. Any personal property of Tenant which shall remain in the Property after the fifteenth (15th) day following the termination or expiration of this Lease may, at the option of Landlord, be deemed to have been abandoned by Tenant and, unless any interest therein is claimed by a Lender, within the same fifteen (15) day period, said personal property may be retained by Landlord as its property or be disposed of, without accountability, in such manner as Landlord may see fit.

6.4 Survival. The provisions of this Article 6 shall survive any termination or expiration of this Lease.

ARTICLE 7
INSURANCE AND INDEMNIFICATION

7.1 Insurance. Landlord and Tenant hereby agree that the terms and provisions governing the insurance required pursuant to this Lease are contained in Schedule 7.1 hereto, which is hereby incorporated herein by reference. Further, in each and every Sublease and sub-sublease, unless agreed to otherwise by Landlord, Tenant shall take reasonable efforts to ensure that there is an appropriate clause or section that requires the Retail Subtenant and any sub-subtenant to secure and maintain adequate insurance, at least to the levels that are contained in Schedule 7.1, which insurance names and protects Landlord just as Tenant is required to protect Landlord.

7.2 Indemnification. Landlord and Tenant hereby agree that Tenant shall indemnify and hold harmless Landlord and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which Landlord or its officers, employees, agents or instrumentalities may incur as a result of any 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 Lease by Tenant or its employees, agents, servants, partners principals or subcontractors. Tenant 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 Landlord, where applicable, including any and all appellate proceedings, and shall pay all costs, judgments, and reasonable attorneys' fees which may issue thereon; provided, however, nothing contained herein shall obligate or hold Tenant responsible for any claims or actions stemming solely from Landlord's and/or its officers', employees', agents' or invitees' negligence or misconduct. Tenant expressly understands and agrees that any insurance protection required by this Lease or otherwise provided by Tenant, shall in no way limit the responsibility to indemnify, keep and save harmless and defend Landlord or its officers, employees, agents and instrumentalities as herein provided. Further, Tenant hereby agrees that it shall require any of its Sublessees to also indemnify Landlord to the same extent as Tenant has indemnified Landlord hereinabove. In each and every Sublease and sub-sublease, Tenant shall require and ensure that there is an appropriate clause or section that duly indemnifies and protects Landlord just as Tenant has indemnified Landlord.

7.3 Liability for Damage or Injury. Landlord shall not be liable for any damage or injury which may be sustained by any party, person or any personal property located on the Property other than the damage or injury caused solely by the negligence or misconduct of Landlord, its officers, employees, agents or invitees, and all of which is subject to the limitations of Section 768.28, *Florida Statutes*.

7.4 Survival. The provisions of this Article 7 shall survive any termination or expiration of this Lease.

ARTICLE 8
OPERATION

8.1 Control of Property. Landlord agrees that, subject to any express limitations and approvals imposed by the terms of this Lease, Tenant shall be free to perform and exercise its rights under this Lease and shall have exclusive authority to develop, direct, operate and manage the Property, including with respect to the Project of all Phases thereof and the rental of the Buildings and Improvements. Tenant hereby agrees that any and all utilities with respect to the Property shall be in the name of Tenant, Sublessee, or the Retail Subtenant, or sub-subtenant, or whoever is responsible for such usage. However, under no circumstance, whatsoever, shall Landlord be responsible for any utilities on the Property, including, but not limited to, the installation, maintenance, initial cost or fee and/or any on-going charges or fees. Tenant hereby agrees to pay any and all such utilities relating to the Property in a timely manner, so as to avoid any lien or encumbrance on the Property.

8.2 Non-Interference. Landlord and Tenant hereby mutually agree not to interfere with the free flow of pedestrian or vehicular traffic to and from the Public Areas, including but not limited to the Kiss and Ride area, and to and from the Transitway. They further agree that, except for those structures reasonably necessary for security and safety purposes, no fence, or any other structure of any kind (except as may be specifically permitted or maintained under the provisions of this Lease, indicated on Construction Plans or otherwise mutually agreed upon in writing) shall be placed, kept, permitted or maintained in such fashion as to materially or adversely interfere with pedestrian or vehicular traffic to and from the Public Areas, the Kiss and Ride area, and to and from the Transitway. The foregoing shall not prohibit Tenant from closing any Buildings and denying access to the public at such times and in such manner as deemed necessary by Tenant during the development or construction of any portion of the Buildings, the repair and maintenance of the Property or during the operation of the Property, provided such closing does not materially and adversely interfere with (i) the public's reasonable access to the Transitway, or (ii) Landlord's customary operation of the System, unless Tenant obtains Landlord's prior written consent. Landlord acknowledges that Tenant's Development Plan anticipates security arrangements including locked Buildings with access limited to Retail Subtenants, Sublessees, renters or their permitted invitees. Tenant shall ensure and maintain 24 hour, and 365 day access into the DTPW Parking Areas designated for Landlord and DTPW Patrons. Notwithstanding the foregoing, Tenant acknowledges that Landlord's use of the Transitway and the System is paramount and the Tenant's use of the Property and any improvements thereof shall not interfere with the operation of the Transitway or the System.

8.3 Repair and Relocation of Utilities. Landlord and Tenant agree to maintain and repair, and each party is given the right to replace, relocate and remove, as necessary, utility facilities within the Property required for the build-out of the Project, consistent with the Development Plan, or for the operation of the Property, including the Transitway, the System and all existing and future improvements, provided:

a.) Such activity does not materially or adversely interfere with the other party's operations (as evidenced in advance by a written instrument authorizing such repair and/or relocation of utilities);

b.) All costs of such activities are promptly paid by the party causing such activity to be undertaken;

c.) Each of the utility facilities and the Property are thereafter restored to their former state and impacts to any Improvements are addressed and corrected;

d.) Each party complies with the provisions of all Permits and licenses which have been issued and are affected by such repair and relocation;

e.) Landlord agrees to cooperate with Tenant in relocating existing utility lines and facilities on or adjacent to the Property which need to be relocated to develop the Project, including reasonable use of existing easements benefiting the Land and adjoining rights of way to the Land, and the location and stubbing of utility connections leading to the Property in a manner reasonably consistent with Tenant's development plans; and

f.) After Tenant's Completion of Construction, Tenant shall no longer be obligated to secure Landlord's prior written consent to repair or relocate utilities located solely on the Property.

8.4 Rights to Erect Signs; Revenues Therefrom.

a.) Landlord agrees that, to the extent permitted by law, Tenant shall have the exclusive right, during the Term of this Lease, to place, erect, maintain and operate, or cause, allow and control the placement, erection, maintenance and operation of any signs or advertisements in accordance with subparagraph (b) below, in or on the Property. Tenant shall be responsible for obtaining any and all Permits and licenses which may be required from time to time by any governmental authority for such signs and advertisements, and Landlord agrees to execute any consents reasonably necessary or required by any governmental authority as part of Tenant's application for such Permits or licenses.

b.) The following types of signs and advertising shall be allowed in the area described in subparagraph (a) above:

(i) Signs or advertisements identifying the Buildings and Improvements to the Property and in particular residential or other uses therein, and any "branding" graphics developed by Tenant in connection with the Project, as well as signs indicating security features or rules and regulations as may pertain to any Improvements;

(ii) Signs or advertisements offering all or any portion of the Property for rent; and

(iii) Signs or advertisements advertising or identifying any product, company, or service operating in the Property or otherwise related thereto, including without limitation, signage requested or desired by a Lender or any person providing financing, or any developer, contractor, subcontractor, supplier or joint venturer participating in the Project.

c.) Tenant shall have the right to remove any signs which, from time to time, may have become damaged, obsolete, unfit for use or which are no longer useful, necessary or profitable in the conduct of Tenant's business, or in the occupancy and enjoyment of the Property by Tenant, or any of the Retail Subtenants.

d.) As used in this Lease, "signs" shall be deemed to include any display of characters, letters, illustrations, logos or any ornamentation designed or used as an advertisement or to indicate direction, irrespective of whether the same be temporary or permanent, electrical, illuminated, or otherwise.

8.5 Landlord's Signs Upon Property. Transitway and System wide informational graphics, as well as any advertising, shall be allowed to be placed within the Property at the sole expense of Landlord and at locations and in sizes mutually agreed upon by Landlord and Tenant.

8.6 Utilities. Tenant, with regard to the Buildings and Improvements on the Property, shall be solely responsible for securing and maintaining any and all utilities (and in any Buildings, all common areas), and doing so in its own name, including, but not limited to, and security deposits to commence the utility services. Utilities, such as water, sewer, storm water, electric, telephone, cable, and all other utilities charges or invoices for the Property, Buildings, and Improvements shall be timely paid by Tenant. Exceptions to the foregoing include electrical, cable and telephone services secured by the residents of the Building, and any utilities that any of the Sublessees shall place in their names and maintain.

8.7 Security. Tenant agrees to be fully responsible for the costs of security measures, as well as determining what security measures are necessary, and maintaining such security measures for the Property, including any and all of the Buildings and Improvements thereon. Tenant (and not Landlord) shall be solely responsible for providing security to the Property. As part of Tenant's security measures, Tenant shall have appropriate security personnel for the Buildings, as it deems necessary. Further, Tenant shall have security cameras in the common areas of the Buildings, including but not limited to the garages, providing Tenant and others with a taped report, should an incident occur. Tenant shall further ensure that there is sufficient lighting in all common areas, including, but not limited to, hallways, staircases, parking facilities, and any entrance ways. Further, should Tenant determine that any additional security is necessary for the Property, any of the Buildings, any of the residents, Retail Subtenants, and/or other invitees or licensees, to the Property, or for their personal property, then Tenant, at its sole cost and expense, shall arrange for such security, including, but not limited to, hiring security guards to provide additional protection. Tenant shall carry out its obligations hereunder in a manner consistent with security measures implemented by similarly situated property owners and operators in the geographic area in which the Property is located.

ARTICLE 9
REPAIRS AND MAINTENANCE

9.1 Tenant Repairs and Maintenance. Throughout the Term of this Lease, Tenant, at its sole cost and expense, shall keep the Property in good order and condition, and make all necessary repairs thereto. The term "repairs" shall include all replacements, renewals, alterations, additions and betterments deemed necessary by Laws and Ordinances or by Tenant or are matters related to Landlord's use of the Property. All repairs made by Tenant shall be at least substantially similar in quality and class to the original work, ordinary wear and tear and loss by fire or other casualty excepted, and except for changes reasonably based on deterioration of local conditions, if any. Tenant shall keep and maintain all portions of the Property and all Improvements in reasonable order and operating condition, and such maintenance by Tenant shall include, but not be limited to, installation and maintenance of a fence(s) surrounding the Property during periods of construction, removal of any and all debris, rubbish, and trash, removal of any graffiti and unlawful obstructions, landscaping (including, but not limited to, lawn cutting and tree trimming), pest control, sidewalk repair and/or replacement, any environmental testing and/or cleanup, and repair and/or replacement of any and all utility and/or irrigation lines. Landlord, at its option, and after thirty (30) days written notice to Tenant, may perform any maintenance or repairs required of Tenant hereunder which have not been performed by Tenant following the notice described above, and may seek reimbursement for costs and expenses thereof from Tenant.

9.2 Repairs and Maintenance to Parking Garage. Landlord and Tenant acknowledge that the DTPW Parking Areas will be maintained in accordance with Section 4.4(f).

9.3 Payment and Performance Bond for Maintenance and Repairs. Prior to purchasing any materials, supplies, and/or services, or commencing any repairs or improvements to the Property, or to any of the Improvements on or about the Property, which repairs or improvements are reasonably estimated to cost in excess of Two Hundred Thousand Dollars ($200,000.00) or the minimum amount under Section 255.05, *Florida Statutes* (as amended) that would necessitate a payment and performance bond (whichever is greater), Tenant shall obtain and deliver to Landlord, at its sole cost and expense, a payment bond and performance bond, or such other alternate form of security, any or all of which meets the requirements of Section 255.05, *Florida Statutes* (as amended), as set forth below, not less than ten (10) days prior to the anticipated commencement date of the repairs or improvements, and before purchasing any materials, supplies, and/or services. The form of such bonds shall be as provided by Section 255.05, *Florida Statutes* (as amended), and each shall be in the amount of the hard construction cost of the repair or improvement project, regardless of the source of funding. The payment and performance bonds shall name Landlord as an obligee on the multiple obligee rider attached to the payment and performance bond, and shall be issued by a surety insurer authorized to do business in the State of Florida. The bonds shall be subject to review and approval by Miami-Dade County, Internal Services Department, Risk Management Division, as well as by PHCD and DTPW. Tenant shall be responsible for recording the payment and performance bonds as an exhibit to the notice of commencement filed in the public records of Miami-Dade County and providing notice to subcontractors and suppliers, as required by Section 255.05, *Florida Statutes* (as amended). Said payment and performance bonds shall be maintained in full force and effect for the duration of any such repair or improvement project. The rights of Landlord under any payment and performance

bonds shall be subordinate to the rights of any Lender holding a Mortgage on Tenant's leasehold interest.

ARTICLE 10
COMPLIANCE WITH LAWS AND ORDINANCES

10.1 Compliance by Tenant. Throughout the Term of this Lease, Tenant, at Tenant's sole cost and expense, shall promptly comply with all Laws and Ordinances applicable to Tenant, the Property, the Project, and/or the Improvements and operations upon the Property, provided such Laws and Ordinances apply to similar properties located in Miami-Dade County, Florida, as they may pertain to the Property generally, and are not specific to the Property. To the extent that Tenant's compliance shall require the cooperation and participation of Landlord, Landlord agrees to use its best efforts to cooperate and participate in such matters as a landlord.

10.2 Contest by Tenant. Tenant shall have the right, after prior written notice to Landlord, to contest the validity or application of any Laws or Ordinances by appropriate legal proceedings diligently conducted in good faith, in the name of Tenant without cost or expense to Landlord, except as may be required in Landlord's capacity as a party adverse to Tenant in such contest. If counsel is required, the same shall be selected and paid by Tenant. Landlord hereby agrees to execute and deliver any necessary papers, affidavits, forms or other such documents necessary for Tenant to confirm or acquire status to contest the validity or application of any Laws or Ordinances, which instrument shall be subject to the reasonable approval of counsel for Landlord, which approval shall not be unreasonably withheld or delayed. Landlord shall not be required to join in any such contest unless its joinder is required for a contest to be valid.

10.3 Art in Public Places. Tenant acknowledges and agrees that in accordance with Section 2-11.15, of the *Miami-Dade County Code*, it is required to allocate not less than one and one-half percent (1½%) of the total capital cost (design and construction) of the Improvements for each Phase of the Project for works of art to be permanently located on the Property. Such percentage of the construction costs shall be allocated to the Project, by depositing such amount on a Phase by Phase basis in the Art in Public Places Trust Fund within thirty (30) days following closing of construction financing for such Phase. Tenant acknowledges and agrees that the deposited funds can solely be used for commissioning and/or acquiring works of public art for the Property, including, without limitation, integrated works of art (such as plazas, courtyards, walkways, lighting, fountains and other water features, gazebos, murals, special graphic presentations and other similar decorative features and facilities). Tenant further agrees to work collaboratively with the Miami-Dade Art in Public Places Trust to administer the "artist selection process" and implement the Art in Public Places program as defined in the Miami-Dade County Procedures Manual for Art in Public Places, which manual is attached hereto, and marked as Exhibit "C", and incorporated herein by reference.

ARTICLE 11
CHANGES AND ALTERATIONS TO BUILDINGS BY TENANT

11.1 Tenant's Right. Tenant, with Landlord's approval, shall have the right at any time or from time to time during the Term of this Lease, at its sole cost and expense, to expand, rebuild, alter and/or reconstruct the Buildings and other Improvements, and to raze the Buildings provided

any such razing shall be preliminary to and in connection with the rebuilding of a new Building or Buildings, and provided further that, unless waived by Landlord:

a.) the method, schedule, Development Plan and Plans and Specifications for such razing and rebuilding of a new Building or Buildings are submitted to Landlord for its reasonable approval at least one hundred eighty (180) days prior to the commencement of any razing (unless action is required to comply with building and safety codes, in which Tenant will provide Landlord with prior notice that is reasonable under the circumstances);

b.) the rebuilding, alteration, reconstruction or razing does not violate any other provisions of this Lease;

c.) the rebuilding, alteration, reconstruction or razing does not at any time change or adversely affect the Transitway entrance, or any access thereto except as may be required by Laws and Ordinances, or agreed to by Landlord;

d.) the rebuilding, alteration, reconstruction or razing is intended to address concerns that the existing Buildings and Improvements are not capable of achieving revenue levels reasonably consistent with current and projected market conditions.

e.) Tenant shall obtain all approvals, Permits and authorizations required under applicable Laws and Ordinances.

f.) None of the following provisions are intended to be subject to Landlord's approval:

(i) any modifications, construction, replacements, or repair in the nature of "tenant work," or "tenant improvements," as such terms are customarily used; or

(ii) any normal and periodic maintenance, operation, replacements and repair of the Buildings or Improvements; or

(iii) any interior reconfigurations or non-material alterations made to the Buildings or Improvements; or

(iv) any reconstruction of the Project or any portion thereof as a result of a casualty, so long as such reconstruction is consistent with the Development Plan, and the same number of residential units, if not more, will exist on the Property as the result of the reconstruction of the Project.

ARTICLE 12
DISCHARGE OF OBLIGATIONS

12.1 Tenant's Duty. During the Term of this Lease, except for Leasehold Mortgages or Subleasehold Mortgages or as otherwise allowed under this Lease, Tenant will discharge or cause to be discharged any and all obligations incurred by Tenant which give rise to any liens on the Property, it being understood and agreed that Tenant shall have the right to withhold any payment (or to transfer any such lien to a bond in accordance with applicable Florida law) so long

as it is in good faith disputing liability therefore or the amount thereof, provided (a) such contest of liability or amount operates as a stay of all sale, entry, foreclosure, or other collection proceedings in regard to such obligations, or disputed payments are escrowed while the parties negotiate the dispute, and (b) such action does not subject Landlord to any expense or liability. In the event Tenant withholds any payment as described herein, it shall give written notice to Landlord of such action and the basis therefor.

12.2 Landlord's Duty. During the Term of this Lease, Landlord will discharge any and all obligations incurred by Landlord which give rise to any liens on the Property, it being understood and agreed that Landlord shall have the right to withhold any payment so long as it is in good faith disputing liability therefore or the amount thereof, provided such contest of liability or amount operates as a stay of all sale, entry, foreclosure, or other collection proceedings in regard to such obligations, and such action does not subject Tenant to any expense or liability.

ARTICLE 13
PROHIBITIONS ON USE OF PROPERTY

13.1 Prohibited Use of Property by Tenant.

a.) Tenant shall not construct or otherwise develop on the Property anything that is inconsistent with the terms and conditions of this Lease.

b.) Tenant shall not knowingly permit the Property to be used for the following:

(i) any unlawful or illegal business, use or purpose, or for any business, use or purpose which is extra-hazardous or constitutes a legal nuisance of any kind (public or private); or

(ii) any purpose which violates the approvals of applicable government authorities.

(iii) for any use that is clearly incompatible with the Project contemplated by this Lease; and/or

(iv) for any purpose that is obscene, offensive, derogatory, disparaging or denigrating, to the reputation of Landlord.

c.) No covenant, agreement, lease, Sublease, Leasehold Mortgage, Subleasehold Mortgage, conveyance or other instrument shall be effected or executed by Tenant, or any of its successors or assigns, whereby the Property or any portion thereof is restricted by Tenant, or any successor in interest, upon the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, gender identity, gender expression, sexual orientation, actual or perceived status as a victim of domestic violence, dating violence or stalking, or source of income in the lease, sublease, use or occupancy thereof. Tenant shall comply with all applicable state and local laws, in effect from time to time, prohibiting discrimination or segregation by reason of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, gender identity, gender expression, sexual orientation,

actual or perceived status as a victim of domestic violence, dating violence or stalking, or source of income in the lease, sublease, or occupancy of the Property.

(i) Affirmative Action Plan - Tenant shall report to Landlord information relative to the equality of employment opportunities whenever so requested by Landlord.

(ii) Assurance of compliance with Section 504 of the Rehabilitation Act - Tenant shall report its compliance with Section 504 of the Rehabilitation Act whenever requested by Landlord.

(iii) Civil Rights - Tenant agrees to abide by Chapter 11A, Article IV, Sections 11A-25 through 11A-28 of the Code of Miami-Dade County, as amended, applicable to • nondiscrimination in employment and shall abide by Executive Order 11246 which requires equal employment opportunity. Further, Tenant agrees to abide by Chapter 11A, Articles II and III, as amended, applicable to non-discrimination in housing and public accommodation and shall abide by all applicable federal civil rights laws.

(iv) Where applicable, Tenant agrees to abide and be governed by Titles VI and VII, Civil Rights Act of 1964 (42 USC § 2000 D&E) and Title VIII of the Civil Rights Act of 1968, as amended, and Executive Order 11063 which provides in part that there will be no discrimination of race, color, sex, religious background, ancestry, or national origin in performance of this Lease, with regard to persons served, or in regard to employees or applicants for employment or housing; it is expressly understood that upon receipt of evidence of such discrimination, Landlord shall have the right to terminate said Lease.

(v) Tenant also agrees to abide and be governed by the Age Discrimination Act of 1975, as amended, which provides; in part, that there shall be no discrimination against persons in any area of employment because of age. Tenant agrees to abide and be governed by Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794, which prohibits discrimination on the basis of disability. Tenant agrees to abide and be governed by the requirements of the Americans with Disabilities Act (ADA).

d.) Except as otherwise specified, Tenant may use the Property for any lawful purpose or use authorized by this Lease and allowed under the ordinance establishing the zoning for the Property (provided Tenant otherwise complies with the terms and conditions hereof). Tenant shall not knowingly suffer any act to be done or any condition to exist in or on the Property or any part thereof or any article to be brought thereon, which may be dangerous, unless safeguarded as required by law, or which may make void or voidable any insurance then in force with respect thereto.

13.2 Dangerous Liquids and Materials. Tenant shall not possess or otherwise maintain flammable or combustible liquids on or about the Property. Tenant shall not knowingly permit its Retail Subtenants or other person or entity in contractual privity with Tenant to carry flammable or combustible liquids into or onto the Property during or following completion of construction except as such substances are used in the ordinary course of business, and shall prohibit the storage or manufacture of any flammable or combustible liquid or dangerous or

explosive materials in or on the Property; provided that this restriction shall not apply to prevent (a) the entry and parking of motor vehicles carrying flammable or combustible liquids solely for the purpose of their own propulsion, (b) the maintaining retail inventories for sale to retail customers of motor oils and similar types of products, (c) the use of normal cleaning and maintenance liquids and substances and/or office and other supplies customarily used, or (d) their use in construction of Buildings and Improvements on the Property.

13.3 Tenant's Duty and Landlord's Right of Enforcement Against Tenant and Successor and Assignee. Promptly upon learning of the occurrence of actions prohibited by Section 13.1 and 13.2, Tenant shall promptly take steps to terminate same, including the bringing of a suit in Circuit Court, if necessary, but not the taking or defending of any appeal therefrom. In the event Tenant does not promptly take steps to terminate a prohibited action, Landlord may seek appropriate injunctive relief against the party or parties actually engaged in the prohibited action in the Circuit Court of Miami-Dade County without being required to prove or establish that Landlord has inadequate remedies at law. The provisions of this Section shall be deemed automatically included in all subleases, Leasehold Mortgages, and Subleasehold Mortgages, and any other conveyances, transfers and assignments under this Lease, and any transferee who accepts such sublease, Leasehold Mortgage, Subleasehold Mortgage or any other conveyance, transfer or assignment hereunder shall be deemed by such acceptance to adopt, ratify, confirm and consent to the provisions of Sections 13.1, 13.2 and 13.3 and to Landlord's rights to obtain the injunctive relief specified therein. Notwithstanding anything to the contrary herein, Tenant's breach of Sections 13.1, 13.2 and 13.3 of the Lease shall not constitute a breach of lease sufficient to permit Landlord to terminate this Lease.

13.4 Designation of Buildings by Name. Tenant shall have the right and privilege of designating names by which the Buildings, the Project or a Phase thereof shall be known, so long as such name is not obscene (as defined by *Florida Statutes*). Notwithstanding the foregoing, upon the expiration or early termination of this Lease, or upon Landlord re-acquiring the Property, or any portion thereof by reversion, the parties hereby agree that Landlord is not, and shall not be, bound to any designation or name used in connection with any Building, Improvement or the Project.

ARTICLE 14
ENTRY BY LANDLORD

14.1 Inspection by Landlord of Property. Landlord and its authorized representatives, upon reasonable notice and in the presence of a representative of Tenant, shall have the right to enter the Property at reasonable times during normal business hours for the purpose of inspecting the same to assure itself of compliance with the provisions of this Lease. Further, Landlord shall have the right, but shall not be required, to make periodic inspections on or about the Property to determine if the Property is being properly maintained, and is in a reasonably neat and orderly condition. Tenant shall be required to make any improvements in cleaning and/or maintenance methods as reasonably required by Landlord.

14.2 Right to Inspect Books and Records of Tenant. Tenant shall make available to Landlord, Federal Transit Administration, Florida Department of Transportation, United States Department of Housing and Urban Development, or any other applicable governmental entity for

their inspection and/or audit Tenant's books and records relating to the lease of any and all residential units and the commercial or retail spaces on the Property, as well as to any revenue or Rent due to Landlord in accordance with Section 3.3 hereof. Tenant shall also make available to the Federal Transit Administration, Florida Department of Transportation, United States Department of Housing and Urban Development, or any other applicable governmental authority, for their inspection and/or audit Tenant's books and records relating to the lease of any and all residential units and the commercial or retail spaces in any Phase of the Project if funds provided by such governmental authority are utilized for the development of such Phase or such funds were used by Landlord to acquire the portion of the Land within such Phase. Further, Tenant hereby acknowledges and agrees that its agreement to construct and maintain a minimum of 500 residential units on the Property, of which 450 of those units will be Affordable Housing, is an expressed inducement for Landlord to enter into this Lease. Therefore, any failure by Tenant to maintain a minimum of 450 of the residential rental units owned by Tenant as Affordable Housing units for a period of not less than thirty (30) years following Tenant securing a Certificate of Occupancy for each Phase of the Project shall be an Event of Default, and Landlord shall be able to exercise any of its remedies as found in Article 19 of this Lease, in addition to any other remedy found at law or in equity.

14.3 Limitations on Inspection. Landlord, Federal Transit Administration, Florida Department of Transportation, United States Department of Housing and Urban Development, or any other applicable governmental authority or entity in their exercise of the right of entry granted to it in Sections 14.1 or 14.2 herein (as applicable), shall (a) not unreasonably disturb the occupancy of Tenant or Sublessees nor disturb their business activities; and (b) with respect to any residential Sublessee, shall comply with all laws, rules and regulations governing or applicable to Landlord of a residential premises.

ARTICLE 15
LIMITATIONS OF LIABILITY

15.1 Limitation of Liability of Landlord. Landlord shall not be liable to Tenant for any incidental or consequential loss or damage whatsoever arising from the rights of Landlord hereunder.

15.2 Limitation of Liability of Tenant. Tenant shall not be liable to Landlord for any incidental or consequential loss or damage whatsoever arising from rights of Tenant hereunder.

ARTICLE 16
DAMAGE AND DESTRUCTION

16.1 Tenant's Duty to Restore. If, at any time during the Term of this Lease, the Property or any part thereof shall be damaged or destroyed by fire or other casualty covered within the insurance designation of fire and extended coverage as same is customarily written in the State of Florida, Tenant, at its sole cost and expense, if so requested by Landlord, or elected by Tenant, and provided that the insurance proceeds related to such casualty are made available to Tenant in a sufficient net amount for use in connection therewith, shall repair, alter, restore, replace or rebuild the same as nearly as reasonably possible to its value, conditions, and character which existed immediately prior to such damage or destruction, subject to such changes or alterations as Tenant

may elect to make in conformity with the provisions of this Lease and modern construction techniques and methods. Provided Tenant otherwise complies with the terms of this Lease and obtains Landlord's approval, through the Board, it may construct Buildings and Improvements which are larger, smaller or different in design, function or use and which represent a use comparable to prior use or compatible with uses of property in the immediate geographical area, to the extent that such construction of Buildings and Improvements are allowed by Article 4 of this Lease and by applicable Laws and Ordinances. However, in the event insurance proceeds related to such casualty are not made available to Tenant for use in connection therewith, or are deemed insufficient by Tenant in its reasonable discretion, and Tenant elects not to rebuild, Landlord and Tenant shall each have the right to terminate this Lease as to such Phase or Phases which suffered the casualty but the Rent shall continue at the same amount for any remaining portions of the Property, and the affected areas of the Property shall be returned to Landlord in its original condition (free of any Buildings, Improvements, or other structures).

16.2 Landlord's Duty to Repair and Rebuild Transitway. If, at any time during the Term of this Lease, the Transitway (or any part thereof) shall be damaged or destroyed by fire, wind, or other casualty covered within the insurance designation of fire and extended coverage as same is customarily written in the State of Florida, Landlord, at its sole cost and expense, shall in its sole discretion repair or rebuild a Transitway of similar design, size and capacity as is required by Landlord's transit needs at the time of such repair or rebuilding.

16.3 Termination of Lease for Certain Destruction Occurring During Last Five Years of Lease Term. Notwithstanding anything to the contrary contained herein, in the event that the Property or any part thereof shall be damaged or destroyed by fire or other casualty during the last five (5) years of the Term of this Lease, and the estimated cost for repair and restoration exceeds an amount equal to twenty-five percent (25%) of the then-current fair market value of the Project or any affected Phases (as determined by an appraisal secured by Tenant or Landlord), then Tenant shall have the right to terminate this Lease, and its obligations hereunder in whole or in part as to the affected Phase(s), as applicable) by giving to Landlord written notice within six (6) months after the occurrence of such damage or destruction. In such event, this Lease shall terminate (in whole or in part as to the affected Phase(s), as applicable) within fifteen (15) days following Landlord's receipt of such notice of termination, Tenant shall not be entitled to the return of any Rent or any other sum, and the Landlord shall be entitled to receive any and all proceeds from any and all insurance policies relating to the damaged Property, the Project, and/or any Improvements on the Property which are no longer leased by Tenant as a result of a termination hereunder, subject to the provisions of Section 16.5.

16.4 Interrelationship of Lease Sections. Except as otherwise provided in this Article 16, the conditions under which any construction, repair and/or maintenance work is to be performed by Tenant, and the method of proceeding with and performing the same shall be governed by all the provisions of Article 1, Article 4, Article 9, and Article 11 herein.

16.5 Loss Payees of Tenant-Maintained Property Insurance. With respect to all policies of property insurance required to be maintained by Tenant in accordance with Schedule 7.1 attached, (a) Landlord shall be named as an additional insured as its interest may appear, and (b) the loss thereunder shall be payable to Tenant, Landlord, and to any Lender under a standard mortgage endorsement, provided that the rights of Landlord shall be subject and subordinate to the

rights of any Lender thereunder. Tenant shall have the sole right and authority to adjust and/or settle any insurance claims, and Tenant shall be entitled to use the proceeds of any fire or other casualty insurance for any loss which shall occur during the Term of this Lease for repair or rebuilding, provided that the agreements herein relative to insured losses and use of proceeds shall be subject to the terms of applicable Mortgages. Any proceeds remaining after completion of rebuilding or repair under this Article 16, shall be paid to Tenant.

16.6 Repairs Affecting Transitway or Property. Before beginning any repairs or rebuilding, or letting any contracts in connection therewith, required by any damage to or destruction of the Property which adversely affects the Transitway entrance, or any damage to or destruction of the Transitway which adversely affects the entrance to or use of the Property, Tenant or Landlord, as the case may be, shall submit for the other's approval (which approval shall not be unreasonably withheld, conditioned or delayed), a revised Development Plan, and Plans and Specifications for such repairs or rebuilding. Any such repairs and rebuilding shall be completed free and clear of liens subject to the provisions of Article 12 herein, except to the extent they are subject to Mortgages.

16.7 Abatement of Rent. Except as otherwise set forth in this Lease, Tenant shall not be entitled to abatement, allowance, reduction or suspension of any Rent or other payments due to Landlord under this Lease.

ARTICLE 17
MORTGAGES, TRANSFERS, SUBLEASES, TRANSFER OF TENANT'S INTEREST

17.1 Right to Transfer Leasehold. During the Term of this Lease, Tenant upon notice to Landlord (but without the prior written consent of Landlord, except under the circumstances described in (b) and (c) below), and subject to the requirements of this Lease, shall be permitted from time to time, to assign or otherwise transfer all or any portion of its rights under this Lease to such other organizations, firms, corporations, general or, limited partnerships, unincorporated associations, joint ventures, estates, trusts, any federal, state, county or municipal government bureau, department or agency thereof, or any other entities as Tenant shall select, subject to the following:

a.) Tenant shall not be in default of its obligations under this Lease beyond applicable notice and cure periods at the time of such assignment, or transfer;

b.) With respect to a transfer or an assignment of this Lease to an Affiliate of Tenant as defined below in Section 17.1(l), Tenant shall obtain written consent of Landlord, through its County Mayor or the County Mayor's designee, not to be unreasonably withheld, delayed or conditioned, both as to the proposed transfer and the proposed transferee, but such Landlord consent shall be required only if Tenant requests a release from its obligation and responsibility to complete the Project under this Lease;

c.) With respect to a transfer or an assignment of this Lease to an entity that is not an Affiliate of Tenant in which Tenant seeks a release from liability under this Lease, (i) Tenant shall obtain the written consent of Landlord, through the Board, and (ii) Tenant's request for consent to Landlord shall include copies of the proposed assignment or transfer documents,

together with the latest financial statement (audited, if available) of the proposed transferee and a summary of the proposed transferee's prior experience in managing and operating real estate developments. In such instance, the Board shall consider the matter and determine, in its sole but reasonable discretion (and subject to any necessary approvals by the Federal Transit Administration and the Florida Department of Transportation), to consent to Tenant's release from liability hereunder where the proposed transferee has been demonstrated to have financial worth at least equal to the original Tenant (or is otherwise financially acceptable to Landlord), a sound business reputation and a demonstrated managerial and operational capacity for real estate developments, and the transferee complies with all applicable Laws and Ordinances. If Landlord consents to a transferee or assignee hereunder or under subsection 17.1(b) above, the original Tenant or then applicable assignor shall be released of all obligations under this Lease accruing after the effective date of such transfer or assignment, but only as to the portion of the Property so transferred.

d.) Notwithstanding the foregoing provisions of Section 17.1, nothing herein shall obligate Landlord to approve any transfer or assignment when such approval is required (provided that Landlord shall act reasonably when required to do so hereunder), and unless otherwise agreed to in writing by Landlord, if Tenant transfers its interest in all or any part of the Lease prior to the completion of construction of a Phase of the Project, Tenant (or assignor) who is the transferor shall remain liable under all the terms and provisions of this Lease until that Phase is substantially completed (as evidenced by the issuance of a Certificate of Completion or Certificate of Occupancy) for that Phase.

e.) Any assignment or transfer of all or any part of Tenant's interest in the Lease and the Property shall be made expressly subject to the terms, covenants and conditions of this Lease, and such assignee or transferee shall expressly assume all of the obligations of Tenant under this Lease applicable to that portion of the Property being assigned or transferred, and agree to be subject to all conditions and restrictions to which Tenant is subject, but only for matters accruing while such assignee or transferee holds, and only related to, the assigned, or transferred interest. However, nothing in this subsection or elsewhere in this Lease shall abrogate (i) Landlord's right to payment of all Rent and other amounts due Landlord which accrued prior to the effective date of such transfer, and Landlord shall always have the right to enforce collection of such Rent or other sums due in accordance with the terms and provisions of this Lease; and (ii) the obligation for the development, use and operation of every part of the Property to be in compliance with the requirements of Article 4 of this Lease.

f.) There shall also be delivered to Landlord in connection with any assignment or transfer of all or part of Tenant's interest in this Lease a notice which shall designate the name and address of the transferee and the post office address of the place to which all notices required by this Lease shall be sent.

g.) Such transferee of Tenant (and all succeeding and successor transferees) shall succeed to all rights and obligations of Tenant under this Lease with respect to the portion of the Property so transferred, and subject to the terms of the document of assignment or transfer, including the right to mortgage, encumber and otherwise assign and transfer subject, however, to all duties and obligations of Tenant, and subject to the terms of the document of assignment or transfer, in and pertaining to the then term of this Lease. As between Tenant and the transferee,

the assignment (or other document of transfer) shall allocate such portion, if any, of the Rent and any other payments and obligations under this Lease to be paid or provided to Landlord by the transferee.

h.) Once an assignment or transfer has been made with respect to any portion of the Property, the transferee and Landlord may thereafter modify, amend or change the Lease with respect to such portion of the Property, so long as Tenant has been released from all rights and obligations under the Lease pertaining to the assigned portion of the Property, without the consent of Tenant, all subject to the provisions of the assignment or transfer, so long as they do not diminish or abrogate the rights of Tenant (or anyone claiming through Tenant) as to any other part of the Property, and no such modification, amendment or change shall affect any other part of the Property or the Lease thereof.

i.) Except as may otherwise be specifically provided in Section 17.1, upon Landlord's consent to a transfer by any assignor, such transferor shall be released and discharged from all of its duties and obligations hereunder which pertain to the portion of the Property transferred for the then unexpired term of Lease, including the payment of Rent, Additional Rent and Impositions which are not then due and payable; it being the intention of this Lease that the tenant then in possession shall be liable for the payment of Rent, Additional Rent and Impositions becoming due and payable during the term of its possession of the Property, and that there shall be no obligation on the part of such tenant (or any transferor) for the payment of any Rent, Additional Rent or Impositions which shall become due and payable with respect to the portion of the Property transferred subsequent to the termination of its possession of any portion of the Property under the terms of this Lease.

j.) Any act required to be performed by Tenant pursuant to the terms of this Lease may be performed by any transferee or Sublessee of Tenant and the performance of such act shall be deemed to be performed by Tenant and shall be accepted by Landlord as Tenant's act, provided such act is otherwise performed in accordance with the terms of this Lease. References in this Lease to "Tenant" shall be deemed applicable to a Sublessee or assignee, as well as to Tenant named in the introductory paragraph.

k.) For purposes of this Article, the words "assignment," or "transfer" shall be deemed to have similar meanings unless the context indicates otherwise, but shall not include a Sublease, which is addressed in Section 17.7 below. If Tenant is a corporation, limited liability company, unincorporated association, general or limited partnership, or joint venture, the transfer, assignment, or hypothecation of (a) any stock of Tenant in the case Tenant is a corporation, (b) partnership interest in Tenant, in the case Tenant is a general or limited partnership, (c) members interest in Tenant, in the case Tenant is a limited liability company, or (d) interest in Tenant, in the case Tenant is another type of entity, in which (i) the aggregate is in excess of fifty percent (50%) of the ownership of such corporation, limited or general partnership, limited liability company or another type of entity, and (ii) there is a change of control, shall be deemed an assignment within the meaning and provisions of this Section. "The aggregate" means the sum of all stock or other interests transferred over the entire period of this Lease. Stock or other interests transferred among the original holders and/or their family members and/or of such stock, partnership interests, member interests or other interests as of the Commencement Date of this Lease or such later date as Landlord shall consent to an assignment or transfer pursuant to this Section 17.1, is excluded.

Notwithstanding the foregoing, transfers of ownership interests in Tenant or Sublessee made in accordance with the terms of Tenant's or Sublessee's organizational documents, shall not be an Event of Default or require Landlord's consent under this Article 17 or the applicable Sublease.

l.) As used herein, the term (i) "Affiliate of Tenant" means any individual or entity that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with Tenant, and (ii) "control" (including the derivations of the word "control" such as "controlling", "controlled by" or "under common control with" or words of like import) means the ability effectively to control or direct the management or business decisions of such entity, whether through ownership of a majority of the legal, voting, economic or beneficial interests of a corporation, limited liability company, partnership or other entity, by contract or otherwise.

m.) Tenant, at Tenant's option, may effectuate a transfer of a portion of this Lease and Tenant's rights hereunder pursuant to this Section 17.1 through a partial assignment and bifurcation of this Lease from time to time to facilitate the development and operation of the various components of the Project in Phases. If Tenant desires to partially assign and bifurcate this Lease in connection with a transfer of any Phase of the Project, Tenant shall so notify Landlord of such election simultaneously with Tenant's notice of such transfer pursuant to Section 17.1, and Tenant, Landlord and the transferee shall enter into, execute and deliver (i) a bifurcation agreement and partial termination of this Lease in substantially the form attached hereto as Schedule 17.1(m), and (ii) a new lease with the transferee with respect to the bifurcated Phase of the Project in the form of this Lease (a "bifurcated lease"), but modified as necessary to reflect that the bifurcated lease covers and affects the bifurcated Phase only. In such event, rent and any other obligations under the bifurcated lease (monetary or otherwise) shall be prorated and apply to the applicable Phase and Improvements constructed in such Phase only, and rent and such other obligations under this Lease shall be correspondingly reduced.

n.) This Section shall not apply to any sale, assignment or transfer that results from a foreclosure, a deed or assignment in lieu of foreclosure or the exercise of any other remedies under any Leasehold Mortgage or Subleasehold Mortgage, all of which shall be governed by Sections 17.2 through 17.6 hereof (and not this Section 17.1). Accordingly, any transfer (a) resulting from the foreclosure of a Mortgage or any conveyance, assignment or other transfer in lieu of foreclosure of a Mortgage or other appropriate proceedings in the nature thereof, (b) made to the purchaser at foreclosure of a Mortgage or to the grantee of a conveyance, assignment or transfer in lieu of foreclosure of a Mortgage (including a Lender, any nominee of a Lender or a third party buyer), or (c) made by a Lender or its nominee to a third party following the enforcement by a Lender of its Mortgage, shall not require the consent of Landlord (under Article 17 or otherwise) and shall not constitute a breach of any provision of this Lease.

17.2 Right to Mortgage Leasehold. Notwithstanding any provision in Section 17.1 to the contrary, with regard to any Phase for which Tenant desires to obtain financing (under Section 1.3 or otherwise), Tenant and its Sublessees shall have the right from time to time, and without the prior consent of Landlord, to mortgage and otherwise encumber their rights regarding the leasehold interest in the Property for that particular Phase under this Lease, a Sublease thereof, and the leasehold estate, in whole or in part, by a Leasehold or Subleasehold Mortgage or Mortgages to any lender, provided such lender is a recognized lending institution, such as a bank, savings and

loan, pension fund, insurance company, savings bank, real estate investment trust, a party to a bond financing as the initial purchaser or indenture trustee (or any fiduciary thereof) or any provider of credit enhancement, a brokerage or investment banking organization, tax credit syndication entity, other real estate investment or lending entity (public or private), a federal, state, county or municipal governmental agency or bureau or instrumentality thereof (whether such be local, national or international), an affiliate of any of the foregoing, or any entity providing purchase money financing secured by a mortgage given back to the transferor, or is bridge financing provided by an affiliate of Tenant, or otherwise is reasonably acceptable to Landlord (collectively "Lender"). Except as otherwise reasonably approved by Landlord, through the Board, or its designee, such Mortgages or encumbrances shall be expressly subject to the terms, covenants and conditions of this Lease, and at all times shall be inferior and subject to the prior right, title and interest of Landlord herein and in the fee estate in the Property, but subject at all times to the rights granted in this Lease to Lenders. Tenant and Sublessee shall provide Landlord with a copy of all such Mortgages. The granting of a Mortgage against all or part of the leasehold estate in the Property shall not operate to make the Lender thereunder liable for performance of any of the covenants or obligations of Tenant or Sublessee under this Lease or a Sublease, except in the case of a Lender which owns or is in possession or control of all or a portion of the Property, and then only for the applicable portion of the Property, and its period of ownership or possession, or as otherwise provided under applicable law, but Landlord shall always have the right to enforce the Lease obligations against such portion of the Property, including such obligations accruing prior to such period of ownership or possession, subject to the terms hereof, except as otherwise provided herein or in any recognition agreement between Landlord and such Lender. The amount of any Mortgage may be increased whether by an additional mortgage and agreement consolidating the liens of such Mortgage or by amendment of the existing Mortgage, and may be permanent or temporary, replaced, extended, increased, refinanced, consolidated or renewed without the consent of Landlord. Such Mortgages may contain a provision for an assignment of any rents, revenues, monies or other payments due to Tenant or Sublessee as a landlord (but not from Tenant or Sublessee to Landlord) from Tenant or such Sublessee, and a provision therein that the Lender in any action to foreclose the same shall be entitled to the appointment of a receiver. Further, Tenant agrees that it shall not encumber, mortgage, or lien any portion of the land within said Property that is not reasonably necessary for a Phase of the Project in which construction is about to occur, as evidenced by Permits, an approved site plan and construction financing. Notwithstanding the foregoing, Tenant may encumber, mortgage and/or lien any portion of the Improvements in which it has already Commenced Construction or where Completion of Construction has occurred. This Section shall survive the expiration and/or early termination of this Lease.

17.3 **Notice to Landlord of Mortgage**. A notice of each Leasehold Mortgage and Subleasehold Mortgage shall be delivered to Landlord specifying the name and address of such Leasehold and Subleasehold Mortgagee to which notices shall be sent. Landlord shall be furnished a copy of each such recorded mortgage. For the benefit of any such Leasehold or Subleasehold Mortgagee who shall have become entitled to notice as hereinafter provided in this Article 17, Landlord agrees, subject to all the terms of this Lease, not to accept a voluntary surrender, termination or modification of this Lease at any time while such Leasehold or Subleasehold Mortgages shall remain a lien on Tenant's or Sublessee's leasehold estate. Any such Leasehold or Subleasehold Mortgagees will not be bound by any modification of this Lease with respect to the portion of the Property subject to such Leasehold Mortgages or Subleasehold Mortgages, unless such modification is made with the prior written consent of such Leasehold or Subleasehold

Mortgagee, and Landlord shall be permitted to send one (1) notice (the same notice) to all Leasehold and/or Subleasehold Mortgagees, and/or Sublessees, irrespective of where or how their interest may exist, without any concern of disclosing confidential information to the wrong person or party.

17.4 Notices to Leasehold and Subleasehold Mortgagees and Sublessees. No notice of default under Section 19.1 or notice of failure to cure a default under Section 19.2(a) shall be deemed to have been given by Landlord to Tenant unless and until a copy has been given to each Leasehold Mortgagee, Subleasehold Mortgagee and Sublessee who shall have notified Landlord pursuant to Sections 17.1(f), 17.3 or 17.7 of its name, address and its interest in the Property or a particular Phase thereof prior to Landlord's issuance of such notice. Landlord agrees to accept performance and compliance by any such Leasehold Mortgagee, Subleasehold Mortgagee or Sublessee of and with any of the terms of this Lease with the same force and effect as though kept, observed or performed by Tenant, provided such act or performance is timely under Sections 17.5 or 19.3. Nothing contained herein shall be construed as imposing any obligation upon any such Leasehold Mortgagee, Subleasehold Mortgagee or Sublessee to so perform or comply on behalf of Tenant.

17.5 Right to Cure Default of Tenant.

a.) In addition to any rights the Leasehold or Subleasehold Mortgagee or Sublessee may have by virtue of Article 19 herein, if, within ninety (90) days after the mailing of any notice of termination of this Lease or such later date that is thirty (30) days following the expiration of the cure period, if any, afforded Tenant (the later of such events being the "Mortgagee Cure Period"), such Leasehold Mortgagee or a Sublessee or Subleasehold Mortgagee shall pay, or arrange to the satisfaction of Landlord for the payment of, a sum of money equal to any and all Rents or other payments then due and payable by Tenant hereunder with respect to the portion of the Property to which such Leasehold or Subleasehold Mortgagee or Sublessee claims an interest as of the date of the giving of notice of termination, in addition to their pro rata share of any and all expenses, costs and fees, including reasonable attorneys' fees, incurred by Landlord in preparation for terminating this Lease and in acquiring possession of the Property, then, upon the written request of such Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee made any time prior to the expiration of the Mortgagee Cure Period, Landlord and the party making such request (or its nominee) shall mutually execute prior to the end of such Mortgagee Cure Period a new lease of the Property (or such portion thereof as they have an interest in or mortgage on) for the remainder of the Term of this Lease or Sublease and on the same terms and conditions, and with the same priority over any encumbrances created at any time by Landlord, its successors and assigns which Tenant has or had by virtue of this Lease; provided, however, that in addition to the above payments such Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee shall have paid to Landlord a sum of money equal to the Rents and other payments for such portion of the Property accruing from the date of such termination to the date of the commencement of the term of such new lease, together with their pro rata share of all expenses, including reasonable attorneys' fees, incident to the preparation, printing, execution, delivery and recording of such new lease. Such priority shall exist by virtue of the notice created by this Lease to any transferee of Landlord or person receiving an encumbrance from Landlord, and the priority shall be self-operative and shall not require any future act by Landlord. Such new leases shall contain the same clauses subject to which this demise or the demise under this Lease or the Sublease (as applicable) is made, and shall

be at the rents and other payments for such portion of the Property due Landlord and upon the terms as are herein contained or contained in the Sublease. Tenants under any such new leases shall have the same right, title and interest in and to and all obligations accruing thereafter under this Lease or the Sublease with respect to the applicable portion of the Property as Tenant or the Sublessee has under this Lease or the Sublease, respectively.

b.) If, within the Mortgagee Cure Period, more than one (1) request for a new lease shall have been received by Landlord for the same portion of the Property, priority shall be given (regardless of the order in which such requests shall be made or received) to the Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee making such a request in order of their priority of interest in said portion of the Property. It shall be a condition of the effectiveness of any request for a new lease that a copy of such request is sent (with receipt for delivery) by the Sublessee or Subleasehold Mortgagee, as the case may be, to the Leasehold Mortgagee.

c.) Simultaneously with the making of such new leases, the party obtaining such new lease and all other parties junior in priority of interest in the Property shall execute, acknowledge and deliver such new instruments, including new mortgages and a new Sublease, as the case may be, and shall make such payments and adjustments among themselves, as shall be necessary and proper for the purpose of restoring to each of such parties as nearly as reasonably possible, the respective interest and status with respect to the Property which was possessed by the respective parties prior to the termination of this Lease as aforesaid.

d.) Nothing herein contained shall be deemed to impose any obligation on the part of Landlord to deliver physical possession of the Property to such Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee or to their respective nominee until the new leases have been executed by all pertinent parties. Landlord agrees, however, that Landlord will, at the cost and expense of such Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee or respective nominee, cooperate in the prosecution of judicial proceedings to evict the then defaulting Tenant or any other occupants of the Property.

e.) If such Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee or respective nominee shall acquire a new lease pursuant to this Article 17 and if, upon the termination of this Lease, Tenant, but for such termination, would have been entitled to receive any amount pursuant to the provisions of this Lease, then Landlord agrees that the same shall be paid to the new tenant, in the same manner and to the same extent as it would have been paid or applied the same to or for the benefit of Tenant as if this Lease had not terminated; subject however to Landlord's right to offset any damages accrued as a result of said termination.

f.) Upon the execution and delivery of new leases (including subleases) pursuant to this Article 17, all subleases or sub-subleases which theretofore may have been assigned to Landlord or have reverted to Landlord upon termination of this Lease shall be assigned and transferred, without recourse against Landlord, by Landlord to the tenant under any such new leases or subleases (as appropriate). Between the date of termination of this Lease and the date of execution and delivery of the new leases or subleases, if the Leasehold Mortgagee, Subleasehold Mortgagee, or Sublessee shall have requested such new leases or subleases as provided for in this Section 17.5, Landlord will not cancel any Sublease or sub-sublease, or accept any cancellation, termination or surrender thereof (unless such termination shall be effective as a matter of law on

the termination of this Lease) without the consent of the Leasehold or Subleasehold Mortgagee or Sublessee, except for default as permitted thereunder.

g.) Nothing contained in this Lease shall require any Leasehold or Subleasehold Mortgagee or its nominee as a condition to its exercise of its right to enter into a new lease to cure any default of Tenant or Sublessee not reasonably susceptible of being cured by such Leasehold or Subleasehold Mortgagee or its nominees, in order to comply with the provisions of this Section 17.5.

h.) The provisions of this Section 17.5 shall survive any termination of this Lease.

17.6 Leasehold in Reversion and Assignment in Lieu of Foreclosure. Tenant's or Sublessee's right to mortgage and otherwise encumber this Lease and the leasehold estate in whole or in part shall include the right to require a lease in reversion which lease in reversion shall become effective upon the termination of this Lease, and shall have the same terms and provisions, including expiration date, as this Lease. The Leasehold or Subleasehold Mortgagee shall have the unrestricted right to take this Lease by lease in reversion or by assignment in lieu of foreclosure and to sell it either after foreclosure or after taking the assignment or becoming tenant under the lease in reversion all without the consent of Landlord. The Leasehold or Subleasehold Mortgagee shall not be liable for Tenant's obligations hereunder until such a time as it becomes the new tenant, either by lease in reversion, foreclosure or assignment and then only for the period of its ownership or possession of the leasehold estate.

17.7 Rights to Sublease and Non-Disturbance to Sublessees. Tenant shall have the right to enter a Sublease and consent to any sub-subleases without any approval or consent of Landlord; however, notwithstanding any other provisions of this Lease, no Sublease or sub-sublease shall relieve Tenant of any obligations under the terms of this Lease unless a release is granted in accordance with Section 17.1 above. Additionally, each Sublease and sub-sublease must be for a use compatible with the standards and requirements set forth in Section 4.1 herein. Tenant must give written notice to Landlord specifying the name and address of any Sublessee and sub-sublessee to which all notices required by this Lease shall be sent, and a copy of the Sublease and sub-sublease. Tenant shall provide Landlord with copies of all Subleases and sub-subleases entered into during each quarter. Provided no Event of Default exists at the time the request is made, Landlord agrees to grant recognition and non-disturbance agreements for Sublessees and/or sub-sublessees which provide, in the event of a termination of this Lease which applies to the Phase or portion of the Property covered by such Sublease and/or sub-sublease, due to an Event of Default committed by Tenant, such Sublessee and sub-sublessee will not be disturbed and will be allowed to continue peacefully in possession directly under this Lease as the successor tenant on the terms and conditions of its Sublease or sub-sublease for the Phase or portion of the Property covered thereby, provided that the following conditions are met:

a.) the Sublessee and any sub-sublessee shall be in compliance with the terms and conditions of its Sublease and any sub-sublease; and

b.) the Sublessee and any sub-sublessee shall agree to attorn to Landlord.

Landlord further agrees that it will grant such assurances to such Sublessees and sub-sublessees so long as they remain in compliance with the terms of their subleases and sub-subleases, and provided further that any such subleases and sub-subleases do not extend beyond the expiration of the Term of this Lease. Notwithstanding the foregoing, Tenant acknowledges that Landlord's use and operation of the Transitway and of the System is paramount and, therefore, any Sublease shall incorporate the Tenant's covenants of non-interference with the Transitway and System set forth in Sections 4.14 and 8.2 hereof.

17.8 Estoppel Certificates from Landlord. Upon request of Tenant or any Leasehold Mortgagee, Subleasehold Mortgagee or Sublessee, Landlord agrees to give such requesting party an estoppel certificate in accordance with the terms and conditions of this Lease, including Section 22.2 hereof.

17.9 Waiver of Landlord Lien. In order to enable Tenant and its Sublessees to secure financing for the purchase of fixtures, equipment, and other personalty to be located on or in the Property, whether by security agreement and financing statement, mortgage or other form of security instrument, Landlord hereby waives, and will from time to time, upon request, execute and deliver an acknowledgment that it has waived its "landlord's" or, other statutory, common law or contractual liens securing payment of rent or performance of Tenant's other covenants under this Lease as to such fixtures, equipment or other personalty.

17.10 No Subordination or Mortgaging of Landlord's Fee Title. There shall be no subordination of Landlord's fee simple interest in the Land to the lien of any Leasehold Mortgage or Subleasehold Mortgage financing nor shall Landlord be required to join in such mortgage financing. No Leasehold Mortgagee or Subleasehold Mortgagee may impose any lien upon Landlord's fee simple interest in the Land. Any conflict or inconsistency between any mortgage against Landlord's fee simple interest in the Land and this Lease shall be resolved in favor of this Lease.

17.11 Intentionally deleted.

17.12 Access, Utility and Service Easements. The foregoing restrictions on transfer shall not be construed to restrict or prohibit the granting of leasehold easements by Tenant over its leasehold estate for pedestrian and vehicular access, ingress and egress, construction access, parking, and for the benefit of the providers of water, sewer, communications and other utility services, provided that any easements that will encumber Landlord's fee interest in the Property or any portion thereof or that extend beyond the Term shall be subject to Board approval.

17.13 Further Assurances. Upon written request from Tenant, any Sublessee, any Leasehold Mortgagee or any Subleasehold Mortgagee, Landlord shall promptly, under documentation reasonably satisfactory to the requesting party: (a) agree directly with the applicable Leasehold Mortgagee that it may exercise against Landlord all Leasehold Mortgagee's rights in this Lease; (b) agree directly with the applicable Subleasehold Mortgagee that it may exercise against Landlord all Subleasehold Mortgagee's rights in this Lease and the applicable Sublease; and (c) amend this Lease and/or provide other assurances as any current or prospective Lender reasonably requests, provided such amendment does not adversely affect Landlord,

including reduction of any payment due Landlord or increase of any liability or obligation of Landlord.

ARTICLE 18
EMINENT DOMAIN

18.1 Taking of Property. If at any time during the Term of this Lease the power of eminent domain shall be exercised by any federal, state, or sovereign, or their proper delegates, by condemnation proceeding (a "Taking"), to acquire the entire Property, such Taking shall be deemed to have caused this Lease to terminate and expire on the date of such Taking. Tenant's right to recover a portion of the award for a Taking, as hereinafter provided, is limited to the fair market value of the Buildings and other Improvements, plus the value of Tenant's interest in the unexpired Term of the leasehold estate created pursuant to this Lease, and in no event shall Tenant be entitled to compensation for any fee interest in the Land. Notwithstanding anything herein contained to the contrary, Landlord shall be entitled to receive from the condemning authority not less than the appraised value of the Land, subject to the Lease, and as if vacant and assuming no improvements existed on the Property, at the time of Taking. For the purpose of this Article 18, the date of Taking shall be deemed to be either the date on which actual possession of the Property or a portion thereof, as the case may be, is acquired by any lawful power or authority pursuant to the Taking or the date on which title vests therein, whichever is earlier. All Rents and other payments required to be paid by Tenant under this Lease shall be paid up to the date of such Taking. Tenant and Landlord shall, in all other respects, keep, observe and perform all the terms of this Lease up to the date of such Taking.

18.2 Proceeds of Taking. In the event following any such Taking as aforesaid, this Lease is terminated, or in the event following a Taking of less than the whole of the Property this Lease is terminated as provided for in Section 18.3 herein, the proceeds of any such Taking (whole or partial) shall be distributed as described in Section 18.1. If the value of the respective interests of Landlord and Tenant shall be determined according to the foregoing provisions of this Section 18 in the proceeding pursuant to which the Property shall have been taken, the values so determined shall be conclusive upon Landlord and Tenant. If such values shall not have been separately determined in such proceeding, such values shall be fixed by agreement between Landlord and Tenant, or if they are unable to agree, by an apportionment hearing within the condemnation proceeding so that the allocation between the parties is fair and equitable. Leasehold Mortgagees and Subleasehold Mortgagees shall be entitled to participate in any proceedings in connection with a Taking, and to receive directly from the Taking Authority any sums to which they are found to be entitled.

18.3 Partial Taking; Termination of Lease. If, in the event of a Taking of less than the entire Property, the remaining portion of the Property not so taken cannot be developed as contemplated herein or adequately restored, repaired or reconstructed so as to constitute a complete architectural unit of substantially the same usefulness, design, construction, and commercial feasibility, as immediately before such Taking, then Tenant shall have the right, to be exercised by written notice to Landlord within one hundred twenty (120) days after the date of Taking, to terminate this Lease on a date to be specified in said notice, which date shall not be earlier than the date of such Taking, in which case Tenant shall pay and shall satisfy all Rents and other

payments due and accrued hereunder up to the date of such termination and shall perform all of the obligations of Tenant hereunder to such date, and thereupon this Lease and the Term herein demised shall cease and terminate. Upon such termination Tenant's interest under this Lease in the remainder of the Property not taken may be sold to the governmental entity Taking the adjoining Property, all in accordance with applicable Laws or Ordinances, and the proceeds of the sale shall be combined with the award given for the partial Taking with the entire amount then being distributed as if a total Taking had occurred. Landlord shall have the option to purchase Tenant's interest under this Lease in the remainder of the Property at its fair market value for a period of sixty (60) days after the determination of fair market value, which value shall be determined by a mutually acceptable appraiser (or if no one appraiser is agreed upon by the parties, by an appraiser, chosen by two (2) appraisers, one of which will be appointed by each party, within one hundred and fifty (150) days from the date the Lease was terminated). The fair market value specified in the preceding sentence shall be limited to the fair market value of the Buildings and Improvements, which fair market value shall include the value of Tenant's interest in the unexpired Term of the leasehold estate created pursuant to this Lease, and in no event shall such value include any fee simple interest in the Land. All appraisal costs shall be split equally between Landlord and Tenant.

18.4 Partial Taking; Continuation of Lease. If following a partial Taking this Lease is not terminated as hereinabove provided then, this Lease shall terminate as to the portion of the Property taken in such condemnation proceedings; and, as to that portion of the Property not taken, Tenant shall proceed at its own cost and expense either to make an adequate restoration, repair or reconstruction or to rebuild a new Building upon the Phase of the Property not affected by the Taking. In such event, Tenant's share of the award shall be determined in accordance with Section 18.1 herein based on the Phase or other portion of the Property subject to the Taking. Such award to Tenant shall be used by Tenant for its reconstruction, repair or rebuilding. Any excess award after such reconstruction, repair or rebuilding, may be retained by Tenant. If the part of the award so paid to Tenant is insufficient to pay for such restoration, repair or reconstruction, Tenant may terminate the Term, failing which Tenant shall pay the remaining cost thereof, and shall fully pay for all such restoration, repair and reconstruction, and complete the same to the reasonable satisfaction of Landlord free from mechanics' or materialmen's liens and shall at all times save Landlord free and harmless from any and all such liens. In the event, the partial Taking results in making it impossible or unfeasible to reconstruct, restore, repair or rebuild a new Building on such Phase, Tenant's share of the award shall be determined in accordance with Section 18.1 herein. In such event, if Tenant elects not to terminate this Lease, then the Rent and/or Additional Rent shall be partially abated on an equitable basis to be agreed to by Tenant and Landlord.

18.5 Temporary Taking. If the whole or any part of the Property or of Tenant's interest under this Lease be taken or condemned by any competent authority for its or their temporary use or occupancy not exceeding one year, Tenant may elect to terminate the remaining Term as to the Project or the portion or Phase thereof taken, failing which this Lease shall not terminate by reason thereof, and Tenant shall continue to pay, in the manner and at the times herein specified, the full amounts of the Rents and all other charges payable by Tenant hereunder and, except only to the extent that Tenant may be prevented from so doing pursuant to the terms of the order of the condemning authority, to perform and observe all of the other terms, covenants, conditions and all obligations hereof upon the part of Tenant to be performed and observed, as though such Taking had not occurred. In the event of any such temporary Taking, Tenant shall be entitled to receive

the entire amount of any award made for such temporary Taking (attributable to the period within the term of the Lease), other than any portion of which was abated by Landlord pursuant to this Lease, which amount Landlord shall be entitled to claim from the Taking Authority, whether paid by way of damages, rent or otherwise Tenant covenants that, upon the termination of any such period of temporary Taking, prior to the expiration of the term of this Lease, it will, at its sole cost and expense, restore the Property, as nearly as may be reasonably possible, to the condition in which the same were immediately prior to such Taking, provided that the Taking Authority compensates Tenant for such restoration.

18.6 Additional Takings. In case of a second or any additional partial Taking or Takings from time to time, the provisions hereinabove contained shall apply to each such partial Taking. In the event any federal or state sovereign or their proper delegates with the power of eminent domain appropriates or condemns all or a portion of the Property, and Landlord is a beneficiary of such Taking, the award shall be divided in accordance with the provisions of this Article 18. In that event, in accordance with the provisions hereof, Tenant shall restore, repair, or reconstruct any portion of Property not taken; provided that if the award so paid to Tenant shall be insufficient to fully pay for such restoration, repair or reconstruction, Tenant shall have the option of:

a.) Repairing at its expense, in which event the provisions of Section 18.4 herein shall control, or

b.) Terminating the Lease (in whole or in part as to the affected Phase or portion of the Property) in which event the provisions of Section 18.3 (as to the termination of this Lease) or Section 18.4 (as to a partial termination of this Lease) as applicable, herein shall control.

18.7 Inverse Condemnation or Other Damages. In the event of damage to the value of the Property by reason of change of grade, access rights, street alignments or any other governmental or quasi-governmental act (not involving Landlord solely in its capacity as such) which constitutes an inverse condemnation of any portion of the Property creating a right to full compensation therefore, then Landlord and Tenant shall each be entitled to claim and receive from the net payment or award made on account thereof, the compensation for their respective estates and interests as set forth in Section 18.1.

18.8 Taking by Landlord. Should Landlord condemn the Property or any portion thereof, it is expressly agreed by Landlord that full compensation to Tenant shall be:

a.) Those factors set forth in Section 18.1 above; and

b.) The pro rata costs expended by Tenant in the development of the condemned portion of the Property other than the hard costs to construct any Buildings located thereon; and

c.) Any and all penalties (including so-called "tax credit recapture payments"), taxes (including penalties and interest thereon), and other monies payable to or on behalf of the tax credit limited partners of a Phase of the Project or other aspect of the Project for which tax credits or similar inducements are obtained, if applicable.

The provisions of this Section regarding Tenant's compensation shall not be applicable to any proceeding other than a Taking by Landlord during the Term of this Lease. The costs referred to in clause (b) above include but are not limited to legal fees; architectural, engineering, surveying, planning, and other consulting fees; accounting fees; brokerage fees in connection with leasing and financing; other financing costs; costs of infrastructure such as water, sewer, other utilities and road, drainage and other land improvements; a reasonable and fairly allocable share of Tenant's overhead costs related to the portion of the Property that is taken; and interest from the date such costs were expended to the date of compensation at the prime, as announced or published as such in The Wall Street Journal or a similar nationally recognized financial reporting outlet. Landlord agrees that Landlord shall not condemn the Property or any portion thereof except (i) in good faith, (ii) when no other property is reasonably suitable for the public use Landlord needs, and (iii) for a purpose other than either leasing or selling the condemned property to another person or entity engaging in Tenant's or any Sublessee's business of leasing office, commercial or residential space (or a combination of such uses). If there is a Taking by Landlord of a portion of the Property, Landlord shall not use the property it so acquires for any use detrimental to Tenant's remaining property, which prohibited uses include but are not limited to a trash transfer station, bus storage or repair, warehouse having a truck parking area or loading dock visible from the road, jail or other use with the clear likelihood of diminishing Tenant's use and enjoyment of the remainder of the Property. Landlord shall consult with and coordinate design of any improvements upon the land referred to in this paragraph with Tenant, so as to maintain architectural compatibility with the balance of the Buildings located on the Property, and so as to coordinate traffic.

18.9 Involuntary Conversion. In the event any Taking or other like proceeding or threat or imminence thereof shall occur as provided for hereinabove or otherwise, Landlord and Tenant agree to cooperate with each other (especially in the event of a Taking under Section 18.8) in order to provide proper evidence of communication of the proceeding or threat or imminence thereof (including evidence of like Takings under Section 18.7) to the Internal Revenue Service for purposes of determining whether property has been voluntarily converted within the meaning of the Internal Revenue Code.

18.10 Condemnation of Fee Interest. Notwithstanding anything in Article 18 to the contrary, Landlord hereby covenants and agrees with Tenant that (a) it will not agree to any Taking by any party without the consent of Tenant which may be withheld in Tenant's sole discretion, (b) it will contest such Taking, and (c) it will as part of its defense against a Taking will avail itself of the defense, if available, that one entity with condemnation powers cannot condemn the property of another entity with similar powers.

ARTICLE 19
DEFAULT BY TENANT OR LANDLORD

19.1 Events of Default of Tenant. Unless otherwise specified in this Lease, the following provisions shall apply if any one or more of the following "Events of Default" of or by Tenant shall happen:

a.) Default arising from the failure to make due and punctual payment of any Rent, Additional Rent or other monies payable to Landlord under this Lease when and as the same shall become due and payable and such default shall continue for a period of thirty (30) days after

written notice thereof from Landlord to Tenant, with copies thereof to each Leasehold Mortgagee, Sublessee, and Subleasehold Mortgagee who shall have notified Landlord of its name, address and interest prior to such notice; or

b.) Default arising from Tenant's failure to keep, observe and/or perform any of the terms contained in this Lease, excepting the obligation to pay Rent, Additional Rent revenues or other monies due Landlord, and such default shall continue for a period of sixty (60) days after written notice thereof from Landlord to Tenant setting forth with reasonable specificity the nature of the alleged breach, with copies thereof to each Leasehold Mortgagee, Sublessee, and Subleasehold Mortgagee who shall have notified Landlord of its name, address and interest prior to such notice; or in the case of such default or contingency which cannot with due diligence and in good faith be cured within sixty (60) days, Tenant fails within said sixty (60) day period to proceed promptly and with due diligence and in good faith to pursue curing said default. Should Landlord fail to notify the Leasehold Mortgagee, Sublessee, and Subleasehold Mortgagee in accordance with the terms of this Section, it shall not prevent Landlord from taking any action against Tenant, but the rights of any Leasehold Mortgagee, Sublessee, and Subleasehold Mortgagee hereunder shall remain unaffected until it receives notice in accordance with this Section.

(c.) Default arising from Tenant's failure to obey any and all criminal laws pertaining to fraudulent acts and/or activity relating to the development, construction, and/or renovation of any type of building or structure where Tenant is found guilty thereof by a court of competent jurisdiction under the circumstances provided below. Tenant hereby acknowledges and agrees that it not only has an ongoing obligation to abide by the terms and conditions of this Lease, as well as any rental regulatory agreement, Funding Agreement, or similar document, entered into with Landlord for the Project, but also an ongoing responsibility to otherwise remain law abiding in the community. Therefore, the parties agree that should it be determined by a court of competent jurisdiction that Tenant is guilty of any crime, in which Tenant is subject to criminal fines, fees, penalties and/or any of the key officers of Tenant is subject to imprisonment, arising from any fraudulent acts or activities relating to the development, construction, and/or renovation of any type of building or structure, then Tenant shall automatically be in default of this Lease, without any right to cure, and Landlord shall have the right to terminate this Lease; subject, however, to the rights of any Leasehold Mortgage, Sublessee and Subleasehold Mortgagee under this Lease (including Articles 17 and 19), which rights shall remain in full force and effect.

19.2 Failure to Cure Default by Tenant.

a.) If an Event of Default of Tenant shall occur, Landlord, at any time after the periods set forth in Section 19.1 (a) or (b) and provided Tenant has failed to cure such Event of Default within such applicable period, shall give written notice to Tenant and to any Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee who has notified Landlord in accordance with Sections 17.1(f), 17.3, or 17.7, specifying such Events of Default of Tenant and stating that this Lease and the Term hereby demised shall expire and terminate on the date specified in such notice, which shall be at least (i) thirty (30) days after the giving of such notice with respect to an Event of Default relating to any Phase where Commencement of Construction has not occurred, and (ii) ninety (90) days after the giving of such notice with respect to an Event of Default relating to any Phase where Commencement of Construction has occurred, during which time Tenant and/or the Leasehold and Subleasehold Mortgagees and Sublessees shall have the right to cure such default, and upon the date specified in such notice if the Event of Default has not been cured, then, subject, however, to the provisions of Sections 17.5 and 19.3 herein, this Lease and the Term hereby demised and all rights of Tenant under this Lease, shall expire and terminate; provided, however, that if the Event of Default is specific to a single or specific Phase or Phases of the Project, and the Event of Default has not been cured within the applicable notice and cure periods hereunder, this Lease shall terminate as to the affected Phase or Phases only and any other Phase where Commencement of Construction has not occurred, but not with respect to any other Phases or portion of the Property.

b.) If an Event of Default of Tenant shall occur and the rights of Leasehold Mortgagees, Sublessees, and Subleasehold Mortgagees shall not have been exercised as provided within this Lease, then Landlord, at any time after the periods for exercise of rights as set forth under Sections 17.5, 19.1 and 19.3 herein, shall have the following rights and remedies which are cumulative:

(i) in addition to any and all other remedies in law or in equity that Landlord may have against Tenant, Landlord shall be entitled to sue Tenant for all actual direct damages, costs and expenses arising from Tenant's committing an Event of Default hereunder and to recover all such actual direct damages, costs and expenses, including reasonable attorneys' fees at both trial and appellate levels;

(ii) to restrain, by injunction, the commission of or attempt or threatened commission of an Event of Default and/or to obtain a decree specifically compelling performance of any such term or provision of the Lease;

(iii) to direct Tenant to lawfully subdivide the unencumbered and/or undeveloped Property, or portions thereof, through a formal platting or waiver of plat process or administratively through a covenant in lieu of unity of title and associated easement and operating agreement, within twelve (12) months of when Landlord has found Tenant in default of this Lease (and Landlord shall cooperate with Tenant in effectuating such subdivision);

(iv) in the event that Tenant has failed to lawfully subdivide the unencumbered and/or undeveloped Property through one of the methods described in paragraph 19.2 (b) (iii) above, Landlord shall be permitted to plat or secure a waiver of plat for the

unencumbered and/or undeveloped Property, or any portion thereof, in order to terminate this Lease on any portions of the Property that is unencumbered and/or undeveloped. Should Landlord undertake to perform such work, to plat or secure a waiver of plat, Landlord shall be permitted and entitled to secure any and all of the cost and expense associated with such work by placing a claim against the surety bond maintained by Tenant (such claim may be made in advance of any such work or for reimbursement). And, in furtherance of the foregoing, Tenant shall: (a) secure and maintain a surety bond, at its sole cost and expense, with Landlord as obligee, in an amount equal to the cost to plat, or secure a waiver of plat, for the unencumbered and/or undeveloped Property, which is subject to Landlord's reversionary interest (such bond shall be maintained for the first one hundred sixty-eight (168) months from the Commencement Date of this Lease, unless the Development Plan Improvements are completed (500 residential units) earlier than said one hundred sixty-eight (168) months period, or the time period is extended due to the additional time caused by any Unavoidable Delay); and (b) Tenant shall annually provide Landlord with evidence of said surety bond, and (i) said bond shall include a clause stating that it shall not be modified or changed without sixty (60) days advance written notice to Landlord, and (ii) said bond shall be written through surety insurers meeting the requirements of Section 287.0935, *Florida Statutes*, whether or not such statute is technically applicable to this matter. Landlord and Tenant further agree that Landlord shall determine the annual cost to plat, or secure a waiver of plat, for the Property, which amount shall be the amount of the surety bond secured by Tenant. Further, on an annual basis, should Landlord, after being notified in writing by Tenant that the surety bond is about to expire, fail to provide Tenant with an amount for such costs within thirty (30) days, Tenant shall maintain the surety bond in the exact same amount as the previous year.

(v) to terminate any and all obligations that Landlord may have under this Lease, in which event Landlord shall be released and relieved from any and all liability under this Lease; provided, however, that if the Event of Default is specific to a single Phase or specific Phases, and the Event of Default has not been cured following the expiration of all notice and cure periods, Landlord's obligation under this Lease shall terminate as to the affected Phase or Phases and any remaining undeveloped portion or Phases of the Project.

19.3 Rights of Leasehold Mortgagees, Sublessees and Subleasehold Mortgagees.

a.) If Landlord shall have given notice to any Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee, as required by Sections 17.4 and 19.2(a) herein, such Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee shall have, and be subrogated to, any and all rights of Tenant with respect to the curing of any such Event of Default, and shall also have the right to extend the period of time for curing of any such Event of Default for an additional period of sixty (60) days from the date contained in the notice given pursuant to Sections 17.4 and 19.2(a) herein, or in the case of an Event of Default which cannot be cured within said sixty (60) day period, for such additional period as, with commercially reasonable due diligence and in good faith, is necessary to cure the Event of Default.

b.) Irrespective of any other right a Leasehold Mortgagee (or Subleasehold Mortgagee) may have to maintain this Lease free from default and in the meantime to foreclose its Leasehold Mortgage (or Subleasehold Mortgage), such Leasehold Mortgagee (or Subleasehold Mortgagee), as to any Event of Default of Tenant that may not be cured by the payment of money and which is not susceptible of cure without possession of or title to the Property or which cannot

reasonably be cured by Leasehold Mortgagee or Subleasehold Mortgagee (e.g., Tenant bankruptcy or criminal or fraudulent acts), shall have the right to further extend the period of time within which to cure such Event of Default of Tenant for such additional period as, with commercially reasonable diligence and in good faith will enable such Leasehold or Subleasehold Mortgagee to institute foreclosure proceedings, apply for the appointment of a receiver for the purpose, among other things, of curing such Event of Default, if such is susceptible to curing, and to acquire by foreclosure Tenant's or Sublessee's interest in this Lease (subject to any stay, moratoriums or injunctions applicable thereto), to effect a removal of Tenant or Sublessee from the Property and, in the meantime and at the earliest opportunity, to cure such Event of Default if such is susceptible to curing. In the event the leasehold estate created by this Lease or by a Sublease hereunder shall have been duly acquired by such Leasehold Mortgagee (or Subleasehold Mortgagee) or any purchaser at a foreclosure sale (hereinafter referred to as "Foreclosure Purchaser"), and such Event of Default of Tenant shall have been duly cured (to the extent such default is susceptible of cure), then the notice of termination of this Lease based upon Tenant's or Sublessee's failure to timely cure such Event of Default of Tenant shall be deemed withdrawn, terminated and of no further force or effect. In the event, however, that such Leasehold Mortgagee (or Subleasehold Mortgagee) or any Foreclosure Purchaser fails to cure such Event of Default of Tenant that is susceptible of cure within the time periods set forth in this Section 19.3, Landlord reserves the right to (and must do so to effect a termination) give such Leasehold Mortgagee (or Subleasehold Mortgagee) or any Foreclosure Purchaser, by a nationally recognized overnight delivery (courier) service, or by registered or certified mail, return receipt requested, thirty (30) days' written notice of termination of this Lease due to such failure by the Leasehold Mortgagee (or Subleasehold Mortgagee) or any Foreclosure Purchaser to cure such prior Event of Default by Tenant. After the giving of such notice of termination to such Leasehold Mortgagee (or Subleasehold Mortgagee) or any Foreclosure Purchaser and upon the expiration of said thirty (30) days, during which time such Leasehold Mortgagee (or Subleasehold Mortgagee), or Foreclosure Purchaser shall have failed to cure such default, this Lease and the remaining Term thereof shall end and expire as fully and completely as if the date of expiration of such thirty (30) day period were the day herein definitely fixed for the end and expiration of this Lease, and any Sublease shall also automatically terminate. If Tenant, Sublessee, such Leasehold Mortgagee (or Subleasehold Mortgagee), or any Foreclosure Purchaser is in possession either personally or by a receiver, Tenant, Sublessee, such Leasehold Mortgagee (or Subleasehold Mortgagee) or any Foreclosure Purchaser or such receiver as the case may be, shall then quit and peacefully surrender the Property to Landlord. Notwithstanding anything contained herein to the contrary, (i) such Leasehold Mortgagee (or Subleasehold Mortgagee) shall not be required to institute foreclosure proceedings if it is able to acquire and does acquire Tenant's or Sublessee's interest in the leasehold estate by any other means so long as such Leasehold or Subleasehold Mortgagee fulfills all other requirements of this Article 19 and of Section 17.5, and (ii) upon Leasehold Mortgagee (or Subleasehold Mortgagee) curing all Events of Default hereunder that are susceptible of cure, any Events of Default that cannot commercially reasonably be cured by Mortgagee shall be permanently waived, including, any interest, penalties and late fees or charges due to Landlord as a result of such Events of Default.

19.4 Surrender of Property. Upon any expiration or termination of the Term in accordance with the terms and conditions of this Lease, Tenant and all Sublessees shall quit and peacefully surrender the Property to Landlord, except as provided under any non-disturbance agreement provided by Landlord to any Sublessee or sub-sublessee, and Landlord shall act reasonably and promptly to accept the surrender of the Property, subject to the terms hereof

regarding the condition thereof at the time of surrender. Should Tenant and/or Sublessee fail to properly and/or timely surrender the Property to Landlord, then Tenant and/or Sublessee shall be liable to Landlord for the fair market value of the Rent for the Property along with Additional Rent and Impositions. Fair market value shall be determined by an appraisal of the Property, including any and all Improvements thereon, which is secured by Landlord within six (6) months, or as soon thereafter as possible, of the failure by Tenant and/or Sublessee to properly or timely quit and vacate the Property.

19.5 Rights of Landlord after Termination. Subject to Section 17.5, after such termination of this Lease, Tenant and/or Sublessee shall be liable to Landlord for the Additional Rent and Impositions that accrued prior to the termination of this Lease. Landlord may re-let the Property or any part thereof, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term of this Lease) and on such conditions (which may include concessions or free rent) as Landlord, in its reasonable discretion, may determine and may collect and receive the rents therefore, so long as Landlord uses normal and customary commercial practices in attempting to re-let the Property, or any part thereof, and in collecting rent due from such re-letting during the balance of the Term of the Lease or any renewal thereof. Provided Landlord acts reasonably to mitigate damages, Landlord shall in no way be responsible or liable for any failure to re-let the Property or any part thereof, or for any failure to collect any rent due for any such re-letting.

19.6 No Waiver by Landlord. No failure by Landlord to insist upon the strict performance of any of the terms of this Lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance by Landlord of full or partial Rent or Additional Rent during the continuance of any such breach, shall constitute a waiver of any such breach or of any of the terms of this Lease. None of the terms of this Lease to be kept, observed or performed by Tenant, and no breach thereof, shall be waived, altered, or modified except by a written instrument executed by Landlord. No waiver of any breach shall affect or alter this Lease, but each of the terms of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. No waiver of any default of Tenant hereunder shall be implied from any omission by Landlord to take any action on account of such default, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated. One or more waivers by Landlord shall not be construed as a waiver of a subsequent breach of the same covenant, term or conditions.

19.7 Events of Default of Landlord. The provisions of Section 19.8 of this Lease shall apply if any of the following "Events of Default" of Landlord shall happen: if default shall be made by Landlord in failing to keep, observe, or perform any of the duties imposed upon Landlord pursuant to the terms of this Lease and such default shall continue for a period of thirty (30) days after written notice thereof from Tenant to Landlord setting forth with reasonable specificity the nature of the alleged breach; or, in the case of any such default or contingency which cannot, with due diligence and in good faith, be cured within thirty (30) days, Landlord fails within said thirty (30) day period to proceed promptly after such notice and with due diligence and in good faith to cure said Event of Default.

19.8 Failure to Cure Default by Landlord. If an Event of Default of Landlord shall occur, Tenant, at any time after the period set forth in Section 19.7 shall have the following rights and remedies which are cumulative:

a.) In addition to any and all other remedies, in law or in equity, that Tenant may have against Landlord, Tenant shall be entitled to sue Landlord for all damages (as limited by Section 15.1 above), costs and expenses arising from Landlord's committing an Event of Default hereunder and to recover all such damages, costs and expenses, including reasonable attorneys' fees at both trial and appellate levels.

b.) To restrain, by injunction, the commission of or attempt or threatened commission of an Event of Default of Landlord and to obtain a decree specifically compelling performance of any such term or provision of the Lease.

c.) To terminate any and all obligations that Tenant may have under this Lease with respect to the Project as a whole or any particular Phase(s), in which event Tenant shall be released and relieved from any and all liability under this Lease as a whole or with respect to such particular Phase(s)and shall surrender possession of the Property to Landlord; provided, however, that Tenant shall not terminate this Lease as to any portion thereof which is subject to a Sublease, without providing at least thirty (30) days written notice to the applicable Sublessee, and obtaining the written consent of the Sublessee to such termination.

19.9 No Waiver by Tenant. Failure by Tenant to insist upon the strict performance of any of the terms of this Lease or to exercise any right or remedy upon a breach thereof, shall not constitute a waiver of any such breach or of any of the terms of this Lease. None of the terms of this Lease to be kept, observed or performed by Landlord, and no breach thereof, shall be waived, altered or modified except by written instrument executed by Tenant. No waiver of any default of Landlord hereunder shall be implied from any omission by Tenant to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated. One or more waivers by Tenant shall' not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

ARTICLE 20
NOTICES

20.1 Addresses. All notices, demands or requests by Landlord to Tenant shall be deemed to have been properly served or given, if addressed to Tenant c/o Atlantic Pacific Communities, LLC, 160 NW 7th Street, Suite 1020, Miami, Florida 33136, and to Greenberg Traurig, P.A., 333 SE 2nd Street, Miami, Florida 33131, Attention: Nancy B. Lash and Ryan Bailine, or to such other address and to the attention of such other party as Tenant may, from time to time, designate by written notice to Landlord. If Tenant, at any time during the Term hereof, changes its office address as herein stated, Tenant will promptly give notice of the same in writing to Landlord. The Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee shall be deemed to have been properly served or given notice if addressed to such party at the address furnished pursuant to the provisions of Sections 17.1(f), 17.3 and 17.7 above. All notices, demands or requests by Tenant or by a Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee to

Landlord shall be deemed to have been properly served or given if addressed to both the Public Housing and Community Development Department, Director, or his/her designee, 701 N.W. 1st Court, Suite 1400, Miami, Florida, 33136, and to the Department of Transportation and Public Works, Director, or his/her designee, 701 N.W. 1st Court, Suite 1700, Miami, Florida, 33136, with a copy to the County Attorney's Office, Miami-Dade County, 111 N.W. First Street, Suite 2800, Miami, Florida 33128, and/or to such other addresses and to the attention of such other parties as Landlord may, from time to time, designate by written notice to Tenant. If Landlord at any time during the Term hereof changes its office address as herein stated, Landlord will promptly give notice of the same in writing to Tenant.

20.2 Method of Transmitting Notice. All such notices, demands or requests (a "Notice") shall be sent by: (a) United States registered or certified mail, return receipt requested, (b) hand delivery, (c) nationally recognized overnight courier, or (d) telefacsimile, provided the transmitting telefacsimile electronically confirms receipt of the transmission by the receiving telefacsimile and the original of the Notice is sent by one of the foregoing means of transmitting Notice within 24 hours of the transmission by telefacsimile. All postage or other charges incurred for transmitting of Notices shall be paid by the party sending same. Such Notices shall be deemed served or, given on (i) the date received, (ii) the date delivery of such Notice was refused or unclaimed, or (iii) the date noted on the return receipt or delivery receipt as the date delivery thereof was determined impossible to accomplish because of an unnoticed change of address.

ARTICLE 21
QUIET ENJOYMENT

21.1 Grant of Quiet Enjoyment. Tenant, upon paying all Rents, Additional Rent, revenues and other monies herein provided for and performing in accordance with the terms, agreements, and provisions of this Lease, shall peaceably and quietly have, hold and enjoy the Property during the Term of this Lease without interruption, disturbance, hindrance or molestation by Landlord or by anyone claiming by, through or under Landlord.

ARTICLE 22
CERTIFICATES BY LANDLORD AND TENANT

22.1 Tenant Certificates. Tenant agrees at any time and from time to time, upon not less than thirty (30) days prior written notice by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing setting forth the Rent, Additional Rent, payments and other monies then payable under the Lease, if then known; certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the Lease is in full force and effect as modified and stating the modification), and the dates to which the Rent, Additional Rent, payments and other monies have been paid, and stating (to the best of Tenant's knowledge) whether or not Landlord is in default in keeping, observing or performing any of the terms of this Lease; and, if in default, specifying each such default (limited to those defaults of which Tenant has knowledge). It is intended that any such statement delivered pursuant to this Section 22.1 may be relied upon by Landlord or any prospective assignee, transferee or purchaser of the fee, but reliance on such

certificate shall not extend to any default of Landlord as to which Tenant shall have no actual knowledge.

22.2 Landlord Certificates. Landlord agrees at any time and from time to time, upon not less than thirty (30) days prior written notice by Tenant or by a Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee, to furnish a statement in writing, in substantially the form attached hereto as Schedule 22.2 setting forth the rents, payments and other monies then payable under the Lease, if then known; certifying that this Lease is unmodified and in full force and effect (or if there shall have been modifications that the Lease is in full force and effect as modified and stating the modifications) and the dates to which rents, payments and other monies have been paid; stating whether or not to the best of Landlord's knowledge, Tenant is in default in keeping, observing and performing any of the terms of this Lease, and, if Tenant shall be in default, specifying each such default of which Landlord may have knowledge. It is intended that any such statement delivered pursuant to this Section of this Lease may be relied upon by any prospective assignee, or transferee of Tenant's interest in this Lease, any prospective Sublessee or any Leasehold Mortgagee or Subleasehold Mortgagee or any assignee thereof, but reliance on such certificate may not extend to any default of Tenant as to which Landlord shall have had no actual knowledge.

ARTICLE 23
CONSTRUCTION OF TERMS AND MISCELLANEOUS

23.1 Severability. If any provisions of this Lease or the application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Lease, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue valid and be enforced to the fullest extent permitted by law.

23.2 Captions. The article headings and captions of this Lease and the Table of Contents preceding this Lease are for convenience and reference only and in no way define, limit or describe the scope or intent of this Lease nor in any way affect this Lease.

23.3 Relationship of Parties. This Lease does not create the relationship of principal and agent or of mortgagee and mortgagor or of partnership or of joint venture or of any association between Landlord and Tenant, the sole relationship between Landlord and Tenant being that of landlord and tenant or lessor and lessee.

23.4 Recording. A Memorandum of this Lease in the form attached hereto as Schedule 23.4, or a full copy hereof, may be recorded by either party among the Public Records of Miami-Dade County, Florida, at the sole cost of the party filing the document.

23.5 Construction. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the party or parties may require. The parties hereby acknowledge and agree that each was properly represented by counsel and this Lease was negotiated and drafted at arm's length so that the judicial rule of construction to the effect that a legal document shall be construed against the draftsman shall be inapplicable to this Lease which has been drafted by counsel for both Landlord and Tenant. References herein

to Articles and Sections shall mean the Articles and Sections set forth in this Lease, unless another agreement is specified.

23.6 Consents. Whenever in this Lease the consent or approval of Landlord is required, and such consent or approval may be made by the County Mayor, or the Mayor's designee, on behalf of Landlord, and any duly authorized officer or representative of Tenant, on behalf of Tenant, such consent:

a.) shall not be unreasonably or arbitrarily withheld, conditioned, or delayed unless specifically provided to the contrary, and shall not require a fee from the party requesting same;

b.) shall not be effective unless it is in writing; and

c.) shall apply only to the specific act or transaction so approved or consented to and shall not relieve Tenant or Landlord, as applicable, of the obligation of obtaining the other's prior written consent or approval to any future similar act or transaction.

23.7 Entire Agreement. This Lease contains the entire agreement between the parties hereto and shall not be modified or amended in any manner except by an instrument in writing executed by the parties hereto.

23.8 Successors and Assigns. The terms herein contained shall bind and inure to the benefit of Landlord, its successors and assigns, and Tenant, its successors and assigns (including Sublessees, Leasehold Mortgagees, and Subleasehold Mortgagees as appropriate and applicable), except as may be otherwise provided herein.

23.9 Holidays. It is hereby agreed and declared that whenever the day on which a payment due under the terms of this Lease, or the last day on which a response is due to a notice, or the last day of a cure period, falls on a day which is a legal holiday in Miami-Dade County, Florida, or on a Saturday or Sunday, such due date or cure period expiration date shall be postponed to the next following business day. Any mention in this Lease of a period of days for performance shall mean calendar days.

23.10 Exhibit and Schedules. Each Exhibit and Schedule referred to in this Lease is incorporated herein by reference. The Exhibits and Schedules, even if not physically attached, shall still be treated as if they were part of the Lease.

23.11 Brokers. Landlord and Tenant hereby represent and agree that no real estate broker or other person is entitled to claim a commission as a result of the execution and delivery of this Lease.

23.12 Protest Payments. If at any time a dispute shall arise as to any amount or sum of money to be paid by Tenant to Landlord under the provisions of this Lease, in addition to the rights set forth in Article 19 herein, Tenant shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment, and there shall survive the right on the part of Tenant to seek the recovery of such sum, and if it should be adjudged that there was no legal obligation on Tenant to pay such sum or any part thereof, Tenant shall be entitled to recover

such sum or so much thereof as it was not legally required to pay under the provisions of this Lease. Separately, the parties hereto further agree that if at any time a dispute shall arise between the parties as to any work to be performed by either of them under the provisions of this Lease, the party against whom the obligation to perform the work is asserted may perform such work and pay the cost thereof "under protest" and the performance of such work shall in no event be regarded as a voluntary performance and there shall survive the right upon the part of said Tenant and/or Landlord to seek the recovery of the cost of such work, and if it shall be adjudged that there was no legal obligation on the part of said Tenant and/or Landlord to perform the same or any part thereof, said Tenant and/or Landlord shall be entitled to recover the cost of such work or the cost of so much thereof as Tenant or Landlord was not legally required to perform under the provisions of this Lease.

23.13 Gender Neutral and Gender Inclusive Signage. Tenant hereby agrees that it shall comply with Miami-Dade County's Resolution No. R-1054-16, to ensure that any and all single occupancy restrooms located in common areas of the Property (not residential units), shall have signage that is gender neutral/gender inclusive on or near the opening of such single occupancy restrooms.

23.14 Attorneys' Fees. In the event of any litigation or other legal proceeding between the parties arising under this Lease, each party shall be responsible for its own costs and expenses of such litigation, including, but not limited to, any attorneys' fees, expert witness fee, and court costs, at both trial and appellate levels.

23.15 Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of Florida, and venue shall be in Miami-Dade County.

ARTICLE 24
REPRESENTATIONS AND WARRANTIES

24.1 Landlord's Representations and Warranties. Landlord hereby represents and warrants to Tenant that:

a.) It has full power and authority to enter into this Lease and perform in accordance with its terms and provisions and that the parties signing this Lease on behalf of Landlord have the authority to bind Landlord and to enter into this transaction and Landlord has taken all requisite action and steps to legally authorize it to execute, deliver and perform pursuant to this Lease.

b.) Landlord is the fee simple owner of the Property and Landlord will deliver the leasehold hereunder and exclusive possession of the Property to Tenant free and clear of any and all tenancies and occupancies of every nature whatsoever, whether by Miami-Dade County or otherwise and subject only to the rights reserved herein to Landlord.

c.) Throughout the Term of this Lease, Landlord will endeavor to continue public transportation service utilizing the Transitway on a daily basis. The parties acknowledge that service disruptions occur occasionally and such disruptions shall not be considered

termination of service under this Lease. If the Transitway is damaged or destroyed and as a result buses cannot stop at or near a bus stop adjacent to the Property for a period of time, such occasion shall not be considered as an abandonment by Landlord of the bus stop, or Landlord's desire or intent not to fulfill any express or implied duty to have a bus stop near the Property.

d.) Tenant acknowledges that in accordance with Section 125.411(3), *Florida Statutes,* Landlord does not warrant the title or represent any state of facts concerning the title to the Property, except as specifically stated in this Lease.

24.2 Tenant's Representations and Warranties. Tenant hereby represents and warrants to Landlord that it has full power and authority to enter into this Lease and perform in accordance with its terms and provisions and that the parties signing this Lease on behalf of Tenant have the authority to bind Tenant and to enter into this transaction and Tenant has taken all requisite action and steps to legally authorize it to execute, deliver and perform pursuant to this Lease.

ARTICLE 25
EQUAL OPPORTUNITY

Tenant will 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, gender identity, gender expression, sexual orientation, or actual or perceived status as a victim of domestic violence, dating violence or stalking. Tenant shall take affirmative action to ensure that applicants are employed and that employees are treated during their employment, without regard to their race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, gender identity, gender expression, sexual orientation, or actual or perceived status as a victim of domestic violence, dating violence or stalking. Such actions shall include, but not be limited to, the following: employment; upgrading; transfer or demotion; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. Tenant agrees to post in conspicuous places, available to employees and applicants for employment notices to be provided by Miami-Dade County setting forth the provisions of this Equal Opportunity clause. Tenant will comply with all of the following statutes, rules, regulations and orders to the extent that these are made applicable by virtue of the grant to Landlord under the Federal Transit Act of a Section 3 capital grant for the Transitway, and the System:

a.) all regulations of the U.S. Department of Transportation;

b.) all applicable provisions of the Civil Rights Act of 1964;

c.) Executive Order 11246 of September 24, 1964 as amended by Executive Order 11375;

d.) Executive Order 11625 of October 13, 1971;

e.) the Age Discrimination Employment Act effective June 12, 1968;

f.) the rules, regulations and orders of the Secretary of Labor;

g.) Section 112.042, *Florida Statutes*;

h.) the applicable Federal Transit Administration regulations binding Tenant or transferee not to discriminate based on disability and binding the same to compliance with the Americans with Disabilities Act pursuant to the requirements found in 49 CFR Part 26.7 regarding nondiscrimination based on race, color, national origin or sex; in 49 CFR Parts 27.7, 27.9(b) and 49 CFR Part 37 regarding nondiscrimination based on disability and complying with the Americans With Disabilities Act, with regard to any improvements constructed; and pursuant to requirements found in the Federal Transit Administration Master Agreement dated October 1, 2009, in Section 3, Subparagraphs (a)(1), (a)(2), and (b) thereof particularly relating to conflicts of interests and debarment and suspension.

i.) Chapter 11A of the Code of Miami-Dade County. Tenant does hereby covenant and agree that in the event facilities are constructed, maintained or otherwise operated by Tenant on the Property for a purpose for which a State of Florida Department of Transportation program or activity is conducted or extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination of Federally-Assisted Programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964 and said Regulations may be amended. Tenant does hereby covenant and agree (1) that no person on the grounds of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, gender identity, gender expression, sexual orientation, actual or perceived status as a victim of domestic violence, dating violence or stalking, or source of income shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing services thereon, no person on the grounds of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, gender identity, gender expression, sexual orientation, actual or perceived status as a victim of domestic violence, dating violence or stalking, or source of income shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and (3) that Tenant shall use the Property in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

j.) Section 2-11 of the Code of Miami-Dade County, regarding Responsible Wages. Tenant shall comply with Section 2-11 of the Code of Miami-Dade County, which specifically concerns the payment of responsible wages to employees and laborers providing labor related to the construction, alteration, and/or repair of public buildings or public works (the "Applicable Work"). Each employee and laborer providing Applicable Work shall be paid in a manner that is consistent with the "Negotiated Contracts," as such phrase is defined in Section 2-11.16 of the Code of Miami-Dade County, in effect as of January 1st of the calendar year in which this Lease is executed. Thereafter, Tenant shall provide and ensure that the overall per hour rate to be paid for the Applicable Work performed under this Lease during each subsequent calendar year shall be the overall per hour rate of the Negotiated Contracts in effect as of January 1st, of the

year in which the Applicable Work is performed. If a particular craft or type of employee is not listed in such Negotiated Contracts, in ascertaining the initial overall per hour rate to be paid those employees for the Applicable Work, the minimum standard shall be the combined overall dollar value on an hourly basis of the "basic hourly rate of pay" (as defined in 29 CFR § 5.24) (paid as set forth below) and of the fringe benefits payments (paid as set forth below) for hospitalization, medical pension and life insurance benefits for such craft or type of employee under the Secretary of Labor's wage determination (made pursuant to the provisions of the Davis-Bacon Act) in effect for Miami-Dade County, Florida, as of the end of the prior calendar year for which the work is to be performed. The foregoing and the provisions of Section 211.16(e) notwithstanding, where not otherwise precluded by state or federal law, the overall per hour rate shall be the higher rate under this Section 2-11.16. Further, the overall per hour rate to be paid for Applicable Work performed during the year period commencing the next January 1st after the date of execution of this Lease shall be such rate (as determined above) for that calendar year and shall be updated thereafter on each subsequent January 1st to the rate for the ensuing calendar year until completion of the Project; and

a.) Tenant, Developer, Sublessee and/or any of their subcontractors, is mandated to pay not less than the specified overall per hour rate for the Applicable Work, as adjusted over the Term of this Lease in accordance with the Miami-Dade County Code, Section 2-11.16; and

b.) Tenant, Developer, Sublessee and/or any of their subcontractors, may fulfill the obligation to pay such specified overall per hour rate for the Applicable Work by payment to the employee of the hourly wage rate listed in the Negotiated Contracts (or, if applicable, the "basic hourly rate of pay" as defined in 29 CFR § 5.24 contained in the Secretary of Labor's wage determination) for such craft or type of employee plus either: (i) payment on the employee's behalf of the cost (on an hourly basis) of the hospitalization, medical, pension and life insurance benefits specified for such craft or type of employee; or, (ii) payment to the employee (in addition to the listed hourly wage rate, or basic hourly rate of pay, if applicable, of an amount equal to the hospitalization, medical, pension and life insurance benefits (on an hourly basis) that contractors are required to provide under the Negotiated Contracts (or, if applicable, an amount equal to the fringe benefit payments on an hourly basis for hospitalization, medical, pension and life insurance benefits contained in the Secretary of Labor's wage determination) for such craft or type of employee. Payments to employees shall be counted towards fulfillment of the above obligation only to the extent that such payments are made by check or money order; and

c.) Tenant, Developer, Sublessee and/or any of their subcontractors, shall post in a conspicuous place on the Property where the construction work will be performed: (1) the schedule of the specified overall per hour rate for each applicable classification specified by the Negotiated Contracts; (2) the amount of liquidated damages for any failure to pay such rates; and (3) the name and address of the responsible official in Miami-Dade County to whom complaints should be given; and

d.) Such contracts shall provide that there may be withheld from Tenant, Developer or Sublessee so much of accrued payments as may be considered necessary by the contracting officer to pay to employees employed by Tenant, Developer, Sublessee (or any contractor and/or subcontractor under him) in the performance of the Applicable Work, the

difference between the overall per hour rate required by this Lease, to be paid to employees providing Applicable Work, and the amounts received by such employees, and not refunded to Tenant, Developer, Sublessee, and/or any of its contractors, subcontractors and/or their agents; and

e.) Tenant, Developer, Sublessee and/or any of their contractors and/or subcontractors, shall cause to be kept, accurate written records signed under oath as true and correct showing the names, Social Security numbers, and craft classifications of all employees performing Applicable Work on or about the Property, and/or for the Project, the hours and fractions of hours for every type of Applicable Work performed by each employee, the combined dollar value of all wages, any contributions to benefit plans and payments made to each employee of the overall per hour rate required by terms and conditions of this Lease (which is in accordance with Miami-Dade County Code, Section 2-11.16). Further, Tenant is required to submit to Landlord a list of all contractors and subcontractors and the names and Social Security numbers of all employees thereof who performed Applicable Work each day under construction or trade contract, and further require each subcontractor to also submit to Landlord a list of the names and Social Security numbers of its employees who performed Applicable Work each day on the construction or trade contract; and

f.) Neither Tenant, nor the Developer, nor the Sublessee, nor any of their contractors or subcontractors may terminate an employee performing Applicable Work under a construction or trade contract because of the employee's filing a complaint regarding payment of required overall per hour rates.

g.) Landlord shall be permitted to periodically examine the records required to be kept in accordance with Miami-Dade County Code, Section 2-11.16.

ARTICLE 26
SECTION 3 – ECONOMIC OPPORTUNITIES

26.1 Policy. It is the policy of Landlord, whenever utilizing funding from the United States Department of Housing and Urban Development ("HUD"), including in instances in which the land or real estate owned by Landlord was purchased using some or all funding from HUD, to ensure that the Section 3 program, as established and administered by HUD is effectively implemented in Landlord's projects. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

26.2 Section 3 Obligation.

1). The work to be performed under this Lease is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC § 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.

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

3). Tenant agrees to send to each labor organization or representative of workers with which Tenant has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of Tenant's commitments under this Lease regarding 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.

4). Tenant agrees to include this Section 3 clause in every contract and 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 contract and/or subcontract or in this Section 3 clause, upon a finding that the contractor and/or subcontractor is in violation of the regulations in 24 CFR part 135. Tenant will not enter into any contract and/or subcontract with any contractor or subcontractor where Tenant has notice or knowledge that the contractor or subcontractor has been found in violation of the regulations in 24 CFR part 135.

5). Tenant will certify that any vacant employment positions, including training positions, that are filled (1) after the Commencement Date of this Lease but before the Financing Date, 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.

A.) For training and employment opportunities, Tenant shall direct its efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 residents in the order of priority found in this Section of this Lease.

(1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to provide training and employment opportunities to Section 3 residents in the following order of priority:

(i) Residents of the housing development or developments for which the Section 3 covered assistance is expended (category 1 residents);

(ii) Residents of other housing developments managed by the HA that is expending the Section 3 covered housing assistance (category 2 residents);

(iii) Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the Section 3 covered assistance is expended (category 3 residents);

(iv) Other Section 3 residents.

(2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 residents residing in the service area or neighborhood in which the Section 3 covered project is located (collectively, referred to as category 1 residents); and

(ii) Participants in HUD Youthbuild programs (category 2 residents).

(iii) Where the Section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 USC § 11301 *et seq.*), homeless persons residing in the service area or neighborhood in which the Section 3 covered project is located shall be given the highest priority;

(iv) Other Section 3 residents.

(3) Recipients of housing assistance programs administered by the Assistant Secretary for Housing may, at their own discretion, provide preference to residents of the housing development receiving the Section 3 covered assistance within the service area or neighborhood where the Section 3 covered project is located.

(4) Recipients of community development programs may, at their own discretion, provide priority to recipients of government assistance for housing, including recipients of certificates or vouchers under the Section 8 housing assistance program, within the service area or neighborhood where the Section 3 covered project is located.

(5) *Eligibility for preference.* A Section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in 24 CFR §135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

(6) *Eligibility for employment.* Nothing in this part shall be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled.

B.) For business concerns and contracting opportunities, Tenant shall direct its efforts to award Section 3 covered contracts, to the greatest extent feasible, to Section 3 business concerns in the order of priority found in this Section of this Lease.

(1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to award contracts to Section 3 business concerns in the following order of priority:

(i) Business concerns that are fifty-one percent (51%) or more owned by residents of the housing development or developments for which the Section 3 covered assistance is expended,

or whose full-time, permanent workforce includes thirty percent (30%) of these persons as employees (category 1 businesses);

(ii) Business concerns that are fifty-one percent (51%) or more owned by residents of other housing developments or developments managed by the HA that is expending the Section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 2 businesses); or

(iii) HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the Section 3 covered assistance is expended (category 3 businesses).

(iv) Business concerns that are fifty-one percent (51%) or more owned by Section 3 residents, or whose permanent, full-time workforce includes no less than thirty percent (30%) Section 3 residents (category 4 businesses), or that subcontract in excess of twenty-five percent (25%) of the total amount of subcontracts to business concerns identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this Section.

(2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 business concerns that provide economic opportunities for Section 3 residents in the service area or neighborhood in which the Section 3 covered project is located (category 1 businesses); and

(ii) Applicants (as this term is defined in 42 USC § 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);

(iii) Other Section 3 business concerns.

(3) *Eligibility for preference.* A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence, if requested, that the business concern is a Section 3 business concern as defined in §135.5.

(4) *Ability to complete contract.* A Section 3 business concern seeking a contract or a subcontract shall submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 2 CFR 200.318(h). This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

Section 3 covered contract means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project. "Section 3 covered contracts" do not include contracts awarded under HUD's procurement

program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). "Section 3 covered contracts" also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a Section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by Section 3.

C.) For other economic opportunities, Tenant shall direct its efforts to offering an effective means of empowering low-income persons by undertaking efforts to provide low-income persons with economic opportunities other than training, employment, and contract awards.

(1) *Other training and employment related opportunities.* Other economic opportunities to train and employ Section 3 residents include, but need not be limited to, use of "upward mobility," "bridge" and trainee positions to fill vacancies; hiring Section 3 residents in management and maintenance positions within other housing developments; and hiring Section 3 residents in part-time positions.

(2) *Other business related economic opportunities.* (l) Tenant may provide economic opportunities to establish, stabilize or expand Section 3 business concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of Section 3 joint ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from public housing agency (PHA) resident-owned businesses and use of procedures under 24 CFR part 963 regarding housing agency (HA) contracts to HA resident-owned businesses. Tenant may employ these methods directly or may provide incentives to non-Section 3 businesses to utilize such methods to provide other economic opportunities to low-income persons.

(3) A *Section 3 joint venture* means an association of business concerns, one of which qualifies as a Section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the Section 3 business concern:

(i) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and

(ii) Performs at least twenty-five percent (25%) of the work and is contractually entitled to compensation proportionate to its work.

26.3 Tenant's Plan. Tenant agrees to use sufficient reasonable efforts to carry out the requirements of Landlord's and HUD's Section 3 requirements. Tenant agrees to carry out this plan to the fullest extent consistent with the efficient performance of the Lease.

26.4 Remedies. If at any time Landlord has reason to believe that Tenant is in violation of its obligation regarding the Section 3 program, Landlord may, in addition to pursuing any other available legal remedy, under this Lease commence proceedings to impose sanctions. Such sanctions may include, but not be limited to the termination of this Lease in whole or in part,

pursuant to Article 19, unless Tenant is able to demonstrate compliance with its obligations under Section 3 program. No such sanctions shall be imposed by Landlord upon Tenant except pursuant to an action duly taken in accordance with due process of law.

26.6 Reports. Tenant shall submit Section 3 activity reports on a monthly basis during any period of construction of the Building (as differentiated from minor construction activity). The Section 3 activity reports shall reflect Tenant's training, employing, and contracting activities with Section 3 residents, as described above, and shall be submitted in the forms provided for such purpose by Landlord. The monthly reports are to be submitted to PHCD on or before the tenth (10^{th}) business day of the month following the month the report covers. During non-construction periods, on an annual basis, Section 3 progress reports shall also be summarized and the full year of monthly reports bound together, and submitted by Tenant to Landlord.

26.7 Discrimination Prohibited. Tenant hereby acknowledges and agrees that no person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with training, employment, and/or the award of any contract, and/or the performance of any contract covered by the Section 3 program, on the grounds of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, gender identity, gender expression, sexual orientation, actual or perceived status as a victim of domestic violence, dating violence or stalking, or source of income.

ARTICLE 27
PUBLIC RECORDS

27.1 As it relates to this Lease and any subsequent agreements and other documents related to the Project, Tenant and any of its subsidiaries, pursuant to Section 119.0701, Florida Statutes, shall:

i) Keep and maintain public records that ordinarily and necessarily would be required by Landlord in order to perform the service;

ii) Upon request of from Landlord's custodian of public records identified herein, provide the public with access to public records on the same terms and conditions that Landlord would provide the records and at a cost that does not exceed the cost provided in the Florida Public Records Act, Miami-Dade County Administrative Order No. 4-48, or as otherwise provided by law;

iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Lease's term and following completion of the work under this Lease if Tenant does not transfer the records to Landlord; and

iv) Meet all requirements for retaining public records and transfer to Landlord, at no cost to Landlord, all public records created, received, maintained and/or directly related to the performance of this Lease that are in possession of Tenant upon termination of this Lease. Upon termination of this Lease, Tenant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored

electronically must be provided to Landlord in a format that is compatible with the information technology systems of Landlord.

27.2 For purposes of this Article 27, the term "public records'" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of Landlord.

27.3 In the event Tenant does not comply with the public records disclosure requirements set forth in Section 119.0701, Florida Statutes and this Article 27, Landlord shall avail itself of the remedies set forth in Article 19 of this Lease.

IF TENANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO TENANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE, PLEASE CONTACT LANDLORD'S CUSTODIAN OF PUBLIC RECORDS AT:

Miami-Dade County
Miami-Dade Public Housing and Community Development
701 N.W. 1st Court, 16th Floor
Miami, Florida 33136
Attention: Lizette Capote
Email: LCAPOTE@miamidade.gov

ARTICLE 28
TAX CREDITS

It is acknowledged that Tenant intends to develop, own and operate the Project or portions thereof as a development intended to generate tax credits ("Tax Credits"), including, without limitation, low-income housing tax credits under Section 42 of the Code and the Treasury Regulations promulgated thereunder (collectively, "Section 42"). The Property or portions are or will be subject to regulatory and other agreements relating to income, rent or other affordable housing restrictions (collectively, the "Regulatory Documents"). In order to maintain and preserve the Tax Credits, and otherwise comply with the Tax Credit Laws (as hereinafter defined) and other obligations under the Regulatory Documents, the Property or applicable portions thereof will be operated in compliance with the Regulatory Documents and all rules, procedures, regulations, guidelines and other requirements under Section 42 and all other federal, state or local affordable housing laws, regulations and other requirements applicable to the Property (collectively, the "Tax Credit Laws"). Tenant understands that the failure to operate the Property and/or applicable portions thereof as a "Community Services Facility" in compliance with the Regulatory Documents and Tax Credit Laws may cause the recapture (and/or related liability) of all or a portion of such Tax Credits and/or result in other significant damages and economic loss related to the Tax Credits. For purposes of this article the term "Community Services Facility" shall have the meaning given to it in the Tax Credit Laws. Further, Landlord and Tenant

acknowledge and agree that portions of the Property, the Kiss and Ride facilities, the structured parking garage and other Transitway-related improvements associated with the Project may be considered "dedicated improvements" or a "Community Services Facility".

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK]
[ONLY THE SIGNATURE PAGE REMAINS]

IN WITNESS WHEREOF, Landlord has caused this Lease to be executed in its name by the County Mayor, or the Mayor's designee, as authorized by the Board of County Commissioners, and Tenant has caused this Lease to be executed by its duly authorized representative all on the day and year first hereinabove written.

Approved as to form and
legal sufficiency

By_____
Assistant County Attorney

ATTEST:

HARVEY RUVIN, CLERK

By:_____

LANDLORD:

MIAMI-DADE COUNTY, a political Subdivision of the State of Florida BY ITS BOARD OF COUNTY COMMISSIONERS

By:_____
Name:_____
Title:_____

Signed in the presence of:

_____
Print Name: Gabriella Garcia

_____
Print Name: Bibiana Montsde Oca.

TENANT:

QUAIL ROOST HOLDINGS, LLC, a Florida limited liability company, successor by assignment to Quail Roost Transit Village I, Ltd.

By:_____

Name: Kenneth Wayler

Title: Vice president of the Manager

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

PARCEL ONE:

A parcel of land lying in the Northwest 1/4 of Section 5, Township 56 South, Range 40 East, Miami-Dade County, Florida, more particularly described as follows:

Commence at the Northeast corner of the Northwest 1/4 of said Section 5, thence run South 00°35'40" East along the East line of the Northwest 1/4 of said Section 5 for a distance of 339.47 feet to the POINT OF BEGINNING of the parcel of land hereinafter described: Thence continue South 00°35'40" East along the said East line of the Northwest 1/4 of Section 5 for a distance of 8.37 feet to a point of intersection with the Northwesterly limited access right-of-way line of the State of Florida Transportation Corridor; thence run Southwesterly along the said limited access right-of-way line of the State of Florida Transportation Corridor, the same being an arc to the left having a radius of 1050.00 feet and a central angle of 04°32'08" for an arc distance of 83.12 feet to a point of tangency; thence run North 22°31'40" East for a distance of 90.73 feet to the POINT OF BEGINNING.

AND

A parcel of land lying in the Northeast 1/4 of Section 5, Township 56 South, Range 40 East, Miami-Dade County, Florida, more particularly described as follows:

Commence at the Northwest corner of the Northeast 1/4 of said Section 5, said point also being the POINT OF BEGINNING of the parcel hereinafter described: Thence run North 87°48'09" East along the North line of the Northeast 1/4 of said Section 5 for a distance of 201.31 feet to the point of intersection with the Northwesterly limited access right-of-way line of the State of Florida Transportation Corridor; thence run Southwesterly along the said limited access right-of-way line, the same being an arc to the right having a radius of 950.00 feet and a central angle of 08°19'16" for an arc distance of 137.97 feet to a point of tangency; thence continue South 30°50'57" West for a distance of 200.00 feet to the point of curvature; thence continue along an arc to the left having a radius of 1050.00 feet and a central angle of 03°47'09" for an arc distance of 69.38 feet to a point of intersection with the West line of the Northeast 1/4 of said Section 5; thence run North 00°35'40" West along the said West line of the Northeast 1/4 of Section 5 for a distance of 347.84 feet to the POINT OF BEGINNING.

Tax Folio No. 30-6005-001-0090

TOGETHER WITH

PARCEL TWO:

BEGIN at the Northeast corner of Lot 5, of A.A. DOOLEY'S Plat of Section 5, Township 56 South, Range 40 East, Miami-Dade County, Florida, as recorded in Plat Book 1, at Page 4, of the Public Records of Miami-Dade County, Florida, the same being the Northeast corner of the Northwest 1/4 of said Section 5; thence North 89°59'02" West along the North line of said Lot 5 and along the North line of said Section 5 for a distance of 128.59 feet to the intersection thereof with the Southerly extension of the Southeasterly right-of-way line of Homestead Avenue as the same is shown on the Plat of South Perrine Subdivision, Plat Book 38, at Page 66, of the Public Records of Miami-Dade County, Florida; thence South 24°44' 30" West, along

the Southerly extension of the Southeasterly right-of-way of said Homestead Avenue, for a distance of 542.87 feet; thence South 65°16'00" East for a distance of 249.98 feet to a point on the Northwesterly right-of-way line of the Florida East Coast Railway; thence North 24°44'44" East along the Northwesterly right-of-way line of the Florida East Coast Railway for a distance of 285.10 feet to the intersection thereof with the East line of said Lot 5; thence North 01°36'00" East along the East line of said Lot 5, for a distance of 338.78 feet to the POINT OF BEGINNING.

LESS a portion of Lot 5, of A.A. DOOLEY'S Plat of Section 5, Township 56 South, Range 40 East, as recorded in Plat Book 1, at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

BEGIN at the Northeast corner of said Lot 5, said point also being the Northeast corner of the Northwest 1/4 of said Section 5; thence run South 87° 48' 20" West along the North line of said Lot 5, said line also being the North line of the Northwest 1/4 of said Section 5, for a distance of 128.81 feet to the point of intersection with the Southerly extension of the Southeasterly right-of-way line of Homestead Avenue, as the same is shown on the Plat of South Perrine Subdivision, recorded in Plat Book 38, at Page 66, of the Public Records of Miami-Dade County, Florida; thence run South 22°32'20" West along the along the Southerly extension of the Southeasterly right-of-way line of said Homestead Avenue, for a distance of 54.54 feet; thence run North 55°10'20" East for a distance of 26.96 feet to the point of intersection with the South line of the North 35.00 feet of said Lot 5; thence run North 87°48'20" East along the South line of the North 35.00 feet of said Lot 5, for a distance of 127.95 feet to the point of intersection with the East line of said Lot 5; thence run North 00°35'53" West along the East line of said Lot 5, said line also being the East line of the Northwest 1/4 of said Section 5, for a distance of 35.01 feet to the POINT OF BEGINNING.

LESS a portion of said Lot 5, of A.A. DOOLEY'S Plat of Section 5, Township 56 South, Range 40 East, as recorded in Plat Book 1, at Page 4, being the Southerly 76.60 feet of said Parcel Two, as measured along said Southerly extension of the Southeasterly right of way line of Homestead Avenue, as shown on the Plat of South Perrine Subdivision, Plat Book 38, at Page 66, of the Public Records of Miami-Dade County, Florida.

Portion of Tax Folio No. 30-6005-001-0291

PARCEL THREE:

A portion of Lot 5 in Plat Book 1 at Page 4, lying Westerly of Homestead Avenue and excepting the North 300 feet, all in Section 5, Township 56 South, Range 40 East, Miami-Dade County, Florida, and being more particularly described as follows:

Commence at the Northwest comer of the Northeast 1/2 of said Section 5; thence North 89°59'02" West as a basis of bearing, along the North line of said Section 5 and also the North line of Lot 5 in said Plat Book 1 at Page 4 for 651.98 feet, to a point on the Westerly line of said Lot 5, in Plat Book 1 at Page 4; thence South 01°35'02" West along the said Westerly line for 300,11 feet to the POINT OF BEGINNING of the parcel of land hereinafter described; thence South 89°59'01" East for 371.44 feet, to the Westerly right of way line of Homestead Avenue; thence the following three (3) courses along said right of way line, South 24°44'30" West for 481.76 feet; thence North 65°15'30" West for 5.00 feet; thence South 24°44'30" West for 71.30 feet to a point of curvature; thence run 29.03 feet along the arc of a curve to the right, said curve having a radius of 25.00 feet, a central angle of 66°31'15" to a point of tangency; thence North 88°44'15" West for 126.36 feet to a point on the Westerly line of said

Lot 5 in Plat Book 1 at Page 4, thence North 01°35'02" East, along said Westerly line, for 512.24 feet to the POINT OF BEGINNING.

Property Tax Folio No: 30-6005-001-0140
TOGETHER WITH

PARCEL FOUR:

5-56-40, Subdivision of Plat Book 1 at Page 4, Parcel 1, and also known as Lot 5, lying between FEC R/R and Homestead Avenue Extension of Ingraham Highway, less the North 542.87 feet as measured along Westerly line of property of the Public Records of Miami-Dade County, Florida, less the road right of way for SW 186 Street (Quail Roost Drive), less any portion of Lot 5 lying South of the road right of way for SW 186 street (Quail Roost Drive) further described as follows:

That Portion of Tract 5, PERRINE GRANT SUBDIVISION of Section 5, Township 56 South, Range 40 East, according to the Plat thereof as recorded in Plat Book 1, Page 4, of the Public Records of Miami-Dade County, Florida, lying between the Westerly right of way line of Florida East Coast Railway Company right of way and the Easterly right of way line of Homestead Avenue, less the North 542.87 feet, as measured along the prolongation of the Westerly line of the Property and lying also Northerly of the North right of way line of Quail Roost Drive (known also as SW 186th Street) and being more particularly described as follows:

Commence at the Northwest corner of the Northeast 1/4 of said Section 5; thence North 89°59'02" West, along the North line of said Section 5, as a base of bearing, for 128.59 feet; thence run South 24°44'30" West along the prolongation of the Property for 542.87 feet to the POINT OF BEGINNING; thence South 65°16'00" East for 250.10 feet to a point of intersection with said Westerly right of way line of Florida East Coast Railway; thence South 24°44'29" West along said Westerly right of way lino for 252.82 feet to a point of intersection with the North right of way line of Quail Roost Drive; thence the following three (3) courses along said right of way line; thence North 86°45'38" West for 51.83 feet to a point of curvature; thence 198.85 feet along the arc of a curve to the left, said curve having a radius of 5,764.58 feet, a central angle of 01°58'35" to a point of tangency; thence South 88°44'11" West for 19.80 feet to a point on the westerly line of the Property, thence North 24°44'30"East for 355.73 feet to the POINT OF BEGINNING.

Property Tax Folio No: 30-6005-001-0290

AND TOGETHER WITH

PARCEL FIVE:

The Southerly 76.60 feet of that PARCEL 2 described on that Certificate of Title recorded in Official Records Book 28418, Pages 2189 thru 2192, of the Public Records of Miami Dade County, Florida. Said Southerly 76.60 feet being measured along the Southerly extension of the Southeasterly right of way line of Homestead Avenue as shown in the plat of SOUTH PERRINE SUBDIVISION, as recorded in Plat Book 38 Page 66, Public Records of Miami Dade County, Florida. Said PARCEL 2 being more particularly described as follows:

BEGIN at the Northeast corner of Lot 5, of A.A. DOOLEY'S Plat of Section 5, Township 56 South, Range 40 East, Miami-Dade County, Florida, as recorded in Plat Book 1, at Page 4, of the Public Records of Miami-Dade County, Florida, the same being the Northeast corner of the Northwest 1/4 of said Section 5; thence North 89°59'02" West along the North line of said

Lot 5 and along the North line of said Section 5 for a distance of 128.59 feet to the intersection thereof with the Southerly extension of the Southeasterly right-of-way line of Homestead Avenue as the same is shown on the Plat of South Perrine Subdivision, Plat Book 38, at Page 66, of the Public Records of Miami-Dade County, Florida; thence South 24°44'30" West, along the Southerly extension of the Southeasterly right-of-way of said Homestead Avenue, for a distance of 542.87 feet; thence South 65°16'00" East for a distance of 249.98 feet to a point on the Northwesterly right-of-way line of the Florida East Coast Railway; thence North 24°44'44" East along the Northwesterly right-of-way line of the Florida East Coast Railway for a distance of 285.10 feet to the intersection thereof with the East line of said Lot 5; thence North 01°36'00" East along the East line of said Lot 5, for a distance of 338.78 feet to the POINT OF BEGINNING.

LESS a portion of Lot 5, of A.A. DOOLEY'S Plat of Section 5, Township 56 South, Range 40 East, as recorded in Plat Book 1, at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

BEGIN at the Northeast corner of said Lot 5, said point also being the Northeast corner of the Northwest 1/4 of said Section 5; thence run South 87°48'20" West along the North line of said Lot 5, said line also being the North line of the Northwest 1/4 of said Section 5, for a distance of 128.81 feet to the point of intersection with the Southerly extension of the Southeasterly right-of-way line of Homestead Avenue, as the same is shown on the Plat of South Perrine Subdivision, recorded in Plat Book 38, at Page 66, of the Public Records of Miami-Dade County, Florida; thence run South 22°32'20" West along the along the Southerly extension of the Southeasterly right-of-way line of said Homestead Avenue, for a distance of 54.54 feet; thence run North 55°10'20" East for a distance of 26.96 feet to the point of intersection with the South line of the North 35.00 feet of said Lot 5; thence run North 87°48'20" East along the South line of the North 35.00 feet of said Lot 5, for a distance of 127.95 feet to the point of intersection with the East line of said Lot 5; thence run North 00°35'53" West along the East line of said Lot 5, said line also being the East line of the Northwest 1/4 of said Section 5, for a distance of 35.01 feet to the POINT OF BEGINNING.

Tax Folio No. 30-6005-001-0292

EXHIBIT A-1

DEPICTION OF THE LOCATION OF THE TRANSITWAY AND OTHER IMPROVEMENTS ADJACENT TO THE PROPERTY, AS WELL AS THE PROPERTY

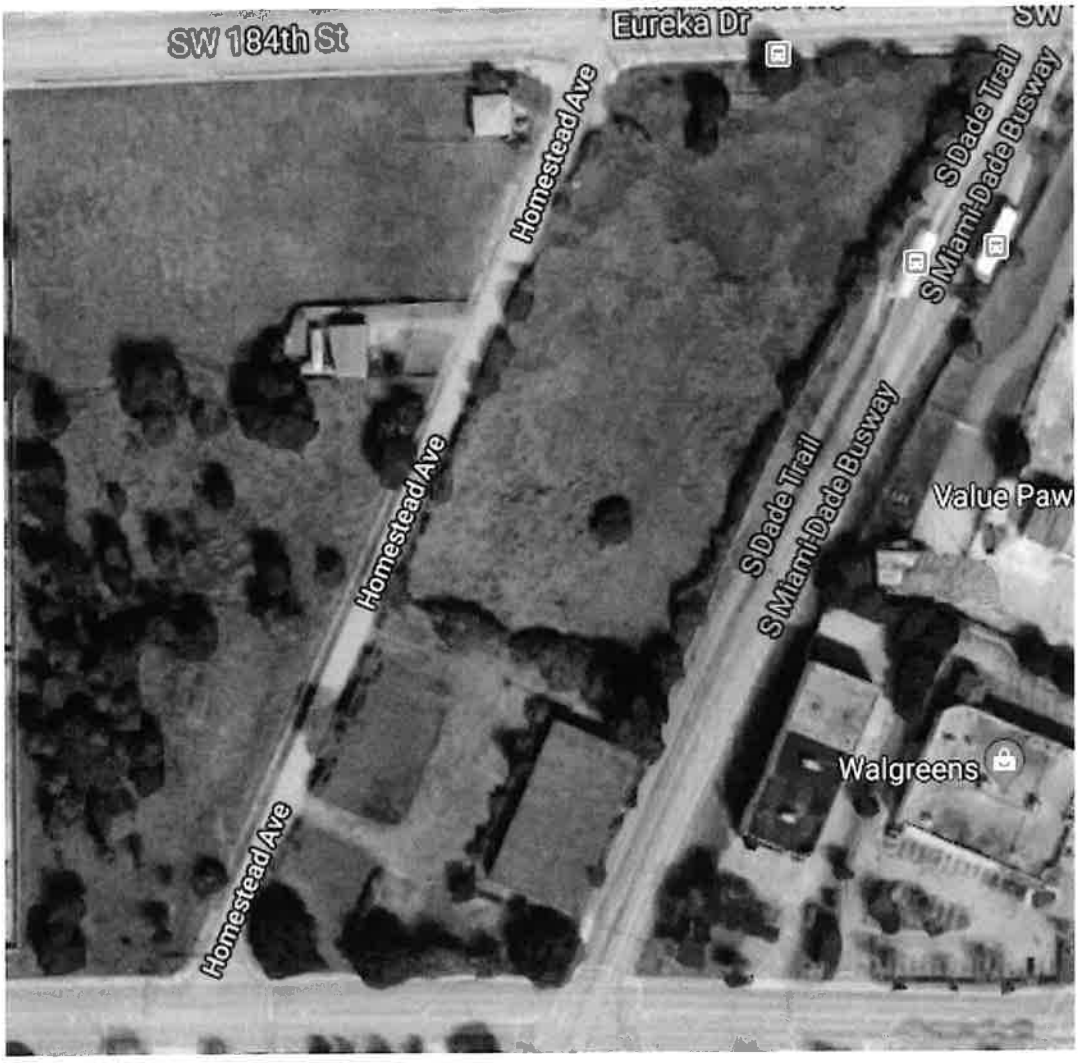

EXHIBIT B

DEVELOPMENT PLAN[2]

[2] **NTD: REVISED DEVELOPMENT PLAN TO BE PROVIDED BY TENANT**

EXHIBIT C

MANUAL FOR ART IN PUBLIC PLACES REQUIREMENTS

[see attached]

ART IN PUBLIC PLACES (APP) PROCEDURES

SUMMARY

The Art in Public Places (APP) program is a requirement for all capital projects of Miami-Dade County and each municipality in Miami-Dade County that develop new government buildings that shelter people in a wholly or partially enclosed manner and serve a public purpose. New government buildings include newly constructed structures built by and/or for the County or a municipality, prefabricated structures procured for public use, and existing buildings that are converted to a new use. The County Code requires that 1½% of the capital cost of new government buildings be dedicated to public art projects through the APP program. This procedure explains:

- how to work with the Department of Cultural Affairs to implement the APP requirement;
- the processes to follow for repairing, restoring and inventorying public art works;
- procedures for municipalities to comply with the APP requirement;
- procedures for private sector capital development on land owned by local government or on private property with the building owned by local government;
- procedures for accessioning and deaccessioning artworks in the Public Art Collection; and
- "Frequently Asked Questions" that are based on policies established by the Department of Cultural Affairs and a series of opinions issued by the Office of the County Attorney to help clarify the requirements of the APP program.

1. PROCEDURE

General Information for Implementing APP Projects

1. Contact the Department of Cultural Affairs to set up a meeting to confirm the eligibility of the capital project for the APP program and for the Department of Cultural Affairs to review a complete capital budget for the project and to confirm that an accurate calculation of the APP contribution has been made.
2. All capital costs are included in the calculation of the 1½% APP allocation, including but not limited to:
   - architectural and engineering fees;
   - specialty consulting fees;
   - capital project management fees (for County and/or contracted services)
   - construction costs (including all systems and features that make a facility functional);
   - site work;
   - allowance accounts (e.g., permitting, surveying, inspections); and
   - contingency allowance(s).

The only exclusions are land acquisition and subsequent changes to the construction contract through change orders that do not involve a major change in the project's scope.

3. Departments convey funds to APP from the moment the department receives spending authority for the capital project, upon award of design contract and/or construction contract. APP will work with department to determine the best approach and timing for the conveyance of the funds to the Department of Cultural Affairs.

4. APP funds are used by the Department of Cultural Affairs for commissioning works of art, APP program administrative costs, and repair and restoration expenses.
5. Municipal, state, federal, private and other non-County funds for a capital project are subject to the 1½% public art requirement.
6. APP may use funds generated from a construction project for acquisition of art works for other government facilities throughout the County. Every effort is made to use funds generated by a department's project within that department.
7. Projects done through development agreements (i.e., the County contracts with another party to develop a building that the County will own now or in the future) are subject to the APP requirement.
   - All solicitations for and resulting development agreements must include the following language provided by APP regarding the requirement to transfer public art funds to Art in Public Places:

Art in Public Places. This Project is subject to the Art in Public Places ("APP") provisions in Section 2.11.15 of the Miami-Dade County Code and Administrative Order 3-11, as managed by the Miami-Dade County Department of Cultural Affairs ("Department of Cultural Affairs") pursuant to Procedure 358 in the Miami-Dade County Procedures Manual ("Procedures Manual"). The Developer shall transmit 1.5% of the Project costs for all development on County land (as outlined in the Procedures Manual) to the Department of Cultural Affairs for the implementation of the APP program. The Developer is required to work collaboratively with the Department of Cultural Affairs on the implementation of the APP program pursuant to the requirements of said program. The referenced documents can be accessed at:

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances
http://www.miamidade.gov/ao/home.asp?Process=alphalist
http://intra.miamidade.gov/managementandbudget/library/procedures/358.pdf

Tools for Departments to Implement APP

1. A completed APP Capital Project Budget Allocation Worksheet must be submitted by departments to the Department of Cultural Affairs as soon as a capital project budget is developed and prior to design contract and construction award. APP staff will confirm the accuracy of the calculation of the APP requirement for the project (see sample "APP Capital Budget Allocation Worksheet" at http://www.miamidadepublicart.org/#tools; this form also is available from APP staff).
2. The following language must be included by departments under the "General Conditions Section 01042 - Art in Public Places Coordination" of the departments' capital projects contracts with architects, engineers, consultants, outside project management services, construction and development agreements:

This project is subject to the Miami-Dade County Art in Public Places requirements, pursuant to Section 2-11.15 of the Code of Miami-Dade County, managed by the Miami-Dade County Department of Cultural Affairs as detailed in Procedure 358 in the Miami-Dade County Procedures Manual (see http://www.miamidadepublicart.org/#tools or http://intra.miamidade.gov/managementandbudget/procedures.asp).

3. Examples of prior APP projects, the list of members of the APP Trust and other APP background information can be found at www.miamidadepublicart.org.

The APP Artists Selection Process

1. APP works collaboratively with departments on developing the artists' selection process:
   - To identify opportunities for public art in a project (with departments' project managers, planners and architects);
   - To understand the unique features of the department's capital project (e.g., community impact, timetable requirements, etc.); and
   - To draft the "Call to Artists" (i.e., the APP request for artists' qualifications and/or proposals).
2. An APP Professional Advisory Committee (PAC) is convened to review artists' submissions and to make art commissioning recommendations to the APP Trust. PAC members are arts and design professionals appointed by the APP Trust.
   - Departments attend and participate in the PAC selection process (especially, project managers/architects/engineers and representatives from the specific users of the building).
   - Community representatives can participate at the departments' and APP's discretion.
   - The size and scope of the project help determine the opportunities identified for publicart and the number of artists that may be selected to work on a project.
3. The PAC's recommendations of artists are approved and finalized by the Art in PublicPlaces Trust (a 15-member board appointed by the Board of County Commissioners).
4. APP staff manages the work of the selected artists and closely coordinates this work with departments' project managers, architects/engineers/specialty consultants and contractors.

Keys to Successful APP Projects

1. Calculation of APP project funds must be done by using the APP Capital Budget Allocation Worksheet in consultation and concurrence with APP staff and based on actual capital project contract awards including but not limited to A&E, consultants' and contractors' awards.
2. It is essential to contact APP as soon as capital project planning begins so that the timetable for the artists' selection process can be coordinated with the overall project's early design work.
3. Departments' full involvement with APP in identifying opportunities for art works, participating in the selection process and developing the art projects helps ensure that departments' needs can be addressed.
4. Departments must include APP requirements and APP-authorized contractual language in all capital projects agreements and contracts.
5. Representatives from departments must be identified for clear, consistent and regular communication and coordination with APP staff for each stage of the work - planning, A&E selection, design, construction, and commissioning; these representatives must have direct access to decision-making authority for APP issues.
6. Departments must keep APP fully informed of capital project developments and especially of changes in order to avoid additional APP costs (e.g., redesign of art works, artists' delay claims, storage costs for art works, etc.); costs associated with failure to communicate with APP are the responsibility of the department.
7. The APP project manager must be included on the department's project management team, the artist(s) on the A&E team and the artist's fabricator/installer on the contractor's team; this is essential to ensure that departments' capital projects and the development of art works remain interlocked (e.g., planning, design and construction of the building is coordinated closely with the development and installation of the art work).

Repair and Restoration

1. Art in Public Places will dedicate 15% of all new public art allocations to a repair and restoration fund that will be utilized for specialized tasks required to restore and/or repair works of art in its collection (i.e., these funds are allocated from within the 1½% of APP funds generated by the capital project). These funds will be replenished on an ongoing basis with proceeds from new commissions.
2. Regular maintenance requirements of the commissioned artwork and the costs of regular maintenance are discussed and coordinated with the department in advance of the project completion to ensure the long-term care of the work and are the responsibility of the department.
3. Contact APP before undertaking maintenance and/or repair of any art work. Works of art may require specialized treatment for upkeep and qualified professionals for maintenance or repair.
4. When a work of art is designed as an integrated part of a building, it simply may require that the department conduct standard cleaning procedures. For example, an artist-designed terrazzo floor typically requires the same kind of maintenance as a regular terrazzo floor and the department is responsible for doing the day-to-day maintenance. Please call APP if there is any question about the care of a department's integrated art work.
5. Art works fabricated from special materials may require specialized maintenance treatment. For example, a bronze or stone work of art must be cleaned and treated with a specific maintenance product of a certain brand. Please call APP for guidance regarding the maintenance of art works made of special materials.
6. It is the departments' responsibility to train cleaning crews regarding the treatment of public art works to ensure proper care; APP is available to provide guidance for this training.
7. It is the departments' responsibility to inform tenants and lessees of their facilities about the care and requirements of public art works and to include provisions in tenant and lease agreements that make tenants and lessees responsible for the cost of repairing damages to public art works that are the result of negligence by the tenant or lessee.

Repair

1. Never attempt to repair an art work.
2. Contact APP immediately to report any damage to an art work and an APP staff member will be responsible for assessing the damage and determining the repair procedures. Please contact David Martinez-Delgado, Department of Cultural Affairs, for assistance (305-375-1067; david.martinez-delgado@miamidade.gov).

Inventory: Departments' Responsibilities

1. Departments are responsible for conducting an annual inventory of their public art works and for reporting the results to APP.
2. Departments must appoint an APP liaison responsible for the annual inventory and annually inform APP regarding contact information for this individual.
3. Departments cannot move or relocate works of art; APP must be contacted if a department wants to move or relocate a work of art.

5. Site specific and/or integrated works of art (i.e., works of art that are incorporated as an integral part of a building or structure) may not be moved without the review and approval of the Art in Public Places Trust. When possible, the Art in Public Places Trust will seek the advice and/or involvement of the artist in regard to the advisability and feasibility of moving her/his work of art.

Inventory: APP's Responsibilities

1. APP annually will provide departments with a list of the art works and locations of the works in the departments to initiate the annual inventory.
2. APP will provide departments with contact information for its Collections Manager who is responsible for the inventory results.
3. APP will respond to departments' requests to move or relocate art works.

Information for Municipalities to Implement APP Projects

1. Municipal governments are required to implement the APP provision set forth in the County Code.
2. Municipalities have the option of enacting their own art in public places programs and administering their own public art projects or working collaboratively with Miami-Dade Art in Public Places for APP to administer, manage and implement their public art projects.
3. If the municipality chooses to implement its own public art projects, the city is responsible for enacting its own art in public places ordinance which adheres to the minimum standards set forth in Section 2-11.15 of the Code of Miami-Dade County ("Code"). APP is available to provide guidance to municipalities in regard to enacting their own ordinances and establishing their programs. The following highlights requirements and guidance for municipal art in public places programs:
   - 1½% of the total capital cost of new government buildings must be allocated for the commission or purchase of artworks as defined in the Code and these procedures;
   - a competitive, quality-based artist selection process must take place and a selection committee with knowledge and expertise in the visual arts must select the art work;
   - APP funds must be used solely for commissioning works of public art and a professional artist must be contracted with to implement the public art project;
   - a percentage of the APP funds may be set aside for program administrative costs and repair and restoration expenses for the public art project. It is recommended that up to 15% of the total public art allocation be set aside for costs associated with administering the project and up to 15% be set aside for costs associated with the future repair or restoration of the public art project;
   - Miami-Dade County Department of Cultural Affairs and its APP staff are available to work with municipalities to assist them and confirm that they are meeting the APP program's requirements;
   - Municipalities must consult with Section 2-11.15 of the Code in regard to the minimum standards and notice required to enact and administer their own art in public places program;
   - for General Obligation Bond-funded (GOB) projects, APP funds must be spent within the project that generates the APP funds; and
   - if a municipality chooses to implement its own public art projects, but requires the technical assistance of Miami-Dade County APP, a negotiated administrative fee can be determined based upon the complexity and duration of the project.
4. If the municipality does not enact its own art in public places program and/or chooses to work collaboratively with Miami-Dade APP to implement the public art requirements, Miami-Dade APP will oversee and provide services, highlighted as follows:
   - work collaboratively with the municipality and its project team to identify opportunities for public art in the facility;
   - draft and distribute Call to Artists;
   - administer artist selection process;

- coordinate the submission of the recommended artist(s) to the Miami-Dade APP Trust;
- provide contract language for municipality's architect and contractor contracts to ensure APP coordination;
- provide technical assistance to the selected artist(s) and serve as liaison between the artist(s) and commissioning municipality and its project team;
- manage contract negotiations and process payments with artist(s);
- coordinate installation of art work(s) with the municipality's project managers, architects/engineers/specialty consultants and contractor;
- if a municipality chooses to work collaboratively with Miami-Dade APP, not less than 15% of the total public art funds will be allocated to Miami-Dade Department of Cultural Affairs for costs associated with its administration of the public art project - this administrative percentage may change in consultation with the Department of Cultural Affairs based on the complexity and duration of the administrative services required for the public art project;
- should the entirety of the APP management services not be required, a negotiated administrative fee can be determined based upon the level of APP services required and the complexity and duration of the project; and
- if required by the municipality, the selected artist(s)/artwork(s), along with an alternate recommendation, will be presented to and reviewed by the municipality's governing body prior to the final approval of the Miami-Dade APP Trust.

5. Municipalities will own the resulting public art works and will be responsible for the maintenance, repair (as necessary), and inventorying of public art works. Municipalities can consult with Miami-Dade APP for technical assistance with these responsibilities.
6. County facilities located, or intended to be located, within the boundaries of a municipality are governed solely and exclusively by the Miami-Dade County Art in Public Places program.

<u>Information for Private Sector Capital Development on Land Owned or Leased by Local Government or on Private Property with the Building Owned, Leased or Operated by Local Goverment</u>

1. Capital projects done through agreements with a private entity, including but not limited to leases or development agreements (i.e., the local government contracts with another party to develop a building that the local government will own now or in the future), are subject to the APP requirement if:
   - The project meets the eligibility criteria for the public art requirement (e.g., it is a building that shelters people in a wholly or partially enclosed manner); and
   - The project serves a public purpose whether operated by local government or on its behalf, by a private operator; and/or
   - The project relies on surrounding or adjacent local government buildings to function and is an integral component of the overall infrastructure of a public complex (e.g., a cargo facility at the airport);
   - The project advances a public policy objective (e.g., an office building or residential development that encourages public transit ridership; and/or
   - The project enhances a patron experience at a local government facility (e.g., a restaurant).

Capital projects that are done through agreements with a private entity, including but not limited to leases or development agreements, may not be eligible for the art in public places requirement if the project meets the following criteria:

- The agreement between the local government and the private entity has a provision that allows the private entity the option to purchase the facility; and/or
- The project has no public purpose and is not part of a complex of surrounding or adjacent local government buildings that function as a public complex and/or does not enhance a patron experience at a local government facility.

2. Capital projects that include complexes in which one or more of the buildings and/or a portion of a building meet the criteria for the APP requirement need to comply with the APP requirement for those eligible buildings and/or eligible portions of the building (e.g., a public parking garage built as a part of a private development complex that otherwise may not be subject to the APP requirement).
3. Determinations as to the applicability of the public art requirement are made by the Director of the Miami-Dade Department of Cultural Affairs, are based on the section 2-11.15 of the County Code, Administrative Order 3-11 and the Miami-Dade Procedures Manual (Procedure No. 358), and may be considered by the Review Committee as set forth in Administrative Order 3-11, prior to consideration of the Board of County Commissioners.
4. Private entities must work collaboratively with Miami-Dade APP to oversee the artist commissioning process to ensure the highest level of artistic quality and adherence to the program's requirements, as outlined in these procedures. APP will oversee and provide services, highlighted as follows:
   - work collaboratively with the private entity and its project team to identify opportunities for public art in the facility;
   - work with the private entity to calculate the APP project funds, using the APP Capital Budget Allocation Worksheet based on actual capital project contract awards including but not limited to A&E, consultants' and contractors' awards;
   - provide the private entity with a payment schedule for the conveyance of the APP project funds to the Department of Cultural Affairs;
   - draft and distribute the Call to Artists;
   - administer the artist selection process;
   - coordinate the submission of the recommended artist(s) for the review and approval of the Miami-Dade APP Trust;
   - provide contract language for private entity's architect and contractor agreements to ensure APP coordination; and
   - provide technical assistance to the selected artist(s) and serve as liaison between the artist(s) and commissioning private entity and its project team.

Once an artist is commissioned, the private entity may choose to oversee the implementation of approved public art projects or work collaboratively with Miami-Dade APP for it to oversee and provide services for the project's implementation. If APP administers the entire project, the private entity shall remit an amount not less than 15% of the total public art funds to the Miami-Dade Department of Cultural Affairs for costs associated with its administration of the public art project; this administrative percentage may change at the discretion of the Department of Cultural Affairs based on the complexity and duration of the administrative services required for the public art project. Should the entirety of the APP management services not be required, a negotiated administrative fee can be determined based upon the level of APP services required and the complexity and duration of the project. If APP oversees the implementation, APP's services are highlighted as follows:

- manage contract negotiations and process payments with artist(s);
- coordinate the installation of art work(s) with the private entity's project managers, architects/engineers/specialty consultants and contractor; and

- oversee the artist's work on design, fabrication, installation and commissioning of the art work(s).

6. The private entity must commit 15% of the total public art allocation for costs associated with the future repair and restoration of the public art project and remit the funds to the Miami-Dade County Department of Cultural Affairs for this purpose, no later than the art work's completion.
7. Miami-Dade County will own the resulting public art work(s) and will be responsible for costs associated with the implementation of repairs (as necessary and as long as repairs are not the result of negligence on the part of the private entity, in which case the cost of repairs is the responsibility of the private entity), and inventorying of the public art work(s).
8. Regular maintenance requirements of the commissioned art work(s) and their costs are the responsibility of the private entity. These needs will be discussed and coordinated with the private entity in advance of the project completion to ensure the long-term care of the work.
9. Works of public art may not be moved without the review and approval of Art in Public Places. Site specific and/or integrated works of art (i.e., works of art that are incorporated as an integral part of a building or structure) may not be moved without the review and approval of the Art in Public Places Trust. When possible, the Art in Public Places Trust will seek the advice and/or involvement of the artist in regard to the advisability and feasibility of moving her/his work of art.

Accession Procedures

1. Accessioning is the formal acceptance of an artwork into the Miami-Dade County Art in Public Places Collection (Collection). Accessioning artwork into the Collection indicates the intent to apply professional standards of care, display, and maintenance over the life of the artwork, or until the artwork is no longer displayable and is deaccessioned from the Collection.
2. Artworks will be entered into the Collection inventory as soon as a commissioning or purchasing contract is executed and these inventory entries will be annotated as "works in progress" with periodic updates included as necessary to describe the status of completion accurately. Artworks will be annotated as fully accessioned in the Collection inventory only upon completion of all facets of the commissioning or purchasing contract or of the required review process for gifts and other artworks. Conditions, restrictions, or limitations cannot be attached to the accessioning that would limit the use of the artwork.
3. The signed contract transferring title for the artwork and clearly defining the rights and responsibilities of all parties will accompany every acquisition.
4. Acquisitions result from:
   - Projects of the Miami-Dade County Art in Public Places Program pursuant to Section 2.11.15 of the Miami-Dade County Code;
   - Gifts with a fair market value greater than $1,000, which will be reviewed and accessioned in accordance with the Miami-Dade County Administrative Order No. 1-3;
   - Gifts with a fair market value less than $1,000 that are reviewed and accepted by the Art in Public Places Trust; or
   - Other artworks, including but not limited to work that are un-accessioned items found in the existing Public Art Collection or in the possession of Miami-Dade County government that are determined to have sufficient artistic merit and recommended for inclusion in the Miami-Dade County Public Art Collection. Factors considered in making this recommendation include: the quality of the work; the artist's intent for the work to be considered a stand-alone art work; the degree to which the design, materials and execution of the work constitutes a finished work of art; the suitability of the work to be placed on public display in furtherance of the mission of the APP program; and the

commitment to exercising accountability and care for works of art created through the APP commissioning process and/or owned by the County. These artworks must be reviewed and accepted by the Art in Public Places Trust.

5. All acquisitions will be entered into the Collection inventory and added to the Internal Services Department (ISD) Capital Inventory Record.
6. Once the Art in Public Places program takes possession of an artwork, it should have the sole right to determine how and when that artwork is shown, safeguarded, or de-accessioned, subject to its professional practices and policies and in accordance with County policy.

Deaccession Procedures

1. The deaccessioning of artwork is the removal of an object from the Miami-Dade County Art in Public Places Collection. This includes the removal of the artwork from its public site, removal from the maintenance cycle, and moving of records, both hard copy and electronic, into a Deaccessioned Collection file and as required by Miami-Dade County Administrative Order No. 8-2, transferred into the archived portion of the ISD Capital Inventory Record. Deaccessioning will be considered only after a careful evaluation of the artwork within the context of the Collection as a whole and will be consistent with Miami-Dade County Administrative Order No. 8-2 – Care, Control and Disposal of County Property. Only the Miami-Dade County Art in Public Places Trust has the authority to deaccession artworks in the Art in Public Places Collection.
2. Once an artwork has been accessioned, it may not be deaccessioned on the basis of content.
3. An artwork may be considered for deaccession under the following conditions only:
   - The artwork cannot be located after reasonable and diligent searches. As required by Miami-Dade County Administrative Order No. 8-2, a police report must be filed for unlocated artwork(s) and an investigation report and recommendation must be submitted to ISD;
   - The artwork has been damaged beyond repair, damaged to the extent that it no longer represents the artist's intent, or damaged to the extent that the expenses of restoration and repair are found to equal or exceed current market value of the artwork. As required by Miami-Dade County Administrative Order No. 8-2, a police report must be filed for damaged or destroyed artwork(s) and an investigation report and recommendation must be submitted to ISD;
   - The artwork is not, or is only rarely, on display due to lack of a suitable site;
   - For site-integrated or site-specific artworks, the site for which the artwork was specifically created is structurally or otherwise altered and can no longer accommodate the artwork, is made publicly inaccessible as a result of new construction, demolition, or security enhancement, or has its surrounding environment altered in a way that significantly and adversely impacts the artwork;
   - For site-integrated or site-specific artworks, the site for which the artwork was specifically created is sold or acquired by an entity other than Miami-Dade County;
   - The artwork was purchased as a semi-permanent acquisition and the County's predetermined period of obligation is terminated;
   - There is a documented history of incident(s) that shows the artwork is a threat to public safety;
   - The artist legally exercises the right of disassociation granted by the Visual Artists Rights Act of 1990, preventing the use of his or her name as the creator of the artwork;

- The artwork requires excessive maintenance and/or the condition or security of the artwork cannot be reasonably guaranteed;
- The artwork has been determined by the Art in Public Places Trust deaccession process to be of inferior quality relative to the quality of other works in the Collection or the County wishes to replace the artwork with a work of more significance by the same artist; and/or
- At the time of accessioning, complete information on the provenance of the artwork was not available, or more information has since become available, indicating that the artwork should not be part of the Miami-Dade County Art in Public Places Collection.

4. Department of Cultural Affairs staff will prepare a written recommendation for deaccession of artworks from the Collection based on one or more of the conditions in Section 3 above for review and evaluation by the Miami-Dade County Art in Public Places Professional Advisory Committee (Professional Advisory Committee), and subsequent review, evaluation and action by the Art in Public Places Trust. The staff reserves the option of hiring a consultant for advice on specific elements of the artwork being considered through the deaccession process.
5. Artists whose work is being considered for deaccession shall be notified by mail using the current address provided by the artist. Artists also shall be notified of the recommendation of the Professional Advisory Committee and of the Art in Public Places Trust meeting scheduled to consider this recommendation.
6. All legal documents relating to the artwork, including but not limited to contracts with the artist and agreements related to a donation of the artwork as applicable, will be consulted as part of the deaccession process. When applicable and feasible, the donor of an artwork under consideration for deaccessioning will be notified.
7. At a Professional Advisory Committee meeting, Miami-Dade County Department of Cultural Affairs staff will present reports on artworks to consider for deaccession that include:
   - Reasons for the suggested deaccession accompanied by such other documentation and information as may be relevant;
   - Acquisition method, cost, and estimated current market value;
   - Documentation of correspondence with the artist;
   - Photo documentation of site conditions (if applicable);
   - In the case of damage, a report that includes the official police and investigation reports and recommendation, and documents the original cost of the artwork, estimated market value, and the estimated cost of repair; and/or
   - In the case of theft or loss, the official police and investigation report and recommendation, including when possible, a report prepared by the agency responsible for the site of the loss.
8. The Professional Advisory Committee will then make a recommendation to the Miami-Dade County Art in Public Places Trust, including actions regarding the disposition of the artwork pursuant to Section 9 below. If the Professional Advisory Committee recommends that an artwork be retained, an explanation stating the Committee's reasons and recommendations shall be set forth in the minutes of the Committee's meeting and shall be submitted to the Art in Public Places Trust. The Trust may decide to seek additional information.
9. The decision to deaccession artwork will result from a resolution requiring a majority vote by the Miami-Dade County Art in Public Places Trust. Upon this decision to deaccession artwork, the Trust will consider what action should be taken, with priority given to public benefit from the Collection. Every step will be taken to arrive at a mutual balance between observing the rights of the artist and public benefit. Actions will be consistent with Miami-Dade County Administrative Order No. 8-2 and may include:

- Trade through artist, gallery, museum, or other institutions for one or more other artwork(s) of comparable value by the same artist or to reduce the purchase price of a replacement artwork;
- Long-term or permanent loan offered first to other governmental units and then, to eligible community based organizations, such as museums or educational/non-profit institutions, subject to being afforded equal participation opportunity to review and select the artwork(s);
- Donation first to other governmental units and then, to eligible community based organizations, such as museums or educational/non-profit institutions, subject to being afforded equal participation opportunity to review and select the artwork(s);
- Sale to interested potential bidders with "first offer" right to governmental units located within Miami-Dade County, in compliance with Administrative Order No. 8-2 governing surplus County property. Any pre-existing contractual agreements between the artist and the County regarding resale shall be honored, including but not limited to the original artist's having first right of refusal to purchase his or her artwork at its current market value;
- In special situations, the Miami-Dade County Art in Public Places can negotiate the transfer of an artwork to another entity. For site-integrated or site-specific artworks, when the site for which the artwork was specifically created is sold or acquired by an entity other than Miami-Dade County, the ownership of the artwork can transfer to that entity. Artwork in the Public Art Collection should be in exhibitable condition and continue to reflect the artist's original intent. Should the artwork selected for transfer need to be repaired cleaned, or restored, the negotiated transfer will include conservation provisions and, unless negotiated otherwise, the receiving entity pays for the restoration. The receiving entity should have an art plan that defines their commitment to the artist and the continued care of the artwork; and/or
- For artwork(s) not able to be disposed of by the methods outlined above, destruction or recycling of materials comprising the artwork, in accordance with Chapter 274 of the Florida Statutes, so that no piece is recognizable as part of that artwork.

10. In the event the artist disagrees with the decision of the Miami-Dade County Art in Public Places Trust, the artist may request reconsideration of the deaccession. This request must be filed in writing with the Miami-Dade County Department of Cultural Affairs within 30 days of the Trust's deaccession decision, and it must be based on information that was not considered during the Professional Advisory Committee's and the Art in Public Places Trust's meetings on the deaccession.
11. The Miami-Dade County Department of Cultural Affairs will work cooperatively with the Internal Services Department, Fixed Assets & Division Operations section of the County regarding the implementation of this policy for deaccessioned artworks and will notify ISD about all actions under formal consideration and taken by the Miami-Dade County Art in Public Places Trust affecting artwork(s) in the County's inventory.
12. A report will be sent to the County Mayor, Board of County Commissioners and ISD regarding the Miami-Dade County Art in Public Places Trust's action(s) regarding deaccessioned artworks.
13. The artwork, or its remains, shall be disposed of by the Miami-Dade County Art in Public Places staff, or its agents, upon deaccession action. It is the obligation of the Miami-Dade County Art in Public Places Program to ensure that all disposals with regard to the Collection be formally and publicly conducted and adequately documented in accordance with applicable provisions of the Florida Statutes and the Code of Miami-Dade County utilizing a variety of disposal methodologies.

14. A permanent record of the artwork's inclusion in the Miami-Dade County Art in Public Places Collection, and reasons for its removal, shall be maintained in a Deaccessioned Collection file, and will be kept as a separate section of the Miami-Dade County Art in Public Places Collection records. Miami-Dade County Department of Cultural Affairs staff will notify ISD Fixed Assets & Division Operations section of all deaccessioned artwork(s) so that the artwork(s) can be deleted from the Department's Capital Inventory Record.
15. No artworks shall be sold or traded to a member of a governing body or staff of Miami-Dade County government including the members of the Miami-Dade County Art in Public Places Trust and its Professional Advisory Committee, consistent with Miami-Dade County conflict of interest policies.
16. All proceeds from the sale of any artwork from the Miami-Dade County Art in Public Places Collection shall be deposited in the Art in Public Places Trust Fund. Funds from artwork sales may be used in any manner consistent with the enabling legislation of the Art in Public Places program and County policies regarding public artwork.

Frequently Asked Questions

2. Applicable Projects and Costs.
   - What if we are uncertain about whether the APP requirement applies to a project or components of a project?
   - Call APP staff if you have any questions about the APP requirements. In addition, the FAQs below may provide answers to your questions.
3. Contingency Allowances.
   - Are contingency allowances covered by the APP requirement, even if eventually they are not used or fully used for the project.
   - Yes. The APP allocation is calculated and transferred to APP upon the award of the contract.
4. Calculation of APP Amount.
   - How does a capital project accurately calculate the 1 ½% APP requirement amount?
   - A completed APP Capital Project Budget Allocation Worksheet must be submitted by departments to the Department of Cultural Affairs as soon as a capital project budget is developed and prior to design contract and construction award. APP staff will confirm the accuracy of the calculation of the APP requirement for the project and the final Worksheet must be signed by the department and the Department of Cultural Affairs (see sample "APP Capital Budget Allocation Worksheet" at http://www.miamidadepublicart.org/#tools; this form also is available from APP staff).
5. Project Changes
   - Are the costs associated with significant changes in a project's scope and budget subject to the APP requirement?
   - Yes. Typically, regular additive change orders are subject to the APP requirement as they are paid for from the project contingency allowance which is covered by the APP requirement. More significant scope additions which are accompanied by increases to the project's capital budget are subject to the APP requirement.
6. Inspector General.
   - In calculating the APP allocation, should the Inspector General cost be included in the base for the APP calculation?
   - Yes, the APP calculation is taken against the total contract amount.

7. Capital Outlay Reserve Funds (CORF).
   - Are construction projects funded by the Capital Outlay Reserve Fund covered by the APP requirement?
   - Yes. The APP requirement applies to all County construction projects for new buildings.
8. Funding Sources That Disallow Public Art.
   - Does the APP requirement apply to construction projects that are funded by grants or other sources which disallow public art?
   - If a grant or another funding source specifically prohibits the use of funds for compliance with the APP requirement, the department must use other funds to satisfy the APP requirement.
9. General Obligation Bond (GOB) Projects.
   - Does the APP requirement apply to GOB projects?
   - Yes, the APP requirement applies to all County construction projects for new buildings. In addition, the APP requirement applies to GOB projects for new buildings done by municipal governments.
10. Capital Work Done by the County.
    - Does the APP requirement apply to the cost of architectural and engineering services performed by County personnel and to the cost of in-house construction labor, materials, and/or machinery?
    - Yes. The APP requirement applies to the construction cost of new government buildings regardless of the source of funds for the project.
11. Private Sector-Funded Projects.
    - Does the APP requirement apply to buildings financed and constructed on County property by private sector investors?
    - Yes. The APP requirement applies to the construction cost of new government buildings regardless of the source of funds for the project. Please see the section "Information for Private Sector Capital Development on Land Owned or Leased by Local Government or on Private Property with the Building Owned, Leased or Operated by Local Government."
    - What happens if the APP funds are not included in the development agreement with the private sector and/or are not collected by the department from the private sector?
    - The department will need to convey the funds for the APP requirement from another revenue source.
12. Conveyance of APP Funds.
    - When are funds conveyed to APP? Whom do we contact for details about conveying funds?
    - Funds are conveyed to APP when the department receives spending authority for the capital project. For example, when an A&E contract is authorized, 1½% of the contract must be conveyed to APP. Please contact Patricia Romeu, Department of Cultural Affairs, for instructions to convey funds (305-375-5920; romeu@miamidade.gov).
13. Cancellation of Capital Projects
    - Do APP costs incurred to date need to be covered by the department if the capital project is cancelled?
    - Yes.
14. Demolition.
    - Does the APP requirement apply to demolition costs?
    - Yes, if demolition is part of a construction project that is covered by the APP requirements.
15. Building Additions.
    - Are additions to an existing structure covered by the APP requirement?

- Yes, additions are considered to be "new government buildings."

16. Building Adaptations.
    - Are existing buildings that are acquired and converted for a new governmental use covered by the APP requirement?
    - Yes, the acquisition cost of the building (excluding the estimated cost of the land) and the capital costs of the conversion of the building for a new governmental use are covered by the APP requirement.
17. Structures
    - Does APP cover structures that are built by or for the County that serve the public (e.g., parks, playgrounds, bridges, pre-fabricated shells, utilities buildings, etc.)?
    - Yes, if the structure is intended to be used directly by the public.
18. Equipment.
    - Are equipment costs subject to the APP requirement?
    - Yes. The APP requirement covers all systems and features that make a facility functional, even if the equipment is acquired through a separate contract.
19. Parking Garages.
    - Does the APP requirement apply to a parking garage?
    - Yes.
20. Roadways, Sidewalks Parking and Site Improvements.
    - Does the APP requirement apply to roadways, sidewalks, parking and site improvements?
    - Yes, if the roadways, sidewalks, parking (e.g., parking lots) and site improvements (e.g., site lighting, signage, etc.) are part of a construction project that is covered by the APP requirement.
21. Selection of Art Must Be by APP.
    - Can a department satisfy the APP requirement by selecting and purchasing an artwork itself?
    - No. Works of art must be selected in compliance with the process required by the APP program and overseen by the APP Trust and staff. Please see the section, "The APP Artists Selection Process" on page 2.
22. Adherence to the Art in Public Places Requirement.
    - Can departments waive the APP requirement?
    - No. Section 2-11.15 of the Miami-Dade County Code sets forth the requirements for the APP program and provides that only the Board of County Commissioners has the authority to waive the APP requirement. Administrative Order 3-11 prescribes a process involving a Review Committee which can be convened to conduct a hearing of a request for a waiver and states that the Review Committee will evaluate such requests as follows: "If the facility does not conform to the definition of 'new governmental building' a waiver will be recommended to the Board of County Commissioners. Only the BCC is authorized to grant waivers. Waivers must be secured prior to the award of the construction contract."
23. Required Art in Public Places Language
    - Can departments change the required APP language that is provided in this Procedure?
    - No, departments must use the following language in all solicitations for APP eligible capital projects:

This project is subject to the Miami-Dade County Art in Public Places requirements, pursuant to Section 2-11.15 of the Code of Miami-Dade County, managed by the Miami- Dade County Department of Cultural Affairs as detailed in Procedure 358 in the Miami-

Dade County Procedures Manual (see http://www.miamidadepublicart.org/#tools or http://intra.miamidade.gov/managementandbudget/procedures.asp).

24. Unsuitable Locations.
    - Does the APP requirement apply to a new building that may not provide a suitable location for a public artwork and may the APP funds be transferred for expenditure to another site?
    - Yes. The APP requirement covers all new government buildings. There is no requirement in Section 2-11.15 of the Miami-Dade County Code that artworks be located at the site of the project that funded the artwork. APP will work with departments to identify suitable alternative locations.
25. Donations of Artwork.
    - What is the process for departments to accept donations of art work(s)?
    - The process for accepting gifts of art works is covered by Administrative Order No. 1-3. It requires that the APP Trust and its Professional Advisory Committee review and provide the department with a recommendation for all donations of artwork or commemorative and/or memorial structures of artistic merit, valued in excess of $1,000. The donation of art work(s) does not satisfy the APP requirement for an eligible capital project.

26. CONTACT(S):

Department/Division

Department of Cultural Affairs

27. REFERENCE DOCUMENT(S):

Section 2-11.15 of the Miami-Dade County Code
Administrative Order 3-11, Art in Public Places Program Implementation and Fund Transfer Procedure
Administrative Order No. 8-2, Care, Control and Disposal of County
Property Administrative Orders No. 1-3, Gifts to the County
Copies of all County Attorney Opinions related to these procedures are maintained by the Department of Cultural Affairs

EXHIBIT D

DISADVANTAGED BUSINESS ENTERPRISES PROGRAMS FORMS

EXHIBIT E

FUNDING AGREEMENT FORM

Schedule 1.2

COMMENCEMENT DATE CONFIRMATION

Reference is made to the Amended and Restated Ground Lease dated _____, 201__ (the "Lease"), by and between Miami-Dade County, acting by and through its Public Housing and Community Development Department ("PHCD") and Department of Transportation and Public Works (DTPW) (together hereinafter "Landlord"), and Atlantic Pacific Communities, LLC ("Tenant"). This Commencement Date Confirmation ("Confirmation") is attached to the Lease as Schedule 1.2 thereto, and, when executed and delivered by Landlord and Tenant, shall be incorporated within and made a part of the Lease. Capitalized terms used in this Confirmation without otherwise being defined herein will have the meanings given to them in the Lease. The Commencement Date of the Lease is _____. To confirm the Commencement Date, the parties have caused this instrument to be executed and delivered to Tenant.

ATTEST:
HARVEY RUVIN, CLERK

By: _____

LANDLORD:
MIAMI-DADE COUNTY, a political subdivision of the State of Florida

BY ITS BOARD OF COUNTY COMMISSIONERS

By:_____
Name:_____
Title:_____

Schedule 4.4(c)

FEDERAL REQUIREMENTS AND PROVISIONS

[To be attached]

Schedule 4.26

APPROVED CONSTRUCTION AND DEVELOPMENT CONTRACTS

Sub Consultants	Name & Address	Key Staff, Function
Architect Alberto Cordoves, President & Partner Ena Cordoves, Vice President & Partner	Corwil Architects 4210 Laguna Street Coral Gables, FL 33146 www.corwilarchitects.com Telephone: 305-448-7383	Felix Jorge Cordoves, Vice President
Landscape Architect Andrew M. Witkin, President & Partner Kelly Ann Hults, Executive VP & Partner	Witkin Hults Design Group 307 South 21st Avenue Hollywood, FL 33020 www.witkindesign.com Telephone: 95-923-9689	Leonardo De Carvalho, Project Manager
Civil Engineer Enrique "Rick" Crooks, PE, President	EAC Consulting **Certified MBE** 815 NW 57th Avenue, Suite 402 Miami, FL 33126 www.eacconsult.com Telephone: 305-265-5400	Michael Adeife, P.E. Rodney Devera, P.E. Evelyn Rodriguez, P.E.
Legal Counsel Primary Contact: Brian McDonough, Shareholder	Stearns Weaver Miller Weissler Alhadeff & Sitterson 150 West Flagler Street, Suite 2200 Miami, FL 33130 www.stearnsweaver.com Telephone: 305-789-3350	Patti Green, Shareholder Brooke R. Perlyn, Shareholder
Land Use Counsel: Primary Contact: Ryan D. Bailine, Shareholder **Ground Lease Counsel**: Primary Contact: Nancy B. Lash, Shareholder	Greenberg Traurig 333 SE 2nd Avenue, Suite 4400 Miami, FL 33131 www.gtlaw.com Telephone: 305-579-0500	Ethan Wasserman, Shareholder
Accountant Chris Thomas, CPA, Managing Partner	Tidwell Group 3102 Bee Caves Road, Suite 102 Austin, TX 78746 www.thefctgroup.com Telephone: 512-693-2181	N/A

Sub Consultant Team Members	Name & Address	Scope
Job Training, Placement Anne Manning, Executive Director	Transition 1550 NW 3rd Avenue Miami, FL 33136 www.transitioninc.org Telephone: 305-571-2001	Non-profit that provides job training and placement services to ex- offenders, at-risk youth, and others facing significant barriers to employment. Operates the CareerSource South Florida Ex- Offender Service Center.
Job Training, Placement Leroy Jones, Executive Director	Neighbors and Neighbors Association 180 NW 62nd Street Miami, FL 33150 Telephone: 305-756-0605	West Perrine community non-profit partner that will provide basic needs and an array of services for children, families, and seniors as well as engage the youth of our community.
Resident Services Maryann Williams, President	Face 2 Face Community Outreach 18495 S. Dixie Highway, #298 Miami, FL 33157 Telephone: 305-695-7694	Non-profit agency will provide work readiness and basic construction training classes to local residents and returning citizens from the West Perrine and South Miami-Dade communities.

Schedule 7.1

INSURANCE REQUIREMENTS

Tenant shall furnish to Miami-Dade County c/o Public Housing and Community Development Department, Director, 701 N.W. 1st Court, Suite 1400, Miami, FL 33136, Certificate(s) of Insurance that shows that insurance coverage has been obtained that meets the requirements as outlined below:

DESIGN PHASE

A. Worker's Compensation Insurance for all employees of Tenant as required by Chapter 440, *Florida Statutes*.

B. Commercial General Liability Insurance, on a comprehensive basis, in an amount not less than $1,000,000 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 $1,000,000 combined single limit per occurrence for bodily injury and property damage.

D. Professional Liability Insurance in the name of Tenant or in the name of the licensed design professional for this project in an amount not less than $1,000,000 per claim.

CONSTRUCTION PHASE

Tenant shall provide Certificate(s) of Insurance indicating the following insurance coverage prior to Commencement of Construction:

A. Worker's Compensation Insurance for all employees of Tenant as required by Chapter 440, *Florida Statutes*.

B. Commercial General Liability Insurance on a comprehensive basis, in an amount not less than $1,000,000 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 $1,000,000 combined single limit per occurrence for bodily injury and property damage.

D. Completed Value Builder's Risk Insurance on an "All Risk" basis in an amount not less than one hundred percent (100%) of the insurable value of the building(s) or structure(s) under construction. The policy shall be in the name of Tenant and Landlord A.T.I.M.A.

OPERATION PHASE

Tenant shall provide certificate(s) of insurance as follows:

A. Worker's Compensation Insurance for all employees of Tenant as required by Chapter 440, *Florida Statutes*.

B. Commercial General Liability Insurance on a comprehensive basis in an amount not less than $1,000,000 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 performance of the Lease, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage.

D. Property Insurance on an "All Risk" basis in an amount not less than one hundred percent (100%) of the replacement cost of the building(s). Miami Dade County must be shown as a Loss Payee with respect to this coverage A.T.I.M.A.

Certificate Holder shall read:

Miami-Dade County
111 N.W. First Street, Suite 2340
Miami, Florida 33128

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 "A-" as to management, and no less than "Class VII" as to financial strength, according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the Landlord's 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.

SCHEDULE 17.1(m)

FORM OF BIFURCATION OF
GROUND LEASE AGREEMENT

This instrument prepared by,
and after recording return to:

Nancy B. Lash, Esq.
Greenberg Traurig, P.A.
333 S.E. 2nd Avenue, Suite 4400
Miami, Florida 33131

BIFURCATION OF GROUND LEASE AGREEMENT

THIS BIFURCATION OF GROUND LEASE AGREEMENT (this "Agreement") is made as of the _____ day of _____, 20__ (the "Effective Date") by and among (i) MIAMI-DADE COUNTY, a political subdivision of the State of Florida, through Department of Transportation and Public Works and Public Housing and Community Development Department, or their successor departments ("Landlord"), (ii) _____, a _____ ("Master Tenant"), and (iii) [_____ _____, a _____] ("New Tenant").

W I T N E S S E T H:

WHEREAS, Landlord, as landlord, and Master Tenant, as tenant, entered into that certain Amended and Restated Ground Lease dated as of [_____], 20[__] (as heretofore and hereafter assigned and amended from time to time, the "Master Ground Lease"), a memorandum of which was recorded on [_____], 20[__] in Official Records Book [_____], at Page [_____], of the Public Records of Miami-Dade County, Florida;

WHEREAS, pursuant to Section 17.1(m) of the Master Ground Lease, Landlord, Master Tenant and New Tenant have agreed to bifurcate the Master Ground Lease into two (2) leases by (i) partially terminating the Master Ground Lease solely as to the real property more particularly described on Exhibit A attached hereto (the "Bifurcated Parcel"), and (ii) New Tenant and Landlord entering into a Bifurcated Lease solely as to the Bifurcated Parcel in the form required by the Master Ground Lease (the "Bifurcated Lease").

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Defined Terms; Incorporation of Recitals. Capitalized terms used but not otherwise defined in this Agreement have the respective meanings given to them in the Master Ground Lease. The preamble and recitals set forth above are hereby incorporated into this Agreement by this reference in their entirety.

2. Bifurcated Lease. Landlord and New Tenant hereby agree to simultaneously herewith enter into, execute and deliver the Bifurcated Lease, a memorandum of which shall be recorded in the Public Records of Miami-Dade County, Florida, pursuant to which Landlord leases to New Tenant and New Tenant leases from Landlord the Bifurcated Parcel.

3. Partial Termination and Release; No Cross Default. The Master Ground Lease is hereby partially terminated solely as to the Bifurcated Parcel and the Bifurcated Parcel shall no longer be subject to, and is hereby released from, the terms and provisions of the Master Ground Lease. Notwithstanding anything contained in the Master Ground Lease, effective as of the Effective Date:

a. Master Tenant shall not be obligated to perform any obligation under the Master Ground Lease to the extent such obligation pertains to, or is to be performed on, the Bifurcated Parcel, and shall be automatically released from any and all such obligations (including, without limitation, any obligation to (1) pay any rent allocated to the Bifurcated Parcel, including without limitation Minimum Rent and Retail Subtenant Percentage Rent, (2) develop the Phase(s) of the Project governed by the Bifurcated Lease, and (3) maintain insurance for the Bifurcated Parcel);

b. No action or omission of, or default by, New Tenant (or anyone acting by, through or under New Tenant) under the Bifurcated Lease, including, without limitation, any failure to develop the Phase(s) of the Project governed by the Bifurcated Lease, shall in any event constitute or give rise to a default, or any liability of Master Tenant under the Master Ground Lease or deprive Master Tenant of any of its rights under the Master Ground Lease, including without limitation the right to develop the remainder of the Project on the balance of the Demised Premises in accordance with the Master Ground Lease;

c. Landlord, Master Tenant and New Tenant acknowledge and agree that (i) Master Tenant retains all right, title and interest in and to the Master Ground Lease (and the leasehold estate arising thereunder), except only as it relates to the Bifurcated Parcel, and (ii) New Tenant shall solely be responsible for the Bifurcated Parcel and bound by all of the terms, covenants, agreement, provisions and conditions of the Bifurcated Lease with respect to the Bifurcated Parcel; and

d. Neither Master Tenant nor any assignee or successor thereof shall in any event be prohibited from developing any portion of the Project (or be in default under the Master Ground Lease, or have any liability), as a result of any failure of New Tenant (or anyone acting by, through or under New Tenant) under the Bifurcated Lease to develop the Phase(s) of the Project governed by the Bifurcated Lease (notwithstanding that such failure may cause the Project to be developed other than in accordance with the Master Ground Lease).

Landlord acknowledges and agrees that a default under the Master Ground Lease shall not constitute a default under the Bifurcated Lease, and a default under the Bifurcated Lease shall not constitute a default under the Master Ground Lease; it being the intention of the parties that the Master Ground Lease and the Bifurcated Lease shall not be cross-defaulted. However, nothing set forth herein shall release Master Tenant from its obligations under the Master Ground Lease except as expressly provided herein

4. Mutual Indemnification. New Tenant hereby indemnifies and agrees to defend (with counsel reasonably satisfactory to Master Tenant) and hold harmless Master Tenant from and against any and all liabilities, obligations, claims, costs and expenses (including but not limited to reasonable attorneys' fees and costs at trial court and all appellate levels and in any post-judgment proceedings) suffered or incurred by Master Tenant by reason of New Tenant's failure to perform any obligations under the Bifurcated Lease with respect to the Bifurcated Parcel. Master Tenant hereby indemnifies and agrees to defend (with counsel reasonably satisfactory to New Tenant) and hold harmless New Tenant from and against any and all liabilities, obligations, claims, costs and expenses (including but not limited to reasonable attorneys' fees and costs at trial court and all appellate levels and in any post-judgment proceedings) suffered or incurred by New Tenant by reason of Master Tenant's failure to perform any of the obligations of Master Tenant under the Master Ground Lease with respect to the Bifurcated Parcel, which obligations were to be met by Master Tenant prior to the Effective Date.

5. Minimum Rent. The Minimum Rent and Retail Subtenant Percentage Rent due and payable by New Tenant under the Bifurcated Lease and Master Tenant under the Master Ground Lease shall be based on the residential units and commercial or retail rental space constructed as part of the Phase or Phases of the Project developed pursuant to each such lease (as applicable), as more particularly provided therein.

6. Continuing Effect. The Master Ground Lease shall hereinafter continue to affect the Land less and except the Bifurcated Parcel (and any other parcels previously released from the terms of the Master Ground Lease), and the Bifurcated Lease shall hereinafter affect the Bifurcated Parcel. The terms "Land", "Demised Premises", "Improvements", and "Buildings" under the Master Ground Lease are hereby deemed modified so as to exclude the portion of the Property, Demised Premises, Improvements, and Buildings located on or comprising the Bifurcated Parcel. The term "Lease", as used in the Master Ground Lease, is hereby deemed modified to refer to the Master Ground Lease, as modified hereby.

7. Authority to Execute. Landlord hereby represents and warrants to Master Tenant and New Tenant that the individual(s) signing this Agreement on behalf of Landlord have full power and authority to execute and deliver this Agreement and bind Landlord. Master Tenant hereby represents and warrants to Landlord and New Tenant that the individual(s) signing this Agreement on behalf of Master Tenant have full power and authority to execute and deliver this Agreement and bind Master Tenant. New Tenant hereby represents and warrants to Landlord and Master Tenant that the individual(s) signing this Agreement on behalf of New Tenant have full power and authority to execute and deliver this Agreement and bind New Tenant.

8. Estoppel. The Master Ground Lease is presently in full force and effect, and has not been modified, amended, supplemented, altered, assigned or transferred (in whole or in part)

since the date thereof, except for any amendments identified herein and any partial assignments and/or bifurcation(s) of the Master Ground Lease prior to the Effective Date, and except as contemplated in this Agreement.

9. Miscellaneous. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. This Agreement shall be construed according to the laws of the State of Florida. This Agreement cannot be changed except by an agreement in writing, dated subsequent to the Effective Date, signed by the party against whom enforcement of the change is sought. In case any one or more of the covenants, agreements, terms or provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein shall be in no way affected or prejudiced thereby. This Agreement may be executed in any number of counterparts, each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same Agreement. The headings of the articles, sections, paragraphs and subdivisions of this Agreement are for convenience of reference only, are not to be considered a part hereof, and shall not limit or expand or otherwise affect any of the terms hereof.

10. Condition. This Agreement is conditioned upon and, shall not be effective unless, Landlord and New Tenant enter into the Bifurcated Lease. In the event Landlord and New Tenant fail to execute and deliver the Bifurcated Lease, this Agreement shall be deemed void *ab initio* and no party hereto shall have any further rights or obligations hereunder. Upon the satisfaction of the condition set forth in the preceding sentence, this Agreement shall be recorded in the Public Records of Miami-Dade County, Florida, and the Master Ground Lease shall be deemed permanently bifurcated and split into two (2) separate and independent leases as contemplated herein and in the Master Ground Lease.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, Landlord, Master Tenant, and New Tenant, intending to be legally bound hereby, have executed and delivered this Agreement as of the Effective Date.

ATTEST:

By: _____
Harvey Ruvin, Clerk

_____
Approved as to form and legal sufficiency
Name: _____
Title: _____

LANDLORD:

MIAMI-DADE COUNTY, a political subdivision of the State of Florida

By: _____
Name: _____
Title: _____

Signed, sealed and delivered
in the presence of:

_____
Print Name:

_____
Print Name:

MASTER TENANT:

_____, a
_____

By: _____, a
_____, its
_____

By: _____
Name: _____
Title: _____

NEW TENANT:

[_____, a ____
_____]

_____
Print Name:

_____
Print Name:

By:_____
Its:_____

STATE OF FLORIDA)
) ss:
MIAMI-DADE COUNTY)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2020 by Maurice L. Kemp, Deputy Mayor of Miami-Dade County, a political subdivision of the State of Florida.

Personally Known _____ OR Produced Identification _____

_____
Print or Stamp Name: _____
Notary Public, State of Florida, at Large

My Commission Expires:

STATE OF FLORIDA)
) ss:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2020 by _____ as _____ of _____, a Florida _____.

Personally Known _____ OR Produced Identification _____

_____
Print or Stamp Name: _____
Notary Public, State of Florida, at Large

My Commission Expires:

EXHIBIT A

Legal Description of Bifurcated Parcel

Schedule 22.2

LANDLORD'S ESTOPPEL CERTIFICATE

(form – subject to amendments based on Tenant, Tenant's successors and/or assigns, and any prospective Lender, Sublessee or Developer requirements)

[Address to Lender]

_____, 20____

Re: Amended and Restated Ground Lease dated _____, 201__ (the "Lease"), by and between Miami-Dade County, acting by and through its Public Housing and Community Development Department ("PHCD") and the Department of Transportation and Public Works (DTPW) (together hereinafter "Landlord"), and Quail Roost Holdings, LLC, a Florida limited liability company, its successors or assigns ("Tenant").

Ladies and Gentlemen:

Landlord has been advised that _____("Lender") intends to make a loan to Tenant (the "Loan") in connection with the Property described in the Lease, and that, in making the Loan, Lender will act in material reliance upon this Estoppel Certificate from Landlord. Landlord hereby certifies, represents, warrants, acknowledges and agrees as follows:

1. The Lease (a true, correct and complete copy of which, including all riders, exhibits, modifications and amendments to the Lease (if any), is attached as ***Exhibit A*** hereto) constitutes the entire agreement between Landlord and the Tenant. There have been no amendments, modifications, extensions, renewals or replacements of the Lease (other than as attached hereto).

2. Other than those contained in writing in the Lease, Tenant has made no representations, warranties or covenants to or in favor of Landlord with respect to the Property or the Project.

3. The Lease is in full force and effect. Tenant has accepted the Property, presently is in possession of same, and is paying the Rent specified in the Lease on a current basis as of the date hereof. Landlord has no knowledge of any set offs, claims or defenses to the enforcement of the Lease or Tenant's rights thereunder (except as expressed hereunder or attached hereto).

4. To Landlord's knowledge, neither Tenant nor Landlord is in default or breach under the Lease, and no event has occurred or condition exists which, with the giving of notice or passage of time, or both, could result in an Event of Default or breach under the Lease by either party (except as expressed hereunder or attached hereto).

5. As of the date hereof, the Rent is as specified in the Lease except as follows: _____ [insert "none" if not applicable].

6. The Commencement Date of the Lease was _____ ___, 2____. The term of the Lease commenced on the Commencement Date and consists of a term of ninety (90) years, ending on _____ ____, 2_____.

7. Landlord has no knowledge of any present condition or event that may give rise to a violation of any federal, state, county or municipal law, regulation, ordinance, statute, rule, order or directive applicable to the Lease, the Property or the Project (except as expressed hereunder or attached hereto).

8. To the best of Landlord's knowledge, the Lease has not been assigned or transferred or sublet to anyone in whole or in part, except as follows: _____ _____.

This certificate is made for the benefit of (and may be relied upon by) Tenant, you and your successors and assigns, and shall be binding upon Landlord and its successors and assigns. To the extent not delivered to same, this certificate may be relied upon by any prospective assignee, transferee or purchaser of Tenant's interest in the Lease, any prospective Sublessee or any Lender or any assignee thereof. The person signing this certificate on behalf of Landlord has been, and is, duly authorized to do so and has been, and is, duly authorized to bind Landlord to the terms hereof.

Except as otherwise expressly defined in this Estoppel Certificate, all capitalized and/or defined terms when used herein will have the same meanings as given such terms in the Lease. This Certificate may be delivered by Landlord by facsimile or telecopier signature.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida

By:_____
[*Insert name of County Mayor or his/her designee*]

ATTEST

By: _____
_____, Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Name: _____
Title: _____

Schedule 23.4

MEMORANDUM OF GROUND LEASE

This instrument prepared by (and after recording return to):

Name: Nancy B. Lash, Esq.
Address: Greenberg Traurig, P.A.
333 SE 2nd Avenue, Suite 4400
Miami, Florida 33131

(Space reserved for Clerk of Court)

MEMORANDUM OF AMENDED AND RESTATED GROUND LEASE
(Quail Roost Transit Village)

THIS MEMORANDUM OF GROUND LEASE is made as of this ____ day of _____, 20__, by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida whose address is 111 N.W. First Street, Miami, Florida 33128, through its Public Housing and Community Development Department and the Department of Transportation and Public Works (collectively, the "Landlord"), and QUAIL ROOST HOLDINGS, LLC, a Florida limited liability company (successor by assignment to QUAIL ROOST TRANSIT VILLAGE I, LTD.) (the "Tenant"), whose address is 2950 S.W. 27 Avenue, Miami, Florida 33133.

W I T N E S S E T H:

For and in consideration of Ten and NO/100 Dollars ($10.00) and other valuable consideration paid, Landlord does demise and let unto Tenant, and Tenant does lease and take from Landlord, upon the terms and conditions and subject to the limitations more particularly set forth in that certain Amended and Restated Ground Lease between Landlord and Tenant dated as of _____ __, 20__ (the "Lease"), the land located in Miami-Dade County, Florida and legally described on Exhibit A hereto and by this reference made a part hereof (the "Property"). Fee title to the Property is owned by Landlord. Capitalized terms used in this Memorandum without definition have the meanings given to them in the Lease.

Landlord, in consideration of the rents and covenants set forth in the Lease, hereby demises and leases to Tenant, and Tenant hereby takes and hires from Landlord, the Property,

TO HAVE AND TO HOLD the Property for the term commencing on the Commencement Date and ending ninety (90) years thereafter (the "Term"), subject to earlier termination as provided in the Lease.

The Lease contains provisions the recognize the Improvements may be constructed on the Property from time to time in phases and financed through one or more Leasehold and Subleasehold Mortgages and/or other financing mechanisms. Reference should be made to the Lease for Lender, Leasehold Mortgagee and Subleasehold Mortgagee protections.

Landlord's interest shall not be subject to any mechanics' or materialmen's liens or liens of any kind for improvements made by Tenant upon the Property. All persons dealing with Tenant must look solely to the credit of Tenant, and not to Landlord's interest or assets. IN THE EVENT THAT ANY MECHANIC'S LIEN SHALL BE FILED AGAINST THE PROPERTY FOR WORK OR MATERIALS FURNISHED BY OR AT THE REQUEST OF TENANT, SUBJECT TO TENANT'S RIGHT TO CONTEST SUCH LIEN AS PROVIDED IN THE LEASE, TENANT SHALL EITHER (A) PROCURE THE RELEASE OR DISCHARGE THEREOF WITHIN NINETY (90) DAYS EITHER BY PAYMENT OR IN SUCH OTHER MANNER AS MAY BE PRESCRIBED BY LAW OR (B) TRANSFER SUCH LIEN TO BOND WITHIN NINETY (90) DAYS FOLLOWING THE FILING THEREOF. NOTICE IS HEREBY GIVEN THAT LANDLORD SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO TENANT OR TO ANYONE HOLDING ANY OF THE PROPERTY THROUGH OR UNDER TENANT, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN AND TO ANY OF THE PROPERTY. TENANT SHALL BE PERMITTED TO POST ANY NOTICES ON THE PROPERTY REGARDING SUCH NON-LIABILITY OF LANDLORD.

This instrument is executed and is to be recorded against the Property for the purpose of giving notice of the Lease hereinbefore defined, but shall not be deemed or construed to change the terms of the Lease, which shall govern in the case of a conflict.

[Signatures on the following page]

EXECUTED as of the day and year first above written.

Approved as to form and
legal sufficiency

By_____
Assistant County Attorney

LANDLORD:

MIAMI-DADE COUNTY, a political subdivision of the State of Florida

BY ITS BOARD OF COUNTY COMMISSIONERS

ATTEST:

HARVEY RUVIN, CLERK

By: _____
Name: _____
Title: _____

By:_____

STATE OF FLORIDA)
) ss:
MIAMI-DADE COUNTY)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2020 by Maurice L. Kemp, Deputy Mayor of Miami-Dade County, a political subdivision of the State of Florida.

Personally Known _____ OR Produced Identification _____

_____
Print or Stamp Name: _____
Notary Public, State of Florida, at Large
My Commission Expires:

[Signatures continue on the following page]

Signed in the presence of:

TENANT:

QUAIL ROOST HOLDINGS, LLC, a Florida limited liability company, successor by assignment to Quail Roost Transit Village I, Ltd.

By:_____
Name:_____
Title:_____

_____
Print Name:_____

_____
Print Name:_____

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2020 by _____ as _____ of QUAIL ROOST HOLDINGS, LLC, a Florida limited liability company, on behalf of said company.

Personally Known _____ OR Produced Identification _____

_____
Print or Stamp Name: _____
Notary Public, State of Florida, at Large

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

PARCEL ONE:

A parcel of land lying in the Northwest 1/4 of Section 5, Township 56 South, Range 40 East, Miami-Dade County, Florida, more particularly described as follows:

Commence at the Northeast corner of the Northwest 1/4 of said Section 5, thence run South 00°35'40" East along the East line of the Northwest 1/4 of said Section 5 for a distance of 339.47 feet to the POINT OF BEGINNING of the parcel of land hereinafter described: Thence continue South 00°35'40" East along the said East line of the Northwest 1/4 of Section 5 for a distance of 8.37 feet to a point of intersection with the Northwesterly limited access right-of-way line of the State of Florida Transportation Corridor; thence run Southwesterly along the said limited access right-of-way line of the State of Florida Transportation Corridor, the same being an arc to the left having a radius of 1050.00 feet and a central angle of 04°32'08" for an arc distance of 83.12 feet to a point of tangency; thence run North 22°31'40" East for a distance of 90.73 feet to the POINT OF BEGINNING.

AND

A parcel of land lying in the Northeast 1/4 of Section 5, Township 56 South, Range 40 East, Miami-Dade County, Florida, more particularly described as follows:

Commence at the Northwest corner of the Northeast 1/4 of said Section 5, said point also being the POINT OF BEGINNING of the parcel hereinafter described: Thence run North 87°48'09" East along the North line of the Northeast 1/4 of said Section 5 for a distance of 201.31 feet to the point of intersection with the Northwesterly limited access right-of-way line of the State of Florida Transportation Corridor; thence run Southwesterly along the said limited access right-of-way line, the same being an arc to the right having a radius of 950.00 feet and a central angle of 08°19'16" for an arc distance of 137.97 feet to a point of tangency; thence continue South 30°50'57" West for a distance of 200.00 feet to the point of curvature; thence continue along an arc to the left having a radius of 1050.00 feet and a central angle of 03°47'09" for an arc distance of 69.38 feet to a point of intersection with the West line of the Northeast 1/4 of said Section 5; thence run North 00°35'40" West along the said West line of the Northeast 1/4 of Section 5 for a distance of 347.84 feet to the POINT OF BEGINNING.

Tax Folio No. 30-6005-001-0090

TOGETHER WITH

PARCEL TWO:

BEGIN at the Northeast corner of Lot 5, of A.A. DOOLEY'S Plat of Section 5, Township 56 South, Range 40 East, Miami-Dade County, Florida, as recorded in Plat Book 1, at Page 4, of the Public Records of Miami-Dade County, Florida, the same being the Northeast corner of the Northwest 1/4 of said Section 5; thence North 89°59'02" West along the North line of said Lot 5 and along the North line of said Section 5 for a distance of 128.59 feet to the intersection thereof with the Southerly extension of the Southeasterly right-of-way line of Homestead

Avenue as the same is shown on the Plat of South Perrine Subdivision, Plat Book 38, at Page 66, of the Public Records of Miami-Dade County, Florida; thence South 24°44' 30" West, along the Southerly extension of the Southeasterly right-of-way of said Homestead Avenue, for a distance of 542.87 feet; thence South 65°16'00" East for a distance of 249.98 feet to a point on the Northwesterly right-of-way line of the Florida East Coast Railway; thence North 24°44'44" East along the Northwesterly right-of-way line of the Florida East Coast Railway for a distance of 285.10 feet to the intersection thereof with the East line of said Lot 5; thence North 01°36'00" East along the East line of said Lot 5, for a distance of 338.78 feet to the POINT OF BEGINNING.

LESS a portion of Lot 5, of A.A. DOOLEY'S Plat of Section 5, Township 56 South, Range 40 East, as recorded in Plat Book 1, at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

BEGIN at the Northeast corner of said Lot 5, said point also being the Northeast corner of the Northwest 1/4 of said Section 5; thence run South 87° 48' 20" West along the North line of said Lot 5, said line also being the North line of the Northwest 1/4 of said Section 5, for a distance of 128.81 feet to the point of intersection with the Southerly extension of the Southeasterly right-of-way line of Homestead Avenue, as the same is shown on the Plat of South Perrine Subdivision, recorded in Plat Book 38, at Page 66, of the Public Records of Miami-Dade County, Florida; thence run South 22°32'20" West along the along the Southerly extension of the Southeasterly right-of-way line of said Homestead Avenue, for a distance of 54.54 feet; thence run North 55°10'20" East for a distance of 26.96 feet to the point of intersection with the South line of the North 35.00 feet of said Lot 5; thence run North 87°48'20" East along the South line of the North 35.00 feet of said Lot 5, for a distance of 127.95 feet to the point of intersection with the East line of said Lot 5; thence run North 00°35'53" West along the East line of said Lot 5, said line also being the East line of the Northwest 1/4 of said Section 5, for a distance of 35.01 feet to the POINT OF BEGINNING.

LESS a portion of said Lot 5, of A.A. DOOLEY'S Plat of Section 5, Township 56 South, Range 40 East, as recorded in Plat Book 1, at Page 4, being the Southerly 76.60 feet of said Parcel Two, as measured along said Southerly extension of the Southeasterly right of way line of Homestead Avenue, as shown on the Plat of South Perrine Subdivision, Plat Book 38, at Page 66, of the Public Records of Miami-Dade County, Florida.

Portion of Tax Folio No. 30-6005-001-0291

PARCEL THREE:

A portion of Lot 5 in Plat Book 1 at Page 4, lying Westerly of Homestead Avenue and excepting the North 300 feet, all in Section 5, Township 56 South, Range 40 East, Miami-Dade County, Florida, and being more particularly described as follows:

Commence at the Northwest comer of the Northeast 1/2 of said Section 5; thence North 89°59'02" West as a basis of bearing, along the North line of said Section 5 and also the North line of Lot 5 in said Plat Book 1 at Page 4 for 651.98 feet, to a point on the Westerly line of said Lot 5, in Plat Book 1 at Page 4; thence South 01°35'02" West along the said Westerly line for 300,11 feet to the POINT OF BEGINNING of the parcel of land hereinafter described; thence South 89°59'01" East for 371.44 feet, to the Westerly right of way line of Homestead Avenue; thence the following three (3) courses along said right of way line, South 24°44'30" West for 481.76 feet; thence North 65°15'30" West for 5.00 feet; thence South 24°44'30" West for 71.30 feet to a point of curvature; thence run 29.03 feet along the arc of a curve to the right, said curve having a radius of 25.00 feet, a central angle of 66°31'15" to a point of

tangency; thence North 88°44'15" West for 126.36 feet to a point on the Westerly line of said Lot 5 in Plat Book 1 at Page 4, thence North 01°35'02" East, along said Westerly line, for 512.24 feet to the POINT OF BEGINNING.

Property Tax Folio No: 30-6005-001-0140
TOGETHER WITH

PARCEL FOUR:

5-56-40, Subdivision of Plat Book 1 at Page 4, Parcel 1, and also known as Lot 5, lying between FEC R/R and Homestead Avenue Extension of Ingraham Highway, less the North 542.87 feet as measured along Westerly line of property of the Public Records of Miami-Dade County, Florida, less the road right of way for SW 186 Street (Quail Roost Drive), less any portion of Lot 5 lying South of the road right of way for SW 186 street (Quail Roost Drive) further described as follows:

That Portion of Tract 5, PERRINE GRANT SUBDIVISION of Section 5, Township 56 South, Range 40 East, according to the Plat thereof as recorded in Plat Book 1, Page 4, of the Public Records of Miami-Dade County, Florida, lying between the Westerly right of way line of Florida East Coast Railway Company right of way and the Easterly right of way line of Homestead Avenue, less the North 542.87 feet, as measured along the prolongation of the Westerly line of the Property and lying also Northerly of the North right of way line of Quail Roost Drive (known also as SW 186th Street) and being more particularly described as follows:

Commence at the Northwest corner of the Northeast 1/4 of said Section 5; thence North 89°59'02" West, along the North line of said Section 5, as a base of bearing, for 128.59 feet; thence run South 24°44'30" West along the prolongation of the Property for 542.87 feet to the POINT OF BEGINNING; thence South 65°16'00" East for 250.10 feet to a point of intersection with said Westerly right of way line of Florida East Coast Railway; thence South 24°44'29" West along said Westerly right of way lino for 252.82 feet to a point of intersection with the North right of way line of Quail Roost Drive; thence the following three (3) courses along said right of way line; thence North 86°45'38" West for 51.83 feet to a point of curvature; thence 198.85 feet along the arc of a curve to the left, said curve having a radius of 5,764.58 feet, a central angle of 01°58'35" to a point of tangency; thence South 88°44'11" West for 19.80 feet to a point on the westerly line of the Property, thence North 24°44'30"East for 355.73 feet to the POINT OF BEGINNING.

Property Tax Folio No: 30-6005-001-0290

AND TOGETHER WITH

PARCEL FIVE:

The Southerly 76.60 feet of that PARCEL 2 described on that Certificate of Title recorded in Official Records Book 28418, Pages 2189 thru 2192, of the Public Records of Miami Dade County, Florida. Said Southerly 76.60 feet being measured along the Southerly extension of the Southeasterly right of way line of Homestead Avenue as shown in the plat of SOUTH PERRINE SUBDIVISION, as recorded in Plat Book 38 Page 66, Public Records of Miami Dade County, Florida. Said PARCEL 2 being more particularly described as follows:

BEGIN at the Northeast corner of Lot 5, of A.A. DOOLEY'S Plat of Section 5, Township 56 South, Range 40 East, Miami-Dade County, Florida, as recorded in Plat Book 1, at Page 4, of the Public Records of Miami-Dade County, Florida, the same being the Northeast corner of the

Northwest 1/4 of said Section 5; thence North 89°59'02" West along the North line of said Lot 5 and along the North line of said Section 5 for a distance of 128.59 feet to the intersection thereof with the Southerly extension of the Southeasterly right-of-way line of Homestead Avenue as the same is shown on the Plat of South Perrine Subdivision, Plat Book 38, at Page 66, of the Public Records of Miami-Dade County, Florida; thence South 24°44'30" West, along the Southerly extension of the Southeasterly right-of-way of said Homestead Avenue, for a distance of 542.87 feet; thence South 65°16'00" East for a distance of 249.98 feet to a point on the Northwesterly right-of-way line of the Florida East Coast Railway; thence North 24°44'44" East along the Northwesterly right-of-way line of the Florida East Coast Railway for a distance of 285.10 feet to the intersection thereof with the East line of said Lot 5; thence North 01°36'00" East along the East line of said Lot 5, for a distance of 338.78 feet to the POINT OF BEGINNING.

LESS a portion of Lot 5, of A.A. DOOLEY'S Plat of Section 5, Township 56 South, Range 40 East, as recorded in Plat Book 1, at Page 4, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

BEGIN at the Northeast corner of said Lot 5, said point also being the Northeast corner of the Northwest 1/4 of said Section 5; thence run South 87°48'20" West along the North line of said Lot 5, said line also being the North line of the Northwest 1/4 of said Section 5, for a distance of 128.81 feet to the point of intersection with the Southerly extension of the Southeasterly right-of-way line of Homestead Avenue, as the same is shown on the Plat of South Perrine Subdivision, recorded in Plat Book 38, at Page 66, of the Public Records of Miami-Dade County, Florida; thence run South 22°32'20" West along the along the Southerly extension of the Southeasterly right-of-way line of said Homestead Avenue, for a distance of 54.54 feet; thence run North 55°10'20" East for a distance of 26.96 feet to the point of intersection with the South line of the North 35.00 feet of said Lot 5; thence run North 87°48'20" East along the South line of the North 35.00 feet of said Lot 5, for a distance of 127.95 feet to the point of intersection with the East line of said Lot 5; thence run North 00°35'53" West along the East line of said Lot 5, said line also being the East line of the Northwest 1/4 of said Section 5, for a distance of 35.01 feet to the POINT OF BEGINNING.

Tax Folio No. 30-6005-001-0292