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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

# MEMORANDUM

Agenda Item No. 11(A)(4)

**TO:** Honorable Chairman Jean Monestime and Members, Board of County Commissioners

**DATE:** May 17, 2016

**FROM:** Abigail Price-Williams County Attorney

**SUBJECT:** Resolution approving the Mutual Termination of Okeechobee Metrorail Station Transit Oriented Development Lease Agreement with the City of Hialeah, including reimbursement to the City of Hialeah of $91,321.26 for expenses incurred to be funded from Building Better Communities General Obligation Bond Funds

Resolution No. R-413-16

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Vice Chairman Esteban L. Bovo, Jr.

Abigail Price-Williams
County Attorney

APW/smm

# MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: May 17, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 11(A)(4)

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 ____, 3/5's ____, unanimous _____) to approve

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(4)
5-17-16

RESOLUTION NO. R-413-16

RESOLUTION APPROVING THE MUTUAL TERMINATION OF OKEECHOBEE METRORAIL STATION TRANSIT ORIENTED DEVELOPMENT LEASE AGREEMENT WITH THE CITY OF HIALEAH, INCLUDING REIMBURSEMENT TO THE CITY OF HIALEAH OF $91,321.26 FOR EXPENSES INCURRED TO BE FUNDED FROM BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND FUNDS; AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SUCH AGREEMENT AND TO EXERCISE ANY AND ALL RIGHTS SET FORTH THEREIN

**WHEREAS,** there is an acute need for affordable housing throughout Miami-Dade County, but especially in Hialeah; and

**WHEREAS**, the placement of affordable housing at or near Metrorail stations furthers the goals of promoting the use of mass transit and the reduction of traffic congestion; and

**WHEREAS**, the land at the Okeechobee Metrorail Station has remained underdeveloped since the station's opening in 1985; and

**WHEREAS**, in furtherance of the development of affordable housing at the Okeechobee Metrorail Station, Miami-Dade County entered into a Lease Agreement with the City of Hialeah ("City") in 2014, in order to develop affordable housing at the Station; and

**WHEREAS**, since 2014, the City has expended funds in furtherance of the development of affordable housing at the Okeechobee Metrorail Station but the City and the County have now mutually determined and agreed to terminate the Lease Agreement so as to allow the County to proceed with the expeditious development of affordable housing at the Station,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that this Board hereby approves the Mutual Termination of the Okeechobee Metrorail Station Transit Oriented Development Lease Agreement with the City, in substantially the form attached hereto as Attachment 1, including the reimbursement to the City of $91,321.26 for expenses incurred by the City to date to be funded from the Building Better Communities General Obligation Bond Program Project No. 249, and further authorizing the County Mayor or Mayor's designee to execute such Agreement and to exercise any and all rights conferred therein.

The Prime Sponsor of the foregoing resolution is Vice Chairman Esteban L. Bovo, Jr. It was offered by Commissioner **José "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

| | | | |
|---|---|---|---|
| Jean Monestime, Chairman | **absent** | | |
| Esteban L. Bovo, Jr. Vice Chairman | **aye** | | |
| Bruno A. Barreiro | **aye** | Daniella Levine Cava | **aye** |
| Jose "Pepe" Diaz | **aye** | Audrey M. Edmonson | **aye** |
| Sally A. Heyman | **absent** | Barbara J. Jordan | **aye** |
| Dennis C. Moss | **absent** | Rebeca Sosa | **aye** |
| Sen. Javier D. Souto | **aye** | Xavier L. Suarez | **aye** |
| Juan C. Zapata | **aye** | | |

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of May, 2016. 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: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Monica Rizo Perez

**MUTUAL TERMINATION OF OKEECHOBEE METRORAIL STATION TRANSIT ORIENTED DEVELOPMENT LEASE AGREEMENT**

THIS MUTUAL TERMINATION AGREEMENT (hereinafter "Agreement"), dated as of the ___ day of _____, 2016 ("Termination Date"), is made by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, through its Office of Community and Economic Development, having its principal office and place of business at 701 NW 1st Court, Miami, Suite 1400, Miami, Florida 33136 (hereinafter called "Landlord" ), and the CITY OF HIALEAH, a municipal corporation, having its principal office and place of business at 501 Palm Avenue, Hialeah, Florida 33010 (hereinafter called "Tenant").

**W I T N E S S E T H:**

**WHEREAS,** Landlord owns and operates the Okeechobee Metrorail Station (the "Station") which includes the Metrorail guideway and station platform, structured parking garage, bus bay area, surface parking area and driveways; and

**WHEREAS,** Landlord and Tenant entered into that certain Okeechobee Metrorail Station Transit Oriented Development Lease Agreement ("Lease") on August 8, 2014, which Lease is attached hereto as Exhibit A and was approved by the Landlord's Board of County Commissioners on June 3, 2014 pursuant to Resolution No. R-532-14, in order to provide affordable housing for senior citizens while promoting Metrorail usage; and

**WHEREAS,** pursuant to the Lease, the Tenant was to develop certain land owned by the Landlord and located adjacent to the Okeechobee Metrorail Station ("Demised Premises") with a minimum of 98 affordable housing units for the elderly along with ancillary, related facilities and parking; and

**WHEREAS,** the Landlord and Tenant have been working cooperatively to ensure the success of an affordable housing development for the elderly at the Demised Premises and, in

furtherance thereof, desire and agree to mutually terminate the Lease in order to allow the Landlord to proceed expeditiously with the development of affordable housing at the Demised Premises,

## AGREEMENT

1. The Landlord and the Tenant hereby agree that as of the Termination Date set forth on the first page of this Agreement, the Lease shall be immediately and irrevocably deemed terminated and of no further force and effect. As of the Termination Date, Tenant shall have no rights whatsoever in the Demised Premises or the development thereof and Tenant shall have no obligations whatsoever for the continued development of the Demised Premises.

2. Within sixty (60) days of the Termination Date, Tenant shall provide Landlord with legible electronic and paper copies of all work performed to date by Tenant for the Demised Premises and in further of the Project, including but not limited to, environmental studies and reports, design documents, concept drawings, architectural plans, engineering plans and calculations, zoning determinations and/or analyses, timelines, development and/or construction budgets, operating budgets, etc.

3. Landlord agrees, within thirty (30) days of the receipt by the Landlord of all of the records set forth in Paragraph 2 above, to reimburse Tenant $91,321.26 for costs and expenses incurred by Tenant in furtherance of the Lease and the Project.

4. All notices, demands or requests between Landlord and Tenant shall be deemed to have been properly served or given if sent by: (i) United States registered or certified mail, return receipt requested, (ii) hand delivery, (iii) nationally recognized overnight courier, or (iv) 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, and addressed to:

Tenant at:

City of Hialeah
Office of the Mayor
501 Palm Ave
Hialeah, FL 33010

with a copy to:

City of Hialeah
Office of the City Attorney
501 Palm Avenue
Hialeah, Florida 33010

Landlord at:

Miami-Dade County
Department of Housing and Community Development
Office of the Director
601 NW 1st Court, Suite 1400
Miami, Florida 33128

And

Miami-Dade County
Miami-Dade Transit
Office of the Director
601 NW 1st Court, Suite 1700
Miami, Florida 33128

With copy to:

Miami Dade County
County Attorney
111 NW 1st Street, Suite 2800
Miami, Florida 33128

5. At either parties' request a Memorandum of this Termination, or a full copy hereof, may be recorded among the Public Records of Miami-Dade County, Florida, at the sole cost of the Landlord.

6. This Termination 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. This Termination shall supersede the Lease and all prior conversations or agreements regarding the subject hereof, whether oral or in writing.

**IN WITNESS WHEREOF**, Landlord has caused this Termination to be executed in its name by the County Mayor; as authorized by the Board of County Commissioners, and Tenant has caused this Termination to be executed by its duly authorized representative all on the day and year first hereinabove written and referred to as the Termination Date.LANDLORD

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

ATTEST:

HARVEY RUVIN, CLERK

By:_____ By:_____

Approved as to form and legal sufficiency

_____
Print Name: _____
Date:_____

TENANT

THE CITY OF HIALEAH
A Municipal Corporation

Signed in the presence of:

_____ By:_____
Print Name:_____ Title:_____

_____
Print Name:_____

# OKEECHOBEE METRORAIL STATION
# TRANSIT ORIENTED DEVELOPMENT
# LEASE AGREEMENT

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**OKEECHOBEE METRORAIL STATION**
**TRANSIT ORIENTED DEVELOPMENT**
**LEASE AGREEMENT**

THIS LEASE AGREEMENT (hereinafter "Lease"), dated as of the 8th day of Aug, 2014, made by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, through its Department of Public Housing and Community Development("PHCD") and Miami-Dade Transit("MDT"), both having their principal office and place of business at 701 NW 1st Court, Miami, Miami, Florida 33136 (hereinafter called "Landlord" ), and the CITY OF HIALEAH, a municipal corporation, having its principal office and place of business at 501 Palm Avenue, Hialeah, Florida 33010 (hereinafter called "Tenant").

**W I T N E S S E T H:**

A. Landlord owns and operates the Okeechobee Metrorail Station (the "Station") which includes the Metrorail guideway and station platform, structured parking garage, bus bay area, surface parking area and driveways, as depicted in Exhibit A ("Existing Improvements").

B. Landlord recognizes the potential for public benefit through a joint use development of the "Project" (as that term is hereinafter defined) to be built in one or more Phases pursuant to a "Phased Development Schedule" (as defined below) in order to provide affordable housing for senior citizens while promoting Metrorail usage.

C. Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, the "Demised Premises" (as defined herein), to enable the Tenant to develop senior affordable housing with Ancillary Uses and parking.

D. It is hereby mutually covenanted and agreed by and between the parties hereto that this Lease is made upon the agreements, terms, covenants and conditions hereinafter set forth.

## ARTICLE 1

### Demised Premises and General Terms of Lease

**1.1 Lease of Land and Air Rights.** In accordance with (a) Chapter 125, Florida Statutes; (b) the powers granted to Landlord pursuant to 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) the Metrorail Joint Use Policy contained in Resolution R-1443A-81, adopted on September 28, 1981; and, 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 Demised Premises; reserving to Landlord the rights described herein; to have and to hold the same unto Tenant, its successors and assigns, for the Term (see legal description and sketch of the Demised Premises, attached hereto, marked as Schedule 1.1 and incorporated herein by reference). Tenant shall have and hold, exclusively, the "Development Rights" (as hereinafter defined) pertaining to the Demised Premises, subject to the terms, conditions, covenants and procedures set forth herein.

**1.2 Term of Lease.**

(a) The Term of this Lease shall be ninety-nine (99) years, commencing on the Commencement Date (as defined in Section 1.3) and ending on the date which is ninety-nine (99) years from the Commencement Date (hereinafter "Term"). At the expiration or earlier termination of the Term, the Demised Premises shall revert back to Landlord, and all improvements thereon (except Tenant's or third parties' removable personal property and fixtures) shall become the property of the Landlord, without cost or expense to the Landlord.

(b) Landlord shall deliver possession of the Demised Premises on the Commencement Date at which time Tenant shall take possession thereof. Upon taking possession, Tenant shall secure the perimeter of the Demised Premises by erecting a secure and sightly fence to serve as a barrier to public entry, with the effect of separating the Demised Premises from the operational area of the Station.

**1.3 Conditions Precedent to Effectiveness of Lease.** This Lease shall become effective after all of the following conditions are met:

(a) Approval by the City of Hialeah.

(b) Approval by the Miami-Dade Board of County Commissioners [Ten (10) days after the date of its adoption by the Board of County Commissioners, if this item has been vetoed by the County Mayor, this item shall become effective only upon an override by the Miami-Dade County Board of County Commissioners].

(c) Written approval by the Federal Transit Administration and the Florida Department of Transportation.

The date on which this Lease becomes effective as provided herein is called the Commencement Date, which shall be confirmed in the Confirmation of Commencement to be executed by the parties in the form attached hereto as Schedule 1.3.

**1.4 Survey and Title Search.** Landlord shall provide a current survey and title search to Tenant prior to the Commencement Date. Prior to the Commencement Date, Tenant at its expense shall be entitled to obtain a leasehold title insurance policy insuring Tenant's leasehold interest in the Demised Premises. Tenant shall have ten (10) business days to review and approve the title and survey prior to the Commencement Date.

## ARTICLE 2

### Certain Terms Defined

The terms set forth below, when used in this Lease, shall be defined as follows:

**2.1** **Ancillary Use** shall mean a use or uses secondary to the primary use of the Project, [Senior Affordable Housing], having the Project's tenants as its primary customers and/or users], serving the residents of the Project, with a maximum of 2,000 square feet of total land area in the entire Project.

**2.2** **As-Built Plans** shall mean the final and permanent record of the actual structure(s) developed and constructed on the Demised Premises, showing the actual condition, locations, elevations and specifications of materials for the constructed Building(s), Improvements and utilities.

**2.3** **Assignee** shall mean the party to which the Tenant transfers its rights and obligations under an Assignment.

**2.4** **Assignment** shall mean the transfer of Tenant's rights and obligations under the Terms of this Lease.

**2.5** **Building(s)** shall mean the buildings or structures (as the context indicates) and other improvements to be erected on, above, or below the Demised Premises or a portion thereof in accordance with Article 4, and all equipment, furniture and fixtures located or to be located therein which are owned by Tenant (including any replacements, additions and substitutes thereof).

**2.6** **Commencement Date** shall mean the date on which Tenant shall take possession of the Demised Premises in accordance with Section 1.3.

**2.7** **Commencement of Construction** shall mean the earlier of the filing of the notice of commencement under Florida Statutes Section 713.13 or the visible start of work on the site

of the Project, including on-site utility, excavation or soil stabilization work, excluding any utility work authorized by Section 4.14.

2.8 **Completion of Construction** shall mean the date a Certificate of Occupancy (or its equivalent government document) is issued for the Project.

2.9 **Construction Plans** shall consist of final design plans prepared by Tenant's architect and contractor for particular improvements of the Project as approved by Miami-Dade Transit ("MDT"), with such approval not to be unreasonably withheld, conditioned or delayed, The drawings and specifications for the construction plans shall be in a format that has sufficient detail required to obtain building permits for such improvements and as further described in Section 4.5.

2.10 **Demised Premises** shall mean collectively the property described in Schedule 1.1 attached hereto and made a part hereof, consisting of the Land (legally described in Schedule 1.1), the air rights above the Land, and all other air rights, easements, rights-of-way and all appurtenances thereto leased to Tenant 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 Demised Premises 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 Demised Premises to be used in connection with the Project and 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 Demised Premises 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 over and across the Station which shall be necessary or desirable for entrance, exit and passageway to and from the Demised Premises, and to and from the Station and the System for the use in common with Landlord and Tenant, and their respective successors, assigns, patrons, tenants, licensees, 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 in the Station, signs for the purpose of advertising the Project; provided, however, that the design, size and location of the structures in which the signs are posted shall be subject to the approval of Landlord. Such approval shall not be unreasonably withheld, conditioned or delayed.

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 Demised Premises which shall be necessary or desirable for entrance, exit and passageway of persons and property, including vehicles, to and from the Station and the System; provided, however, that all entrances, exits and passageways to be used in exercising such right shall be as set forth in the Plans and Specifications;

(ii) all subsurface rights under the sidewalks, streets avenues, curbs and roadways fronting on and abutting the Demised Premises for the purpose of maintaining subsurface supports, utilities and other infrastructure to and for the Station and the System provided none of the foregoing interfere in any material respect with Tenant and its sublessees' ingress and egress to and from the Building;

(iii) the permanent and perpetual non-exclusive right to use the space located in the public areas of the Demised Premises solely for the purpose of ingress and egress of passengers using the Station, as well as for the transportation of baggage, mail, supplies and materials to and from the Demised Premises, public thoroughfares and the Station;

(iv) the permanent and perpetual non-exclusive right to use the space located in the Public Areas of the Demised Premises to be occupied by Station 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 adjacent Station areas are leased or intended to be leased to Tenant.

**2.11** **Development Rights** shall mean, for purposes of the Demised Premises and this Lease, the rights granted to Tenant pursuant to the terms of this Lease to develop, design and construct a minimum of 180 units of affordable housing on the Demised Premises.

**2.12** **Event(s) of Default** shall have the meaning ascribed to such term in Section 19.1 herein.

**2.13** **Final Design Plans** shall mean the final plans and specifications for the Project.

**2.14** **Foreclosure Purchaser** shall have the meaning ascribed to such term in Section 19.4(b) herein.

2.15 **Impositions** shall mean all ad valorem taxes, special assessments, sales taxes and other governmental charges and assessments levied or assessed against the Demised Premises, any improvements thereon existing as of the Commencement Date or thereafter constructed, and the activities conducted thereon or therein, except for such taxes, assessments and charges as they directly apply to the Land or improvements of Landlord located on the Demised Premises which shall be the responsibility of Landlord.

2.16 **Improvements** shall mean the Buildings to be constructed on the Demised Premises, and the parking areas, 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 Demised Premises.

2.17 **Landlord** shall mean Miami-Dade County, a political subdivision of the State of Florida, through its Miami-Dade Transit Department and its Public Housing and Community Development Department .

2.18 **Law and Ordinance or Laws or Ordinances** shall mean all present and future applicable laws, ordinances, rules, regulations, permits, resolutions, 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 Demised Premises.

2.19 **Lease** shall mean this Lease and all amendments, supplements, addenda or renewals thereof.

2.20 **Leasehold Mortgage** shall mean a mortgage or mortgages or other similar security agreements given to any Leasehold Mortgagee of the leasehold interest of Tenant

hereunder, and shall be deemed to include any mortgage or trust indenture under which this Lease shall have been encumbered.

2.21 **Leasehold Mortgagee** shall mean any recognized lending institution, such as any federal, state, county or municipal governmental agency or bureau, revenue district, bank, savings and loan, pension fund, insurance company, real estate investment trust, tax credit syndication entity, or other real estate investment or lending entity, savings bank, whether local, national or international, and/or the holder of any purchase money mortgage given back to a transferor, that is or becomes the holder, mortgagee or beneficiary under any Leasehold Mortgage and the successors or assigns of such holder, mortgagee or beneficiary, and shall be deemed to include the trustee under any such trust indenture and the successors or assigns of such trust.

2.22 **Lease Year** shall mean each separate and consecutive period of twelve (12) full calendar months beginning upon the first day of the first month following the Commencement Date and upon each anniversary of such date thereafter until the expiration of the Lease.

2.23 **Lender** shall mean any Leasehold or Subleasehold Mortgagee.

2.24 **Permit** shall mean any permit issued or to be issued by the appropriate agency or person, 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.

2.25 **Phased Development** shall mean the different phases of construction required by the Tenant to achieve a total development of one hundred and eighty (180) Senior Affordable

Housing units. The number of construction phases shall not exceed three (3) over a total period to completion of nine (9) years (each such phase sometimes being referred to as a "Phase").

2.26 **Plans and Specifications** shall mean the plans and specifications, including but not limited to, the plans and specifications referred to in Section 2.10 for all the work in connection with the alteration, construction and reconstruction of the Project required to be done or performed hereunder and shall include any changes, additions or modifications thereof, provided the same are approved as provided herein by the County.

2.27 **Preliminary Plans** shall mean conceptual plans for the Demised Premises or a portion thereof, as the case may be, which have been submitted by the Tenant to the Landlord.

2.28 **Project** shall mean 180 units of Senior Affordable Housing, whether all units are built in one phase or three phases as contemplated herein, with sixty (60) units constructed as to each phase, as such proposed development may be amended and/or revised from time to time as provided for elsewhere in this Lease Agreement.

2.29 **Intentionally Deleted**

2.30 **Public Areas** shall mean those areas of the Demised Premises both enclosed and unenclosed, generally available and open to the public during normal business hours, but shall not include common areas in the residential component of the Project.

2.31 **Senior Affordable Housing** shall mean:

(a) housing occupied solely by persons who are 62 years old or older, or housing occupied by at least one person who is 55 years old or older in at least 80 percent of the occupied units, and where the owner/operator adheres to a policy that demonstrates an intent to house persons who are 55 years old or older.

(b) housing affordable to natural persons or families whose total annual household incomes does not exceed sixty-five (65%) percent of the area median income of Miami-Dade County, adjusted for household size or as may be determined by the Board of County Commissioners from time to time.

**2.32** **Station** shall mean the existing Okeechobee Metrorail Station portion of the System.

**2.33** **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 hereunder, and shall be deemed to include any mortgage or trust indenture under which any Sublease shall have been encumbered.

**2.34** **Subleasehold Mortgagee** shall mean any recognized lending institution, such as a bank, federal, state, county, or municipal governmental agency or bureau, revenue district, quasi-governmental agency, savings and loan, pension fund, insurance company, savings bank, real estate investment trust, tax credit syndication entity, other real estate investment or lending entity, whether local, county, state, national or international, and/or the holder of any purchase money mortgage given back to a transferor, that is or becomes the holder, mortgagee or beneficiary under any Subleasehold Mortgage and the successors or assigns of such holder, mortgagee or beneficiary, and shall be deemed to include the trustee under any trust indenture and the successors or assigns of trustee.

**2.35** **Sublease** shall mean any instrument, excluding a space lease, pursuant to which all or any portion of the Demised Premises is subleased, including but not limited to a grant by Tenant of the right to develop the Project.

2.36 **Sublessee** shall mean the subtenant, sublessee, or licensee or their successors or assigns under any such Sublease.

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

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

2.39 **Tenant** shall mean, on the Commencement Date, the City of Hialeah, a municipal corporation. Thereafter, "Tenant" shall mean the owner(s) at the time in question of the Tenant's interest under this Lease.

2.40 **Unavoidable Delays** shall mean delays beyond the control of a party required to perform, such as, but not limited to, delays due to strikes or labor troubles; Acts of God; floods; fires; energy shortages; neglect or failure to perform of or by the Landlord; 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; moratoriums; or lack of any component of service concurrency . 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 fifteen (15) 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 Delay(s), provided that the 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 fifteen (15) days of its discovery by a party shall not void the Unavoidable Delays, but the time period between the expiration of the fifteen (15) days period and the date actual notice of the Unavoidable Delay is given shall not be credited to the obligated party in determining the anticipated time extension.

## ARTICLE 3

## Rent

**3.1 Rent.** Rent for the ninety nine (99) year term of the Lease Agreement shall be One Dollar ($1.00) payable by Tenant to Landlord upon Lease Commencement.

## ARTICLE 4

## Development of Land and Construction of Buildings

**4.1 Land Uses.**

(a) Tenant and Landlord agree, for themselves and their successors and assigns, to devote and restrict the Demised Premises to the uses of Senior Affordable Housing, Ancillary Uses and parking. Any change in use must be approved by the Board of County Commissioners.

(b) Tenant shall construct, or cause to be constructed, one hundred eighty (180) Senior Affordable Housing units on the Demised Premises (subject to Unavoidable Delay) within nine (9) years of the Commencement Date. Tenant may construct greater than one hundred eighty (180) units of Senior Affordable Housing, subject to applicable codes, Laws and Ordinances. If Tenant has not received a Certificate of Occupancy for all one hundred eighty

(180) units within nine (9) years of the Commencement Date, subject to Unavoidable Delay, it shall be an Event of Default under this Lease.

(c) The parties recognize and acknowledge that the manner in which the Demised Premises and Buildings are developed, used and operated are matters of critical importance to Landlord, Tenant and to the general welfare of the community. Tenant agrees that at all times during the term of this Lease, Tenant will use reasonable efforts to create a development on the Demised Premises which (i) enhances the ridership and usage of the System, although there can be no guarantee that ridership in the System will increase as a result of the Project, (ii) creates strong access links between the Demised Premises and the System, and (iii) creates a development with a quality of character and operation consistent with that of similar comparable projects of this nature in Miami-Dade County, Florida.

(d) Tenant shall construct, or cause to be constructed, walkway or walkways, canopies and/or other components of physical connectivity between the Project and the Station as Tenant and Landlord shall reasonably determine.

(e) Tenant shall establish such reasonable rules and regulations governing the use and operation by Sublessee of their premises as Tenant shall deem necessary or desirable in order to assure the level or quality and character of operation of the Demised Premises required herein; and Tenant will use reasonable efforts to enforce such rules and regulations.

(f) Tenant shall grant Landlord a perpetual easement along the driveway as indicated in Exhibit B, for the purposes of ingress and egress to the transit station by both transit and private vehicles. Tenant acknowledges that this driveway serves as primary access to the transit station.

**4.2 Phased Development.** Tenant may elect to develop all one hundred eighty (180) units at one time, or in phases ("Phased Development") while adhering to all terms of the Lease. Should Tenant elect a Phased Development schedule, only that portion of the Demised Premises absolutely necessary to efficiently construct that particular phase may be utilized.

**4.3 Progress of Development.** The maximum allowable schedule for development of the entire Project, whether developed in total or in phases, shall be nine (9) years (subject to Unavoidable Delays) beginning on the Commencement Date and shall be built according to the following benchmarks:

(a) Phase I. Sixty (60) units of Senior Affordable Housing, including required parking. Tenant shall obtain building permit within twelve (12) months of Commencement Date. Completion of Construction shall occur within thirty-six (36) months of Commencement Date.

(b) Phase II. Sixty(60) units of Senior Affordable Housing, beyond those completed in Phase I, including required parking. Tenant shall obtain building permit within forty-eight (48) months of Commencement Date. Completion of Construction shall occur within seventy-two (72) months of Commencement Date.

(c) Phase III. Sixty (60) units of Senior Affordable Housing, beyond those completed in Phases I and II, including required parking. Tenant shall obtain building permit within eighty-four (84) months of Commencement Date. Completion of Construction shall occur within one hundred and eight (108) months of Commencement Date.

(d) Notwithstanding the foregoing, the number of units in each Phase may be adjusted provided that there are no less than a total of 60 units completed by the end of Phase I; no less than a total of 120 units completed by the end of Phase II; and no less than a total of 180 units completed by the end of Phase III.

Each phase must be developed in conformance with the approved Construction Plans and zoning regulations.

**4.4 Payment and Performance Bonds**. Prior to commencing construction on each Phase Tenant shall deliver to Landlord executed payment and performance bond(s), in compliance with Chapter 255.05 of the Florida Statutes to guarantee the construction of the improvements being built in the applicable Phase pursuant to the Phased Development Schedule provided in Section 4.3 hereof. Such performance bond(s) will be delivered to Landlord prior to Commencement of Construction of each Phase. The amount of such bond(s) shall be equal to the hard construction costs of such construction and improvements in each Phase. In addition to naming Tenant as an Obligee each bond shall also name Landlord as an obligee on the multiple obligee riders attached to the performance bond(s), and shall be issued by a surety reasonably acceptable to the Landlord. The proposed bond or bonds shall be subject to review and approval by Miami-Dade Risk Management which approval shall not be unreasonably withheld or delayed.

Should Tenant form a partnership with any entity acting as developer for the project, developer shall comply with all the above stated requirements for payment and performance bonds.

**4.5 Construction; Delegation and Landlord Joinders.**

(a) Tenant shall have the right to develop and to construct or cause construction of the Building and Improvements required in connection with the development of the Project, subject to the terms and conditions of this Lease. Tenant shall not be permitted to convey, assign or otherwise delegate the right to develop the Demised Premises without the prior expressed written authorization of The County Mayor or the County Mayor's designee which

consent shall not be unreasonably withheld, conditioned or delayed. County shall not have any approval rights as to residential subleases which Tenant may enter into with the tenant-occupants of the Demised Premises. County shall have no approval rights as to nonresidential subleases which contain in area less than 2,500 square feet where the use allowed by the Sublease is an Ancillary Use.

(b) Landlord agrees to join in any plat or other applications, easements, restrictive covenants, easement vacations or modifications, and other documents, including but not limited to estoppels and non-disturbance and attornment agreements and shall cause any new or existing mortgagee to enter into non-disturbance and attornment agreements obtained from Landlord's new or existing mortgagee as provided in this Lease, or as may be necessary for Tenant to develop, construct and use the Demised Premises in accordance with the Plans and Specifications specified herein, and in a manner otherwise permitted hereunder; provided that such joinders by Landlord shall be at no cost to Landlord other than its costs of review, and also provided that the location and terms of any such easements or other restrictive covenants, and related documents, shall be acceptable to Landlord, which acceptance shall not be unreasonably withheld, conditioned or delayed. In addition, Landlord agrees to reasonably cooperate with Tenant with respect to and in support of applications dealing with governmental or other financing sources, and possible grants, benefits or incentives to which Tenant may be entitled to apply for in connection with the Project.

**4.6 County and State Regulations Regarding Construction.** Tenant shall comply with all applicable Local, State and Federal policies, laws, ordinances and statutes as they relate to any and all aspects of the Project's development and construction process.

**4.7 Miami-Dade County's rights as sovereign.** Notwithstanding any provision of this Lease and Miami-Dade County's status as Landlord thereunder and prevailing over any contrary provision of this Lease:

(a) Miami-Dade County retains all of its sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a county and/or city under Florida laws and shall in no way be estopped from withholding or refusing to issue any approvals of applications and/or permits for building zoning, planning and development; from exercising its planning or regulatory duties and authority; and from requiring or denying development under present or future Applicable Laws of whatever nature applicable to the planning, design, construction and development and/or operations and use of the Demised Premises, Buildings and/or improvements provided for in this Lease, or be liable for same; and

(b) Miami-Dade County shall not by virtue of this Lease be obligated to grant any approvals of applications for building, zoning, planning or development under present or future Applicable Laws of whatever nature applicable to the planning, design, construction and development and/or operations and use of the Demised Premises, Buildings and/or other Project improvements provided for in this Lease,

(c) Any County covenant or obligation that may be contained in this Lease shall not bind the Board of County Commissioners, the Department of the County that undertakes planning and zoning functions, the Department of the County that undertakes the environmental protection and regulation functions, the Transit Department, or any other County, Federal or State department or authority, committee, or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that

may be granted, withheld or revoked in the sole discretion of the County or other applicable governmental agencies in the exercise of its police powers.

(d) Approvals of applications shall not be withheld by Landlord on account of Tenant's status as a tenant under this Lease. Miami-Dade County, Florida shall deal with Tenant in connection with any request for approval in a non-discriminatory manner so that Tenant is not denied any County approval because of Tenant's status as a tenant under this Lease.

**4.8 Conformity of Plans.** Plans and Specifications, Construction Plans and all work by Tenant with respect to the Demised Premises and Tenant's construction of Buildings thereon shall be in conformity in all material respects with this Lease, applicable building codes, and all other applicable federal, state, county and local laws and regulations, including applicable provisions of the Fire Life Safety Design Criteria found in the Rapid Transit System Extension Compendium of Design Criteria, Volume 1, Chapter 9 and any other volume/chapter that applies.

**4.9 Design Plans; MDT/PHCD Review and Approval Process.**

(a) For each Phase of the Project Tenant shall submit design and construction documents to MDT and Public Housing and Community Development (PHCD) for review, coordination and approval of the Project. For each submittal, Tenant shall submit eight sets of prints with the date noted on each print.

(b) At 15% of the overall design completion of the Project, Tenant shall submit conceptual site layouts and plans, sections, and elevations to MDT for review. Plans submitted must be in conformity with applicable provisions of the Rapid Transit System Extension Compendium of Design Criteria.

(c) At 85% design completion of the Project, Tenant shall submit drawings, conceptual site layouts and plans, sections, elevations and pertinent documentation to MDT for review.

(d) At 100% design completion of the Project, Tenant shall submit to MDT the Final Design Plans. MDT shall review these plans to ensure that all previous MDT comments to which the parties have agreed have been incorporated therein. However, Tenant may request reconsideration of any comments made by MDT.

(e) Upon receipt of each of the above-mentioned submittals, MDT shall review same and shall, within thirty (30) 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 a disapproval, Tenant shall, within thirty (30) business days after the date Tenant receives such disapproval, make those changes necessary to meet MDT's stated grounds for disapproval or request reconsideration of such comments. Within thirty (30) business days of MDT's response to such request for reconsideration, Tenant shall, if necessary, resubmit such altered plans to MDT. Any resubmission shall be subject to review and approval by MDT, in accordance with the procedure hereinabove provided for an original submission, until the same shall receive final approval by MDT. MDT and Tenant shall in good faith attempt to resolve any disputes concerning the Plans in an expeditious manner.

(f) Upon the approval of the Final Design Plans for the Project, such design shall be the Construction Plans for the Project. MDT's approval shall be in writing and each party shall have a set of plans signed by all parties as approved. In the event any change occurs after approval of the Final Design Plan for the Project, then Tenant must resubmit the changed portion of the Construction Plans for MDT's reasonable approval (unless the change is required

by another Miami-Dade County department as part of the permitting process, of which MDT shall be notified).

(g) Tenant agrees to comply with MDT's requirements relating to construction adjacent to the Metrorail guideway and station, including but not limited to crane operation procedures and safety monitoring. Tenant agrees that any costs associated with adherence to such policies shall be borne solely by Tenant.

**4.10 Construction Plans.** Tenant shall give Landlord final site and elevation plans for the Project prior to submittal for the building permits. All Construction Plans must be in conformity with the Final Design Plans approved by MDT which approval shall not be unreasonably withheld, conditioned or delayed and the procedure in this Lease.

**4.11 "As-Built" Plans** . At the completion of the entire Project, Tenant shall provide to Landlord eight (8) sets of As-Built Plans.

**4.12 Tenant Development Obligations.** MDT's approval of any plans pursuant to this Article 4 shall not relieve Tenant of its obligations under law to file such plans with any department of the County or any other governmental authority having jurisdiction over the issuance of building or other Permits and to take such steps as are necessary to obtain issuance of such Permits. Landlord agrees to cooperate with Tenant in connection with the obtaining of such approvals and Permits. Tenant acknowledges that any approval given by MDT pursuant to this Article 4, shall not constitute an opinion or agreement by Miami Dade Transit (MDT) that the plans are structurally sufficient or in compliance with any Laws or Ordinances, codes or other applicable regulations, and no such approval shall impose any liability upon MDT. Should an

Event of Default occur and Tenant does not complete the Project or development or any Phase thereof, the Landlord has all the rights, title and interest in the construction Plans and Specifications for the Project. Tenant shall include a provision in each Leasehold Mortgage (or Subleasehold Mortgage) which will vest Landlord with all right, title and interest in the Construction Plans and specifications for the Project financed thereby, should an Event of Default occur, and the affected Leasehold Mortgagee (or Subleasehold Mortgagee) does not elect to construct and complete the Building(s) and/or Improvements on or about the Demised Premises. Notwithstanding the foregoing, upon an Event of Default by Tenant the affected Leasehold Mortgagee or Subleasehold Mortgagee shall be entitled to take such actions as are reasonably necessary to find another contractor or transferee to construct the Building.

**4.13 Facilities to be Constructed.** Landlord shall not be responsible for any costs or expenses of construction and/or maintenance of the Buildings and Improvements, except as otherwise provided herein or specifically agreed to by the parties in writing. Moreover, after Completion of Construction, Tenant shall assign to Landlord any warranties Tenant receives from its contractors as to the condition of the Buildings and Improvements on the Demised Premises.

**4.14 Progress of Construction.** Subsequent to the Commencement Date, Tenant shall submit reports to PHCD, monthly 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 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. Tenant shall not be entitled to an adjustment of 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 or discovered, and in such event, time periods shall be extended by the reasonable time necessary to accommodate redesign and lengthened construction schedules resulting from that event.

**4.15 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 (excepting all of the System 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 becoming the property of Landlord at the expiration or termination of this Lease.

**4.16 Connection of Buildings to Utilities.**

(a) Tenant, with the prior written consent of the Landlord, at Tenant's sole cost and expense, shall install or cause to be installed all necessary utility connections between and for the Buildings and Improvements constructed or erected by the Tenant on the Demised Premises, 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 Demised Premises. Provided that the Tenant conforms to the preceding terms and conditions contained in the paragraph (a), the Landlord hereby grants to Tenant until the termination of this Lease an easement, license to construct, access and maintain the aforementioned utility connections.

(b) If Tenant, acting in good faith and in the exercise of commercially reasonable discretion, and within one (1) year of the Commencement Date of this Lease, determines that the Project cannot practicably be developed as contemplated hereunder due to matters affecting title or the existence of recorded or unrecorded easements, or the presence of or lack of utility fixtures, or connections then Tenant may by written notice to Landlord terminate this Lease prior to the issuance of a building permit and neither party shall have any liability to the other thereafter under this Lease.

**4.17 Connection Rights.** Landlord hereby grants to Tenant, commencing with the Commencement Date of this Lease and continuing during the term thereof, the non-exclusive right to construct utility connections to the Station and Demised Premises that are reasonable and necessary for the Buildings and Improvements, subject to the Landlord's prior written consent which shall not be unreasonably withheld, conditioned or delayed. The Landlord shall have the right to construct above or below grade utility improvements and/or connections between the Station and any land or facilities on or about the Demised Premises or directly to the Station and/or to any land or facilities on or about the Demised Premises, so long as such utility improvements and/or connections do not unreasonably and materially interfere with the use and enjoyment and the ingress and egress to and from the Demised Premise by Tenant, its Sublessees, patrons, licensees or invitees.

**4.18 Off-site Improvements.** Any off-site improvements required to be performed, paid for or contributed as a result of the development of the Station and/or the System shall be paid or contributed by Landlord. Any off-site improvements required to be performed, paid for or contributed as a result of Tenant's development of the Demised Premises shall be paid or contributed by Tenant.

**4.19 Driveway Access to Station.** During construction, Tenant shall, to the extent possible with regard to safety considerations, maintain open access to the transit station along the driveway indicated in Exhibit B. Any closure of the driveway during construction should be minimized and should take place during off-peak traffic hours when possible.

**4.20** [INTENTIONALLY LEFT BLANK]

**4.21 Signage and Landscaping of Entrances.** Landlord agrees to cooperate with Tenant in the development of plans regarding entrances to the Demised Premises in order to achieve an aesthetic blend of landscaping and signage between the Project and the Station. All costs of developing such plans shall be paid by Tenant.

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

(a) if review and/or approval is required under the terms of this Lease, to review and approve documents, easements, covenants, conditions or restrictions, Plans and Specifications, applications, lease assignments or subleases (although no approval of residential subleases is needed or required from Tenant and no approval is required for commercial subleases which are less than 2,500 square feet in area and the use under the commercial sublease is an Ancillary Use), 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) make appointments of individuals or entities required to be appointed or designated by Landlord in this Lease;

(c) execute non-disturbance agreements, and cause Landlord's existing mortgagee or new mortgagee to execute non-disturbance agreements and issue estoppel statements as provided elsewhere in this Lease;

(d) execute any and all documents on behalf of Landlord necessary or convenient to the foregoing approvals, consents, and appointments;

(e) execute on behalf of Miami-Dade County any and all consents, agreements, 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 Demised Premises; and

(f) to amend this Lease to correct any typographical or scrivener's errors.

**4.23 Sublessee as Developer.** In the event that a Sublessee is acting as the developer of the Project, Landlord agrees to cooperate with such Sublessee as if the Sublesee were the Tenant for purposes of this Article 4.

**4.24 Responsible Wages.** Attached hereto as Schedule 4.24 and made a part hereof is the schedule entitled "Responsible Wages".

## ARTICLE 5

## Payment of Taxes, Assessments

**5.1 Tenant's Obligations for Impositions.** Tenant shall pay or cause to be paid, prior to their becoming delinquent, all Impositions, which at any time during the term of this Lease have been, or which may become, a lien on the Demised Premises or any part thereof, or any appurtenance thereto, 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 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 of this Lease, 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 which is applicable to the period of time

prior to expiration or termination of the Term, and Landlord, if so obligated, shall pay the remainder thereof if obligated to do so; and

(c) 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. Notwithstanding the provisions of Section 5.1 or 5.2(a) herein, Tenant may postpone or defer payment of such Imposition if:

(i) Neither the Demised Premises nor any part thereof would by reason of such postponement or deferment be subject to a lien, and/or 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 counsel 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 Demised Premises.** Tenant, on the last day of the Term, or upon any earlier termination of this Lease, shall surrender and deliver up the Demised Premises to the possession and use of Landlord without delay and in good condition and repair, reasonable wear and tear, Acts of God, or casualties excepted.

**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 any Improvement or necessitate changes in or repairs to a Building or any Improvement, Tenant shall repair or restore (or cause to be repaired or restored) the Building and/or Improvement 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 Demised Premises 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 Leasehold Mortgagee or Subleasehold Mortgagee, 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.

7.2 **Indemnification.** Landlord and Tenant hereby agree that the Tenant, shall indemnify and hold harmless the Landlord and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including reasonable attorneys' fees and reasonable costs of defense, which the 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 the Tenant or its employees, agents, servants, partners principals or subcontractors, subject to the limitations of Section 768.28, Florida Statutes and subject to the monetary limits of Section 768.28, Florida Statutes except to the extent caused by the negligence of Landlord. 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 the Landlord, where applicable, including any and all appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. 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 the 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 the Landlord to the same extent as Tenant

has indemnified Landlord herein, except that the limitations of Section 768.28 Florida Statutes does not and shall not apply to any non-governmental Sublessees and, as such, any non-governmental Sublessees indemnity obligations to Landlord shall not be subject to the limitations of Section 768.28 Florida Statutes, above. In each and every Sublease, Tenant shall require and ensure that there is an appropriate clause or section that duly indemnifies and protects the Landlord in accordance with the requirements of this Section.

**7.3 Insurance.** Tenant and Landlord 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.

**7.4 INTENTIONALLY DELETED.**

**7.5 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 Demised Premises other than the damage or injury caused by the negligence or misconduct of Landlord, its officers, employees, or agents, and all of which is [subject to the limitations of Florida Statutes, Section 768.28.]

**7.6 Indemnification by Landlord.** The Landlord does hereby agree to indemnify and hold harmless the Tenant to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the County shall not be held liable to pay a person injury or property damage claim or judgment by any one person which exceeds the sum of $200,000, or any claim or judgments of portions thereof, which, when totaled with all other occurrences, exceeds the sum of $300,000, form any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise as a result of the negligence of the Landlord. However, nothing herein shall be deemed to indemnify the Tenant from any liability

or claim arising out of the negligent performance or failure of performance of the Tenant or any unrelated third party.

## ARTICLE 8
## Operation

**Control of Demised Premises.** Landlord hereby agrees that, subject to any express limitations imposed by the terms of this Lease, Tenant shall be free to perform and exercise its rights under this Lease and shall have exclusive control and authority to direct, operate, lease and manage the Demised Premises.

**8.1 Access Rights of Tenant.** Tenant shall have the right:

(a) To access the subterranean portions of the Demised Premises, as may be reasonable and necessary, for Tenant to erect, maintain, repair, renew and replace such supports, foundations and other improvements, provided the aforementioned access does not materially or unreasonably interfere with or disturb the Station, System, and/or any Landlord improvements or utilities; and

(b) Of pedestrian ingress, egress and passageway over and across the Station which shall be necessary or desirable for entrance, exit and passageway to and from the Demised Premises, and to and from the Station and the System for the use in common with Landlord and Tenant, and their respective successors, assigns, patrons, tenants, licensees, invitees and all other persons having business with any of them; and

(c) To construct, install and maintain within the area of pedestrian ingress, egress and passageway in the Station, signs for the purpose of giving directions and/or identifying the Project; provided, however, that the design, size and location of the structures in which the signs are posted and the signs shall be subject to the approval of Landlord, which shall be granted or denied in Landlord's sole and absolute discretion.

**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 and to and from the Station. 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 approved 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 and to and from the Station. The foregoing shall not prohibit Tenant from closing the 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 Demised Premises or during the operation of the Demised Premises, provided such closing does not materially and adversely interfere with (i) the public's reasonable access to the Station, or (ii) Landlord's customary operation of the System, unless Tenant obtains Landlord's prior written consent.

Tenant's development and construction of the Project and its use and operation of the Demised Premises shall not materially and adversely interfere with Landlord's customary and reasonable operation of the Station and/or the System, unless prior arrangements have been made in writing between Landlord and Tenant. Similarly, Landlord's use of the Station area shall not materially and adversely interfere with Tenant's development and construction of the Project and its use and operation of the Demised Premises and the Buildings and improvements to be constructed thereon, unless prior arrangements have been made in writing between Landlord and Tenant. Landlord may at any time during the term of this Lease, stop or slow down construction

by Tenant, but only upon Landlord's reasonable determination that the safety of the patrons of the Station, the use of the System, or of the users of the System or of any employees, agents, licensees and permittees of Landlord is jeopardized. 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.

**8.3 Repair and Relocation of Utilities.** Landlord and Tenant hereby agree to maintain and repair, and each party is given the right to replace, relocate, and remove, as necessary, after three (3) business days' notice unless in the case of an emergency, utility facilities within the Demised Premises required for the repair, or operation of the Demised Premises or of the Station and/or System, provided:

(a) Such activity does not materially or adversely interfere with the other party's operations;

(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 Demised Premises are thereafter restored to their former state as soon as possible; and

(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 at Tenant's expense, in relocating existing utility lines and facilities on the Demised Premises 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.

**8.4 Rights to Erect Signs.**

(a) Subject to the limitation of appropriate County Ordinance, Landlord hereby agrees that, to the extent permitted by law, Tenant shall have the exclusive right, during the Term of this Lease, to place, erect, attach to walls, 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 or outside the Demised Premises. 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 documents reasonably necessary or required in order to confirm ownership of the Demised Premises 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 including monument signage, lighted signs, or advertisements identifying the Buildings and Improvements to the Demised Premises;

(ii) Signs or advertisements offering all or any portion of the Demised Premises for rent or sale, if applicable; and

(iii) Signs or advertisements advertising or identifying any company, or service operating in or on or about the Demised Premises.

(c) Tenant shall have the right to remove any signs which, from time to time, may have become 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 Demised Premises by Tenant, or any Sublessees.

(d) As used in this Lease, "Sign(s)" 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, stationary or otherwise. However, "Sign(s)" shall not include any offensive or obscene language or offensive or obscene graphic material, as determined solely by applicable law.

**8.5 Landlord's Signs upon Demised Premises.**

System-wide and Station informational signs and graphics shall be allowed to be placed within the Demised Premises at the sole expense of Landlord and at locations and in sizes reasonably and mutually agreed upon by Landlord and Tenant.

## ARTICLE 9

## Repairs and Maintenance of the Demised Premises

**9.1 Tenant Repairs and Maintenance.** Throughout the Term of this Lease, Tenant, at its sole cost and expense, shall keep the Demised Premises in good order and condition, and make all necessary repairs thereto including to any Building and/or Improvements built thereon. The term "repairs" shall include all replacements, renewals, alterations, additions and betterments deemed necessary by Tenant. All repairs made by Tenant shall be at least substantially similar in quality and class to the original work, ordinary wear and tear excepted. Tenant shall keep and maintain all portions of the Demised Premises and all connections created by Tenant under Section 4.14 above in a clean and orderly condition, reasonably free of dirt, rubbish, graffiti, and unlawful obstructions.

## 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 applicable Laws, including those of Local, State and Federal governments and their policies, laws, ordinances, orders and statutes as they relate to any and all aspects of the Project's development and construction process and the operation and maintenance of the Demised Premises, Building and/or Improvements. 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 accordance with the Joint Use Policy for Joint Development Projects, as set forth in Miami-Dade County Commission Resolution R-1443A-81, adopted September 28, 1981 provided that the costs of any such cooperation (including those incurred by Landlord) shall be borne solely by the Tenant.

**10.2 Contest by Tenant.** Tenant shall have the right, after prior written notice to Landlord, to contest the validity or application of any Law or Ordinance 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.

## ARTICLE 11

## Changes and Alterations to Buildings by Tenant

**11.1 Tenant's Right.** Tenant, with Landlord's reasonable approval, shall have the right at any time and 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 to raze the Buildings provided any such razing shall be preliminary to and in connection with the rebuilding of a new Building or

Buildings, which will contain, at a minimum, the number of units being razed and provided further that unless waived by Landlord:

(a) the use of the Demised Premises shall remain Senior Affordable Housing, with Ancillary Uses and parking;

(b) the method, schedule, 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;

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

(d) the rebuilding, alteration, reconstruction or razing does not at any time change or materially or adversely affect the Station, Station entrance, or any access thereto except as may be agreed to by Landlord in writing;

(e) Tenant, at its expense, obtains all approvals, Permits and authorizations required under applicable Laws.

(f) there shall be no less than 180 units at the completion of reconstruction

(g) any razing and/or reconstruction shall take no more than 24 months in total to complete.

## ARTICLE 12

## Discharge of Obligations

**12.1 Tenant's Duty**. During the Term of this Lease, Tenant shall not cause or permit the imposition of any liens on the Demised Premises. Further, Tenant will discharge any and all obligations incurred by Tenant which give rise to any liens on the Demised Premises, 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 therefor 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 Station or the Demised Premises, it being understood and agreed that Landlord 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 therefor 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 Demised Premises

**13.1 Prohibited Use of Demised Premises by Tenant.**

(a) Tenant shall not construct or otherwise develop on the Demised Premises anything that is inconsistent with or not explicitly authorized by the terms and conditions of this Lease.

(b) The Demised Premises shall not knowingly be used for any of 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.

(c) No covenant, agreement, Sublease, Assignment, Leasehold Mortgage, Subleasehold Mortgage, or other instrument shall be effected or executed by Tenant, or any of its successors or assigns, whereby the Demised Premises or any portion thereof is restricted by Tenant, or any successor in interest, upon the basis of race, color, religion, sexual orientation, sex or national origin in the sale, lease, 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, sexual orientation, sex, or national origin in the lease or occupancy of the Demised Premises.

(i) Affirmative Action Plan - The Tenant shall report to the Landlord information relative to the equality of employment opportunities whenever so requested by the Landlord but no more often than twice annually and Tenant may have a reasonable period of time to answer any request.

(ii) Assurance of compliance with Section 504 of the Rehabilitation Act - The Tenant shall report its compliance with Section 504 of the Rehabilitation Act whenever requested by the Landlord but not more often than twice annually.

(iii) Civil Rights - The Tenant agrees to abide by Chapter 11A, Article IV, Sections 2 and 28 of the Code of Miami-Dade County, as amended, applicable to

non-discrimination in employment and abide by Executive Order 11246 which requires equal employment opportunity.

(iv) Where applicable, the Tenant agrees to abide by 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, the Landlord shall have the right to terminate said Lease.

(v) The 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. The 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 handicap. The 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 Demised Property for any lawful purpose or use authorized by this Lease and allowed under the ordinance establishing the zoning for the Demised 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 Demised 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 Demised Property. Tenant shall not knowingly permit its Sublessees or other person or entity in contractual privity with Tenant to carry flammable or combustible liquids into or onto the Demised 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 Demised 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 in homes or offices, or (d) their use in construction of Buildings and Improvements on the Demised Property.

**13.3 Hazardous Substances.**

Landlord and Tenant acknowledge the Memorandum dated June 6, 2011 attached hereto as Exhibit "C " regarding the environmental condition of the site. Therefore, beginning with the commencement of this Lease Agreement:

(a) Except for cleaning solvents which are used and stored in compliance with all applicable laws, ordinances, rules and regulations, Tenant hereby covenants that Tenant shall not cause or permit any **"Hazardous Substances"** (as hereinafter defined) to be placed, held, located or disposed of in, on or at the Premises or any part thereof, and neither the Premises nor any part thereof shall ever be used as a

dump site or storage site (whether permanent or temporary) for any Hazardous Substances during the Lease Term.

(b) Tenant hereby agrees to indemnify Landlord and hold Landlord harmless and shall defend Landlord with counsel selected by Landlord from and against any and all losses, liabilities, including, without limitation, strict liability, damages, injuries, expenses, including, without limitation, reasonable attorneys' fees at all levels, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Landlord by any person or entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from, the Premises of any Hazardous Substance (including, without limitation, any losses, liabilities, including, but not limited to, strict liability, damages, injuries, expenses, including, without limitation, reasonable attorneys' fees at any level, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any so-called federal, state or local **"Superfund"** or **"Superlien"** laws, statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability, including but not limited to strict liability, substances or standards of conduct concerning any Hazardous Substance), provided, however, that the foregoing indemnity is limited to matters arising solely from the violation by Tenant or its invitees, employees, contractors, licensees or agents, of the covenant contained in subsection (a) above.

(c) For purposes of this Lease, **"Hazardous Substances"** shall mean and include, without limitation, those elements or compounds which are contained in the list of hazardous substances now or hereafter adopted by the United States Environmental Protection Agency (the **"EPA"**) or the list of toxic pollutants designated by Congress or the EPA or which are now or hereafter defined as hazardous, toxic, pollutant, infectious or radioactive by any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time

hereafter in effect, or any others, the existence of which is regulated, prohibited or harmful to people, property or the environment.

(d) Landlord shall have the right but not the obligation, and without limitation of Landlord's rights under this Lease, to enter onto the Premises or to take such other actions as it deems necessary or advisable to cleanup, remove, resolve or minimize the impact of, or otherwise deal with, any Hazardous Substance following receipt of any notice from any person or entity (including without limitation the EPA) asserting the existence of any Hazardous Substance in, on or at the Premises or any part thereof which, if true, could result in an order, suit or other action against Tenant or Landlord or both. All reasonable costs and expenses incurred by Landlord in the exercise of any such rights, which costs and expenses result from Tenant's violation of the covenant contained in subsection (a) above, shall be deemed additional rental under this Lease and shall be payable by Tenant upon demand.

**13.4 Tenant's Duty and Landlord's Right of Enforcement Against Tenant and Successor.** Promptly upon learning of the occurrence of actions prohibited by Section 13.1 and 13.2, Tenant, at its sole expense, shall promptly take steps to terminate same, including the bringing of a suit in Circuit Court, if necessary. 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 or transfers under this Lease, and any entity who accepts such Sublease, Leasehold Mortgage, Subleasehold Mortgage or any other conveyances or transfers 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.

**13.5 Designation of Buildings by Name.** Tenant shall have the right and privilege of designating name(s) by which the Buildings and/or the Project thereof shall be known so long as such name is not obscene (as defined by Florida Statutes). Notwithstanding the foregoing, the Landlord retains the right to change or remove any such name upon the termination or expiration of this Lease.

## ARTICLE 14

## Access and Entry on Demised Premises by Landlord

**14.1 Access Rights of Landlord.** Landlord shall have the permanent and perpetual non-exclusive right:

(a) Of ingress, egress and passageway in, over, through and across the Public Areas of the Demised Premises which shall be necessary or desirable for entrance, exit and passageway of persons and property, including vehicles, to and from the Station and the System; and

(b) To use the space located in the public areas designated for such of the Demised Premises solely for the purpose of ingress and egress of passengers using the Station, as well as for the transportation of baggage, mail, supplies and materials to and from the Demised Premises, public thoroughfares and the Station; and

(c) To use the space located in the Public Areas of the Demised Premises to be occupied by Station signs; and

(d) Along the driveway as indicated in Exhibit B, for the purposes of ingress and egress to the Station by both transit and private vehicles. Tenant acknowledges that this driveway serves as primary access to the Station.

**14.2 Inspection by Landlord of Demised Premises.** Landlord and its authorized representatives shall have the right to enter the Demised Premises for the purposes of inspecting the same to insure itself of compliance with all of the provisions of this Lease. In order to effectuate these inspections rights, Landlord shall, except in the event of an emergency, provide reasonable notice to Tenant of the inspection, which shall not be less than two (2) business days, and shall perform any inspection in the presence of a representative of Tenant at reasonable times during normal business hours.

**14.3 Right to Inspect Books and Records of Tenant.** The Tenant shall, during normal business hours and upon reasonable written notice from Landlord, twice annually make available to the Landlord for its inspection and/or audit the Tenant's books and records relating to the lease of the Senior Affordable Housing units on the Demised Property. Any failure by the Tenant to maintain the project as Senior Affordable Housing shall be an Event of Default, and the Landlord shall be able to exercise any of its remedies as found in Article 19 of this Lease.

**14.4 Limitations on Inspection.** Except in the case of an emergency, Landlord, in its exercise of the right of entry granted to it in Section 14.1 herein, shall (a) not unreasonably disturb the occupancy of Tenant or Sublessees nor disturb their business or residential activities; and (b) with respect to any residential Sublessee, shall comply with all laws, rules and regulations governing or applicable to the Landlord of a residential premises.

## ARTICLE 15

### Limitation 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. Each party agrees that the other party to the Lease shall only be liable to the other for its actual out of pocket damages, and not special damages, punitive damages, exemplary damages, consequential damages, nor loss of profits.

**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. Each party agrees that the other party to the Lease shall only be liable to the other for its actual out of pocket damages and not special damages, punitive damages, exemplary damages, consequential damages nor loss of profits.

## ARTICLE 16

### Damage and Destruction

**16.1 Tenant's Duty to Restore.** If, at any time during the term of this Lease, except for the last ten (10) years of the term, the Demised Premises or any part thereof shall be substantially (more than 50%) 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 and/or elected by Tenant, 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. Such repairs,

alterations, restoration, replacements or rebuilding, including such changes and alterations as aforementioned and including temporary repairs for the protection of other property pending the completion of any thereof, shall be completed in a timely manner, not exceeding two hundred seventy (270) calendar days from such damage or destruction, unless extended because of Unavoidable Delays. In the event insurance proceeds related to such casualty are not immediately made available to Tenant for use in connection therewith so that Tenant may complete the Building within two hundred seventy (270) days from the casualty and/or Tenant elects not, or fails, to rebuild, Landlord shall have the right to terminate this Lease and obtain immediate possession of any and all Buildings and Improvements on the Demised Premises without any cost of Landlord. If the Premises are not restored any proceeds of insurance shall be paid to Tenant's leasehold mortgagee up to the amount necessary to pay off the Leasehold Mortgagee and any excess shall be paid to Landlord and Tenant as follows: to Landlord up to an amount necessary to restore the Land to its original condition and any excess shall be paid by Tenant.

**16.2** If at any time the Tenant elects not to restore the Project as described above, then the proceeds of any insurance policy shall be given to the County for restoration of the Project. Additionally, if the Tenant elects not to restore the Project, it is the obligation of the Tenant, at its sole cost and expense, to restore that portion of the property so damaged to its original condition at the Commencement of this Lease.

**16.3 Landlord's Duty to Repair and Rebuild Station.** If during the term of this Lease, the Station (or any part thereof) shall be damaged or destroyed by fire or other casualty, Landlord, at its sole cost and expense, if requested by Tenant, shall repair or rebuild a station of a design, size and capacity as is required by Landlord's transit needs at the time of such repair or

rebuilding except if such damage to the Station is more than 50% of damage to the overall structure and the damage occurs in the last ten (10) years of the term of this Lease, then Landlord, at its option, shall have no obligation to rebuild.

**16.4 Interrelationship of Lease Sections.** The conditions under which any construction, repair or maintenance work under Article 16 is to be the performed and the method of proceeding with and performing the same shall be governed by all the provisions of Article 4 and Article 11 herein as well as any other provisions of this Lease applicable to development and construction on the Demised Premises.

**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, (i) Landlord shall be named as an additional insured and (ii) the loss thereunder shall be payable to Tenant, Landlord and to any Leasehold Mortgagee under a standard mortgage endorsement. Neither Landlord nor any Leasehold Mortgagee shall unreasonably withhold its consent to a release of 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. Any proceeds remaining after completion of rebuilding or repair under this Article, shall be paid to Tenant.

**16.6 Repairs Affecting Station or Demised Premises.** Before beginning any repairs or rebuilding, or letting any contracts in connection therewith, required by any damage to or destruction of the Demised Premises which adversely affects the Station entrance, or required by any damage to or destruction of the Station which adversely affects the entrance to the Demised Premises, then 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), Plans and Specifications for such repairs or rebuilding. Any such repairs and rebuilding shall be completed

free and clear of liens on the Demised Premises, except to the extent they are subject to Leasehold Mortgages. Tenant shall deliver to Landlord an executed payment and performance bond(s), in compliance with Chapter 255.05 of the Florida Statutes to guarantee the completion of such repairs.

## ARTICLE 17

## Subleases, Assignments and Leasehold Mortgages

**17.1 Right to Sublease and Assign Demised Premises.** During the Term of this Lease, should Tenant wish to sublease or assign any or all of its rights under this Lease to any sublessee or assignee that is neither a residential subtenant nor a commercial subtenant whose space is less than 2,500 square feet and which space is to be used for an Ancillary Use, the following conditions shall apply:

(a) Tenant shall not be in default under this Lease at the time of requesting and/or entering into such sublease or assignment; and

(b) All agreements for sublease or assignment of the Demised Premises or any portion thereof shall incorporate and be subject to all of the terms and provisions of this Lease. Further, all subleases or assignments which are subject to approval shall be subject to the approval of the County Mayor or Mayor's designee, except as otherwise set forth herein; and

(c) Tenant shall obtain approval of the Mayor or Mayor's designee for any sublease of non-residential space in excess of 2,500 square feet which is not an Ancillary Use. No Landlord approval is needed for any other sublease; and

(d) Tenant may only assign this Lease to another governmental entity or qualified not-for-profit entity under Section 125.38, Florida Statutes and any such assignment shall require the approval of the Board of County Commissioners in its sole and absolute discretion; and

(e) If in any request to the Landlord, the Tenant seeks to sublease a portion of the Demised Premises and/or the Project for any commercial or retail business operation where such commercial or retail business operation is an Ancillary Uses of the Demised Premises over 2,500 square feet, and such use is consistent with the overall use of the Demised Premises, then accompanied by any such request to Landlord, Tenant shall include copies of the proposed sublease agreement, together with the latest financial statement (audited, if available) of the proposed sublesee and a summary of the proposed Sublessees's prior experience in managing and operating such commercial or retail business operation. In such instance, Landlord shall consider the matter and determine, in its reasonable discretion whether or not to consent to the Sublease agreement; and

(f) Any act required to be performed by Tenant pursuant to the terms of this Lease may be performed by any Sublessee or Assignee 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 the Tenant named in the introductory paragraph.

(g) Notwithstanding any other provisions of this Lease, no Sublease or Assignment shall relieve Tenant of any obligations under the terms of this Lease. Tenant must give written notice to Landlord specifying the name and address of any Sublessee or Assignee to which all notices required by this Lease shall be sent, and a copy of the Sublease or Assignment. Landlord agrees to grant Non-Disturbance Agreements for Sublessees and/or Assignees which provide, in the event of a termination of this Lease which applies to the portion of the Demised Premises covered by such Sublease and/or Assignment, due to an Event of Default committed by

the Tenant, such Sublessee or Assignee will not be disturbed and will be allowed to continue peacefully in possession directly under this Lease as the successor tenant, provided that the following conditions are met:

(i) the Sublease or Assignment is an arms' length transaction on market terms; and

(ii) the Sublessee or Assignee is not a "related party" to Tenant; and

(iii) the Sublessee or Assignee shall be in compliance with the terms and conditions of its Sublease or Assignment and this Lease; and

(iv) the Sublessee or Assignee shall agree to attorn to Landlord.

Landlord further agrees that it will grant such assurances to such Sublessees or Assignees so long as they remain in compliance with the terms of their Subleases or Assignments, and provided further that any such Subleases or Assignments do not extend beyond the expiration of the Term of this Lease.

**17.2 Right to Mortgage Leasehold.** Tenant shall have the right from time to time, without the consent of Landlord, to mortgage and otherwise encumber its rights regarding the Demised Premises under this Lease, a Sublease thereof, and the leasehold estate, in whole or in part, and subject to Section 17.2, by a Leasehold or Subleasehold Mortgage or Mortgages to any Lender, provided it is a recognized lending institution, such as a bank, savings and loan, pension fund, insurance company, savings bank, real estate investment trust, tax credit syndication entity, revenue district, other real estate investment or lending entity, federal, state, county or municipal governmental agency or bureau, whether such be local, national or international, or the mortgage is a purchase money mortgage given back to the Tenant, or is otherwise reasonably acceptable to Landlord. 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 as security for the performance of the terms and conditions of this Lease. 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 Demised 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 seeks to exercise its rights under any promissory note and/or mortgage agreements relating to all or a portion of the Demised Premises. 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 Mortgage(s) may contain a provision for assignment of any rents, revenues, monies or other payments due to Tenant or Sublessee, and a provision therein that the Lender in any action to foreclose the same shall be entitled to the appointment of a receiver. This Section shall survive the expiration and/or early termination of this Lease.

**17.3 Phased Development and Right to Mortgage Leasehold.** In the event that Tenant develops the Demised Premises as a Phased Development, Tenant may only mortgage or otherwise encumber, subject to Section 17.2, only that portion or portions of the Demised Premises which is necessary for that phase of the Project.

**17.4 Notice to Landlord of Leasehold 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 Mortgage(s) shall remain a lien on Tenant's or Sublessee's leasehold estate. Any such Leasehold or Subleasehold Mortgagee(s) will not be bound by any modification of this Lease with respect to the portion of the Demised Property subject to such Leasehold Mortgage(s) or Subleasehold Mortgage(s), unless such modification is made with the prior written consent of such Leasehold or Subleasehold Mortgagee, and no sale or transfer of Landlord's fee simple interest in the Land or any portion thereof to Tenant shall terminate this Lease by merger or otherwise so long as the lien of the Leasehold or Subleasehold Mortgage remains undischarged. The foregoing is not meant to prohibit a sale of the fee to Tenant.

**17.5 Notices to Leasehold and Subleasehold Mortgagee(s), Sublessee(s) and Assignee(s).** 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 and Subleasehold Mortgagee, Sublessee and Assignee who shall have notified Landlord of its name, address and its interest in the Demised Premises prior to Landlord's issuance of such notice. Landlord agrees to accept performance and compliance by any such Leasehold and Subleasehold Mortgagee, Sublessees or Assignee 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 Section 19.4. Nothing contained herein shall be construed as imposing any obligation upon any such Leasehold and Subleasehold Mortgagee, Sublessee or Assignee to so perform or comply on behalf of Tenant.

**17.6 Right to Cure Default of Tenant.**

(a) In addition to any rights the Leasehold and Subleasehold Mortgagee, Sublessee or Assignee may have by virtue of Article 19 herein, if, within ninety (90) days after the mailing of any notice of termination or such later date as is thirty (30) days following the expiration of the cure period, if any, afforded Tenant (the "Mortgagee Cure Period"), such Leasehold or Subleasehold Mortgagee, Sublessee or Assignee 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 due and payable by Tenant hereunder with respect to the portion of the Demised Premises to which such Leasehold or Subleasehold Mortgagee, Sublessee or Assignee 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 Demised Premises, then, upon the written request of such Leasehold or Subleasehold Mortgagee, Sublessee or Assignee made any time prior to the expiration of the Mortgagee Cure Period, Landlord and the party making such request, so long as such entity meets the terms of Section 125.38 of the Florida Statutes, shall mutually execute prior to the end of such Mortgagee Cure Period a new Lease of the Demised Property (or such portion thereof as they have an interest in or mortgage on) for the remainder of the term of this Lease 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 or Subleasehold Mortgagee, Sublessee or Assignee shall have paid to Landlord a sum of money equal to the rents and other payments for such portion of the Demised Premises 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 new Lease(s) shall contain the same clauses subject to which this demise is made, and shall be at the rents and other payments for such portion of the Demised Premises due Landlord and upon the terms as are herein contained. Tenant(s) under any such new Lease(s) shall have the same right, title and interest in and to and all obligations accruing thereafter under this Lease with respect to the applicable portion of the Demised Premises as Tenant has under this Lease. If the Default is caused by the failure to construct or complete the construction of any of the one hundred and eighty (180) units provided for in this Lease, then the new Lease shall give Leasehold Mortgagee or Subleasehold Mortgagee an extended cure period to gain possession and title to the Demised Premises to give the Leasehold Mortgagee additional time it may need to gain possession and leasehold title to the Demised Premises plus equal to such time as may be reasonably necessary to construct the Building or Buildings and any Improvements that Tenant was required to construct under the Lease.

(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 Demised Premises, priority shall be given (regardless of the order in which such requests shall be made or received) to the Leasehold or Subleasehold Mortgagee, Sublessee or Assignee making such a request in order of their priority of interest in said portion of the Demised 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 Subleasehold Mortgagee, Sublessee or Assignee, as the case may be, to the Leasehold Mortgagee.

(c) Simultaneously with the making of such new lease(s), the party obtaining such new lease and all other parties junior in priority of interest in the Demised Premises 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 Demised Premises 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 Demised Premises to such Leasehold or Subleasehold Mortgagee, Sublessee or Assignee or to their respective nominee until the new lease(s) has been executed by all pertinent parties. Landlord agrees, however, that Landlord will, at the cost and expense of such Leasehold or Subleasehold Mortgagee, Sublessee or Assignee or respective nominee, cooperate in the prosecution of judicial proceedings to evict the then defaulting Tenant or any other occupants of the Demised Premises.

(e) Upon the execution and delivery of a new lease(s) pursuant to this Article 17, all 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 lease(s). Between the date of termination of this Lease and the date of execution and delivery of the new lease(s), if the Leasehold or Subleasehold Mortgagee, Sublessee or Assignee shall have requested such new lease(s) as provided for in this Section 17.6, Landlord will not cancel any Sublease or Assignment 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, Sublessee or Assignee, except:

(i) for default as permitted in such, and

(ii) for the purpose of permitting Landlord to enter into a Sublease or Assignment with another or sublessee or assignee who will occupy not less than the same amount of space demised by the canceled Sublease or Assignment at a rental rate per square foot and for terms not less than the rental rates per square foot, and for at least the remainder of the unexpired terms, respectively, of the canceled Sublease.

(f) The provisions of this Section 17.6 shall survive any termination of this Lease.

**17.7 Limited Waiver of Landlord Lien.** In order to enable Tenant and its Sublessees or Assignees to secure financing for the purchase of fixtures, equipment, and other personalty to be located on or in the Demised Premises, whether by security agreement and financing statement, mortgage or other form of security instrument, Landlord does waive 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.

**17.8 No Subordination or Mortgaging of Landlord's Fee Title.** There shall be no mortgaging of Landlord's fee simple interest in the Demised Premises and land that is part of the Demised Premises. 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 the Landlord's fee simple interest in the Land.

## ARTICLE 18

## Taking

**18.1 Notice of Taking.** Forthwith upon receipt by either Landlord or Tenant of notice of the institution of any proceedings for a Taking, the party receiving such notice shall promptly give notice thereof to the other, and if the party receiving such notice is the Tenant, then Landlord shall have the right to also appear in such proceeding and be represented by counsel. The Landlord shall not voluntarily agree to settle any matter with a condemning authority in a Taking regarding the Demised Premises without first seeking the approval of Tenant, which approval shall not be unreasonably withheld, conditioned or delayed. Tenant shall be entitled to have, at its own expense, its own counsel at its own expense negotiate and litigate any award for Tenant in the proceeds of the Taking.

**18.2 Takings Award.** The Tenant's right to recover a portion of the award for a Taking is limited to the fair market value as of the date of the Taking of those Buildings and Improvements originally paid for or borrowed by Tenant with Tenant and/or private funds, 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 the Tenant be entitled to compensation for any fee interest in the real property (Land) underlying the Demised Premises. Notwithstanding anything herein to the contrary, the Landlord shall be entitled to receive from the condemning authority not less than the appraised value of the Land and the fair market value as of the date of the Taking of any other Buildings and/or Improvements on the Land, or part of the Demised Premises, built by the Landlord and/or with Landlord's funds. Tenant and the Landlord shall, in all other respects, keep, observe and perform all the terms of this Agreement up to the date of such Taking and it is expressly agreed to and understood between the parties that the Landlord and Tenant shall be entitled to each having its own counsel negotiate and litigate any award for Tenant and Landlord

as to each party's interest in the Property shall agree to seek compensation for any loss of use of the Buildings and Improvements. The full amount of any award whether pro tanto or final for any Taking (the "Award") shall be paid, allocated and distributed as set forth above. If the value of the respective interest of the Landlord (Land and any Buildings and/or Improvements built by Landlord and/or with Landlord's fund) and Tenant (Buildings and Improvements paid for or borrowed by Tenant with Tenant and/or private funds) shall be determined in the Takings proceedings, the values so determined shall be conclusive upon the Landlord and Tenant. If such values shall not have been separately determined in such proceedings, such values shall be fixed by agreement between the Landlord and Tenant, or if they are unable to agree, by an apportionment hearing within the Takings proceedings so that the allocation between the parties is fair and equitable, subject to any decision on appeal of such determination.

Notwithstanding the foregoing, if at the time of Taking there is a Leasehold Mortgage encumbering the Demised Premises the Leasehold Mortgagee shall first be entitled to receive disbursement to the Leasehold Mortgagee the proceeds of the Taking up to the amount of the Leasehold Mortgagee's loan.

**18.3 Total Taking.** In the event of a permanent Taking of the fee title to or of control of the entire leasehold estate hereunder ("Total Taking"), this Lease shall thereupon terminate as of the effective date of such Total Taking, without liability or further recourse to the parties, provided that any Rent or other impositions hereunder payable or obligations owed by Tenant to Landlord as the date of said Total Taking shall be paid or otherwise carried out in full; and the Award shall be allocated in accordance with Section 18.2.

**18.4 Partial Taking.** In the event of a permanent Taking of less than all of the Premises (a "Partial Taking"), if Tenant or Landlord reasonably determines that the continued

development, use or occupancy of the remainder of the Demised Premises by Tenant cannot reasonably be made to be in the interest of community interest and/or welfare economically viable, structurally sound, consistent with this Lease or otherwise feasible, then Tenant may terminate this Lease and the Award obtained in Takings proceedings shall be applied in accordance with Section 18.2.

**18.5 Temporary Taking.** In the event of a Taking of less than one (1) year ("Temporary Taking) of the entire Demised Premises or a portion thereof, any Award shall be applied in accordance with Section 18.2 and all the Lease shall continue enforce for the remainder of the Term.

## ARTICLE 19

## Default by Tenant or Landlord

**19.1 Events of Default of Tenant.** Subject to Tenant receiving from Landlord the notice and cure periods provided for in 19.1(e), if applicable, the following provisions shall apply if any one or more of the following "Event(s) of Default of Tenant" shall happen:

(a) Tenant has failed to make payments of any rent when due or failed to timely pay any other monies due to Landlord under this Lease.

(b) Tenant has not complied with the Schedule of Development as outlined in Article 4.3 of this Lease.

(c) Tenant has not received a Certificate of Occupancy for one hundred and eighty (180) units of Senior Affordable Housing within nine (9) years of the Commencement Date.

(d) Tenant has not continuously operated the Demised Premises as a senior affordable housing development with Ancillary Uses and parking throughout the term of this Lease.

(e) Default is made by Tenant in failing to keep, observe or perform any of the terms contained in this Lease other than those terms set forth in this Section 19.1(a)-(d), and such default shall continue for a period of thirty (30) 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 Event of Default or contingency which cannot with due diligence and in good faith be cured within thirty (30) days, Tenant fails within said thirty (30) day period to proceed promptly and with due diligence and in good faith to pursue curing said Event of Default and such cure period shall continue so long as Tenant is diligently pursuing such cure.

**19.2 Failure to Cure Default by Tenant.**

(a) If an Event of Default of Tenant shall occur, Landlord, at any time after the expiration of any applicable cure periods set forth in Section 19.1(e) shall give written notice to Tenant and to any Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee, if any, who has notified Landlord in accordance with Sections 17, specifying such Event(s) 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 thirty (30) days after the giving of such notice, during which time Tenant and/or the Leasehold and Subleasehold Mortgagee(s) and Sublessee(s), if any, 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 Article 17 herein, this Lease and the Term hereby demised and all rights of Tenant under this Lease, shall expire and terminate.

(b) If an Event of Default of Tenant shall occur after the expiration of any notice and cure period 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 Article 17 and Article 19 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 damages (as limited by Section 15.2), costs and expenses arising from Tenant's committing an Event of Default hereunder and to recover all such damages, costs and expenses 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 to obtain a decree specifically compelling performance of any such term or provision of the Lease; and

(iii) 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. Notwithstanding the foregoing, in the event the Project has been constructed in Phases, as a Phased Development, to the extent no Event of Default exists as to any Phase, Landlord shall only be able to declare an Event of Default as to those Phases where Tenant is not in compliance with the terms of this Lease. As to any Phase where Tenant is in compliance with terms of this Lease, this Lease shall continue in full force and effect as to any such non-default Phase.

(iv) In the Event of Default, in the case where Tenant has commenced a Phased Development, Tenant, at Landlord's sole discretion, shall surrender the

undeveloped portion of the Demised Premises to Landlord except as provided in Section 19.2(b) (iv).

**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 but 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 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 all 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 to curing by entry upon the Demised Premises or otherwise, 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 all due 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, to effect a removal of Tenant or Sublessee from the Demised Premises 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, 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 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 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 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 or Sublease and the term thereof. 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 Demised Premises to Landlord. Notwithstanding anything contained herein to the contrary, 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.

**19.4 Surrender of Demised Premises.** Upon any expiration or termination in accordance with the terms and conditions of this Lease, Tenant and all Sublessees shall quit and peacefully surrender the Demised Premises to Landlord, except as provided under any non-disturbance agreement provided by Landlord to any Sublessee.

**19.5 Rights of Landlord After Termination.** Subject to Article 17, at any time or from time to time after such termination, Landlord may relet the Demised Premises 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 sole and absolute discretion, may determine and may collect and receive the. Landlord shall in no way be responsible or liable for any failure to relet the Demised Premises or any part thereof, or for any failure to collect any rent due for any such reletting.

**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 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 or Event of Default of Tenant hereunder shall be implied from any omission by Landlord to take any action on account of such default or Event of Default, and no express waiver shall affect any default or Event of 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, terms or conditions.

**19.7 Events of Default of Landlord.** The provisions of Section 19.7 shall apply if any of the following "Events of Default of Landlord" shall happen: if an Event of 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 Event of 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 Event of 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, 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, in which event Tenant shall be released and relieved from any and all liability under this Lease and shall surrender possession of the Demised Premises to Landlord.

**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 Event of Default of Landlord hereunder shall be implied from any omission by Tenant to take any action on account of such Event of Default if such default persists or is repeated, and no express waiver shall affect any other Event of Default other than the Event of 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, terms 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 at:

City of Hialeah
Office of the Mayor
501 Palm Ave
Hialeah, FL 33010

with a copy to:

City of Hialeah
Office of the City Attorney
501 Palm Avenue
Hialeah, Florida 33010

and 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 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(e) and 17.3 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 Landlord at:

Miami-Dade County
Department of Public Housing and Community Development
Office of the Director
601 NW 1st Court, Suite 1400
Miami, Florida 33128

And

Miami-Dade County
Miami-Dade Transit
Office of the Director
601 NW 1st Court, Suite 1700
Miami, Florida 33128

With copy to:

Miami Dade County
County Attorney
111 NW 1st Street, Suite 2800
Miami, Florida 33128

and 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 same in writing to Tenant.

**20.2 Method of Transmitting Notice**. All such notices, demands or requests (a "Notice") shall be sent by: (i) United States registered or certified mail, return receipt requested,(ii) hand delivery, (iii) nationally recognized overnight courier, or (iv) 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 rent and performing in accordance with the terms, agreements, and provisions of this Lease, shall peaceably and quietly have, hold and enjoy the Demised Premises 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 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 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 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 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) 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 22.2 may be relied upon by any prospective Sublessee or any Leasehold Mortgagee or Subleasehold Mortgagee, but reliance on such certificate may not extend to any Event of 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.** At either party's request a Memorandum of this Lease, or at Tenant's behest, a full copy hereof, may be recorded among the Public Records of Miami-Dade County, Florida, at the sole cost of Tenant.

**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.

**23.6 Consents.** Whenever in this Lease the consent or approval of Landlord or Tenant is required and where such consent or approval can be made by the County Mayor or its designee on behalf of Landlord, such consent unless specified herein to the contrary:

(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 Conflict Between Lease and General Obligation Bond Funding Agreement and/or the Rental Regulatory Agreement.** In the event of a conflict between this Lease Agreement and the General Obligation Bond Funding Agreement and/or the Rental Regulatory Agreement, the General Obligation Bond Funding Agreement and/or the Rental Regulatory Agreement shall prevail.

**23.9 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.

**23.10 Brokers.** Landlord and Tenant hereby represent and agree with each other 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 and neither Tenant nor Landlord has dealt with any real estate broker, salesperson, or finder in connection with this Lease, and no such person initiated or participated in the negotiation of this Lease or showed the Demised Premises to Tenant.

**23.11 Radon.** In accordance with Florida law, the following disclosure is hereby made:

RADON GAS: Radon gas is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risk to persons who are exposed over time. Levels of radon that exceed Federal and State Guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the local public health agency or administration.

## 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) Throughout the term of this Lease, Landlord will use reasonable efforts to endeavor to continue transit service to and from the Station on a daily basis as funding and other practical and policy considerations may allow. The parties acknowledge that service disruptions occur occasionally and such disruptions shall not be considered termination of service under this Lease. If the Station is damaged or destroyed and as a result trains cannot stop thereat, the foregoing sentence shall not apply during the period of repair and rebuilding done in accordance with Section 16.2.

(c) Tenant acknowledges that in accordance with Florida Statutes Section 125.411(3) (1990) Landlord does not warrant the title or represent any state of facts concerning the title to the Demised Premises, 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, including approval by the City Commission if required.

## ARTICLE 25

## Equal Opportunity

Tenant will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, age, ancestry, marital status, handicap, place of birth, or national origin. The Tenant shall take affirmative action to ensure that applicants are employed and that employees are treated during their employment, without regard to their race, religion, color, sex, sexual orientation, age, ancestry, marital status, handicap, place of birth or national origin. 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 Urban Mass Transportation Act of a Section 3 capital grant for Metromover:

(i) all regulations of the U.S. Department of Transportation;

(ii) all applicable provisions of the Civil Rights Act of 1964;

(iii) Executive Order 11246 of September 24, 1964 as amended by Executive Order 11375;

(iv) Executive Order 11625 of October 13, 1971;

(v) the Age Discrimination Employment Act effective June 12, 1968;

(vi) the rules, regulations and orders of the Secretary of Labor;

(vii) Florida Statute 112.042;

(viii) the applicable Federal Transit Administration regulations, including but not limited to the requirements found in 49 CFR Part 23.7 regarding nondiscrimination based on race, color, national origin or sex; in 49 CFR Parts 27.7 and 27.9(b) regarding nondiscrimination based on disability and complying with the Americans With Disabilities Act with regard to any improvements constructed; and in the Federal Transit Administration Master Agreement dated October 1, 1999, in Section 3, Subparagraphs (a)(1), (a)(2), and (b) thereof relating to conflicts of interests and debarment.

(ix) Articles 3 and 4 of Chapter 11A of the Code of Metropolitan Miami-Dade County.

Tenant does hereby covenant and agree that in the event facilities are constructed, maintained or otherwise operated by Tenant on the Demised Premises for a purpose for which the State of Florida Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the 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, gender, sexual orientation, disability or national origin 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, gender, sexual orientation, disability or national origin 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 premises 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.

## ARTICLE 26

## Community Small Business Enterprise ("CBE")

Tenant shall comply with any applicable requirements of the Miami-Dade County Department of Small Business Development unless Tenant is exempt or if such requirement has been waived.

## ARTICLE 27

## Inspector General Reviews

***Independent Private Sector Inspector General Reviews***

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

***Miami-Dade County Inspector General Review***

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the

County from progress payments to the Lessee. The audit cost shall also be included in all change orders and all contract renewals and extensions.

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

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities,

performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Lessee, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Lessee from the Inspector General or IPSIG retained by the Inspector General, the Lessee shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Lessee's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

[SIGNATURE BLOCKS APPEAR ON THE FOLLOWING PAGE]

**IN WITNESS WHEREOF**, Landlord has caused this Lease to be executed in its name by the County Mayor; 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.

LANDLORD

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

ATTEST:

HARVEY RUVIN, CLERK

By:_____

By:_____

Approved as to form and legal sufficiency

Print Name: Gerald T. Hefferman
Title: Asst. County Atty
Date: 7-29-14

TENANT

THE CITY OF HIALEAH
A Municipal Corporation

_____
Frederick H. Marinelli, Director
Grants and Human Services

By:_____ 3/24/14
Mayor Carlos Hernandez Date

Approved as to form and legal sufficiency:

William M. Grodnick
Attorney

Attest:

By:_____ 3/24/14
Marbelys Fatjo Date
Acting City Clerk

City

NOTARY:

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

The foregoing instrument was acknowledged before me this 08 day of August, 2014, by EDWARD MARQUEZ, as _____.

Personally Known ✓ OR Produced Identification _____

Type of Identification Produced _____

Ed. M. M.

Print or Stamp Name: EDWIN G. MORALES
Notary Public, State of Florida at Large
Commission No.: _____
My Commission Expires: _____

EDWIN G. MORALES
MY COMMISSION # EE222706
EXPIRES September 13, 2016
(407) 398-0153 FloridaNotaryService.com

NOTARY:

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

The foregoing instrument was acknowledged before me this 24th day of March, 2014, by Mayor Carlos Hernandez as Mayor of City of Hialeah

Personally Known ✓ OR Produced Identification _____

Type of Identification Produced _____

Print or Stamp Name: ANNETTE QUINTANA
Notary Public, State of Florida at Large
Commission No.: FF 028257
My Commission Expires: June 17, 2017

ANNETTE QUINTANA
Notary Public - State of Florida
My Comm. Expires Jun 17, 2017
Commission # FF 028257
Bonded Through National Notary Assn.

EXHIBIT "A"

EXISTING IMPROVEMENTS

# OFFICE OF THE PROPERTY APPRAISER

## Summary Report

Generated On : 7/22/2014

| Property Information | |
|---|---|
| Folio: | 04-3013-076-0010 |
| Property Address: | 2005 W OKEECHOBEE RD < |
| Owner | MIAMI-DADE COUNTY<br>MIAMI-DADE TRANSIT AGENCY |
| Mailing Address | 111 NW 1 ST STE 910<br>MIAMI , FL 33128-1903 |
| Primary Zone | 7200 INDUSTRIAL - MEDIUM MFG |
| Primary Land Use | 8617 COUNTY : COMMERCIAL - TOTAL VALUE |
| Beds / Baths / Half | 0 / 0 / 0 |
| Floors | 1 |
| Living Units | 0 |
| Actual Area | Sq.Ft |
| Living Area | Sq.Ft |
| Adjusted Area | 344 Sq.Ft |
| Lot Size | 0 Sq.Ft |
| Year Built | 2007 |

| Assessment Information | | | |
|---|---|---|---|
| Year | 2014 | 2013 | 2012 |
| Land Value | $0 | $0 | $0 |
| Building Value | $0 | $0 | $0 |
| XF Value | $0 | $0 | $0 |
| Market Value | $2,087,396 | $2,087,396 | $2,087,396 |
| Assessed Value | $2,087,396 | $2,087,396 | $2,087,396 |

| Taxable Value Information | | | |
|---|---|---|---|
| | 2014 | 2013 | 2012 |
| **County** | | | |
| Exemption Value | $2,087,396 | $2,087,396 | $2,087,396 |
| Taxable Value | $0 | $0 | $0 |
| **School Board** | | | |
| Exemption Value | $2,087,396 | $2,087,396 | $2,087,396 |
| Taxable Value | $0 | $0 | $0 |
| **City** | | | |
| Exemption Value | $2,087,396 | $2,087,396 | $2,087,396 |
| Taxable Value | $0 | $0 | $0 |
| **Regional** | | | |
| Exemption Value | $2,087,396 | $2,087,396 | $2,087,396 |
| Taxable Value | $0 | $0 | $0 |

| Benefits Information | | | | |
|---|---|---|---|---|
| Benefit | Type | 2014 | 2013 | 2012 |
| County | Exemption | $2,087,396 | $2,087,396 | $2,087,396 |

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

| Sales Information | | | |
|---|---|---|---|
| Previous Sale | Price | OR Book-Page | Qualification Description |

**Short Legal Description**

OKEECHOBEE STATION
PB 159-10 T-13356
TRACT ALESS PORT LYG IN R/W
LOT SIZE 11.859 AC
FAU 04 3013 001 0441

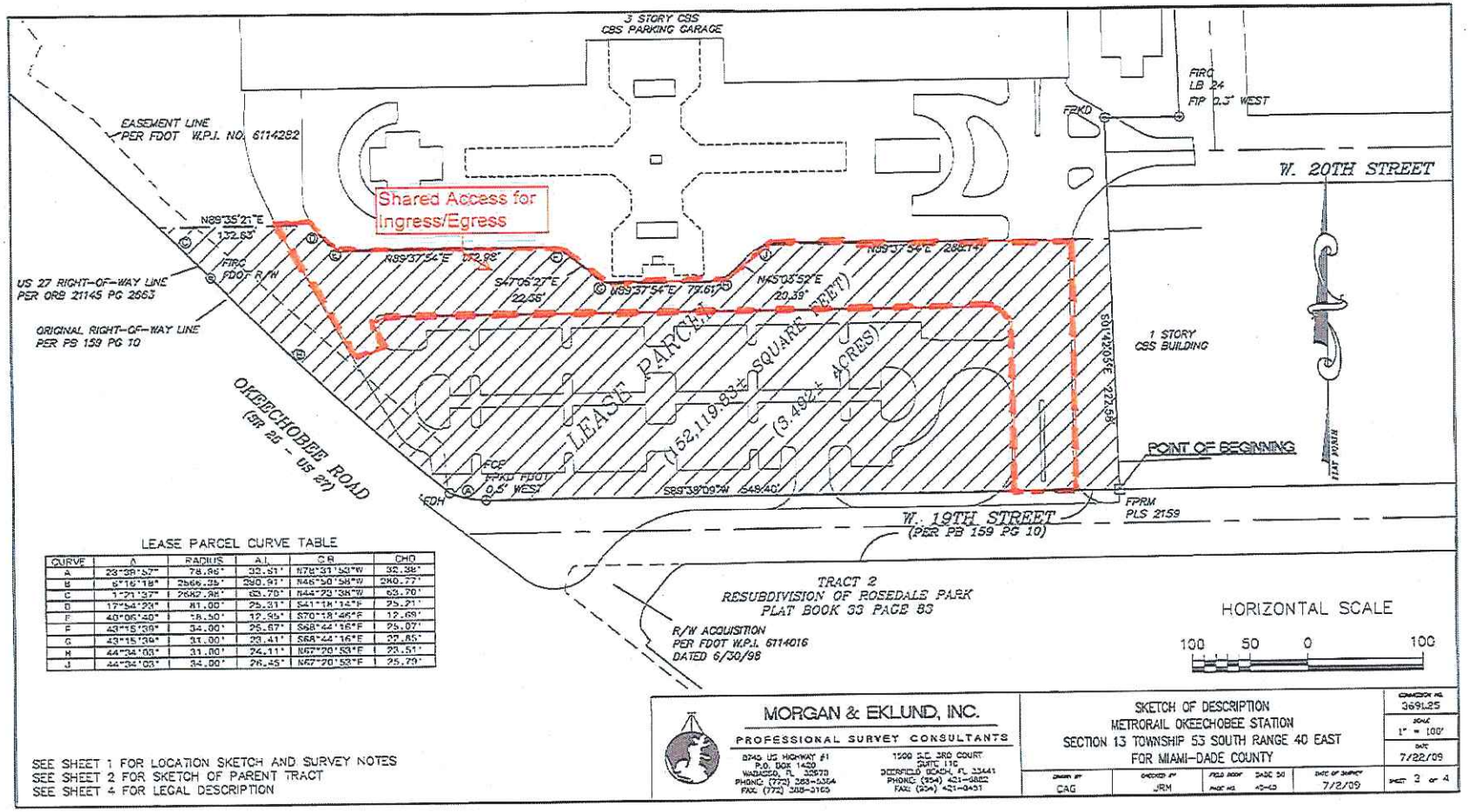
The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at http://www.miamidade.gov/info/disclaimer.asp (http://www.miamidade.gov/info/disclaimer.asp)

Version:

EXHIBIT "B"

INGRESS AND EGRESS EASEMENT

EXHIBIT "B"




LEASE PARCEL CURVE TABLE

| CURVE | Δ | RADIUS | A.L. | C.B. | CHD |
|---|---|---|---|---|---|
| A | 23°38'57" | 78.96' | 32.61' | N78°31'53"W | 32.38' |
| B | 6°16'18" | 2566.35' | 290.91' | N46°50'58"W | 280.77' |
| C | 1°21'37" | 2682.98' | 63.70' | N44°23'38"W | 63.70' |
| D | 17°54'23" | 81.00' | 25.31' | S41°18'14"E | 25.21' |
| E | 40°06'40" | 18.50' | 12.95' | S70°18'46"E | 12.69' |
| F | 43°15'39" | 34.00' | 25.67' | S68°44'16"E | 25.07' |
| G | 43°15'39" | 31.00' | 23.41' | S68°44'16"E | 22.85' |
| H | 44°34'03" | 31.00' | 24.11' | N67°20'53"E | 23.51' |
| J | 44°34'03" | 34.00' | 26.45' | N67°20'53"E | 25.79' |

SEE SHEET 1 FOR LOCATION SKETCH AND SURVEY NOTES
SEE SHEET 2 FOR SKETCH OF PARENT TRACT
SEE SHEET 4 FOR LEGAL DESCRIPTION

MORGAN & EKLUND, INC.
PROFESSIONAL SURVEY CONSULTANTS
8745 US HIGHWAY #1
P.O. BOX 1420
WABASSO, FL 32970
PHONE: (772) 388-5354
FAX: (772) 388-3165
1500 S.E. 3RD COURT
SUITE 110
DEERFIELD BEACH, FL 33441
PHONE: (954) 421-6882
FAX: (954) 421-0451

SKETCH OF DESCRIPTION
METRORAIL OKEECHOBEE STATION
SECTION 13 TOWNSHIP 53 SOUTH RANGE 40 EAST
FOR MIAMI-DADE COUNTY

| DRAWN BY | CHECKED BY | FIELD BOOK | PAGE NO. | DATE OF SURVEY | SHEET |
|---|---|---|---|---|---|
| CAG | JRM | | 40-43 | 7/2/09 | 2 of 4 |

COMMISSION NO. 3691.25
SCALE 1" = 100'
DATE 7/22/09

EXHIBIT "C"

ENVIRONMENTAL CONDITION OF SITE MEMORANDUM

# Memorandum

MIAMI-DADE COUNTY

**Date:** June 6, 2011 (Reissued September 26, 2011)

**To:** Julie Balogh, Section Manager
Airports & Contracts Section, DERM

**From:** Wilbur Mayorga, P.E., Chief
Pollution Control Division, DERM FOR

**Subject:** Okeechobee Station - Source Removal Report (SRR) Addendum
HWR-652/ENC-50/F-23937
WO # 022A3-BVNA

---

The Pollution Control Division (PCD) has reviewed the above-referenced document dated May 18, 2011 and received May 19, 2011. Based on the information contained in the SRR Addendum, no further remedial action is required by the Pollution Control Division at this time. This approval pertains only to that area of the site addressed in the above-referenced report and does not relieve responsibility for any other areas of this site that may be found to be contaminated. If subsequent evidence indicates that undiscovered contamination remains from a previous discharge or if a new discharge has occurred, then further action will be required to address the contamination.

All monitoring wells installed as part of the Limited Phase II Site Assessment activities must be abandoned in accordance with the requirements of Rule 62-532.500(4), Florida Administrative Code. Any monitoring wells remaining are the responsibility of the property owner(s) and must be equipped with tight-sealing, locking caps and maintained to prevent any direct discharge to the groundwater of Miami-Dade County.

If you have any questions concerning the above, please contact Julie Baker at bakerj@miamidade.gov of the Pollution Control Division at (305) 372-6700.

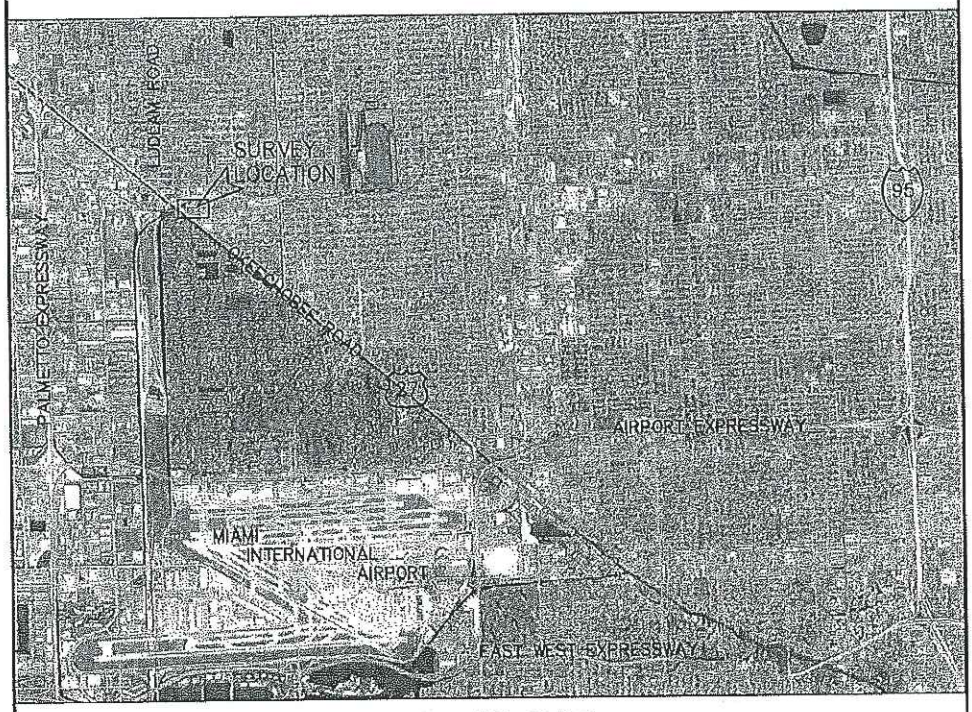
RI/jab

Cc: Monica Castro, Airports & Contracts Section

SCHEDULE 1.1

SKETCH OF DEMISED PREMISES

## LOCATION MAP




HORIZONTAL SCALE

6000 3000 0 6000 12000

## SURVEY NOTES

1. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS OF RECORD OR OWNERSHIP.
2. THE BASIS OF BEARINGS IS THE LINE BETWEEN TWO FOUND IRON RODS WITH CAPS ON THE NORTH LINE OF THE PLAT OF OKEECHOBEE STATION (PLAT BOOK 159 PAGE 10) BEARING N87°10'00"E AND BEING 378.29 FEET IN LENGTH.
3. GROUND FEATURES DEPICTED ON THIS SURVEY REPRESENTS THE EXISTING CONDITIONS ON THE DATE OF THE FIELD SURVEY.
4. NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
5. UNDERGROUND UTILITIES AND IMPROVEMENTS NOT LOCATED.
6. ADDITIONS OR DELETIONS TO THIS SURVEY MAP ARE PROHIBITED WITHOUT WRITTEN CONSENT.
7. PROPERTY TO BE PLATTED PRIOR TO THE DEVELOPMENT OF THE PROPERTY.
8. CERTIFIED TO: MIAMI-DADE TRANSIT.

*CERTIFICATE OF SURVEYOR – I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS IN ACCORDANCE WITH A RECENT FIELD SURVEY MADE UNDER MY DIRECTION, AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.*

SEE SHEET 2 FOR SKETCH OF PARENT TRACT
SEE SHEET 3 FOR SKETCH OF DESCRIPTION
SEE SHEET 4 FOR LEGAL DESCRIPTION

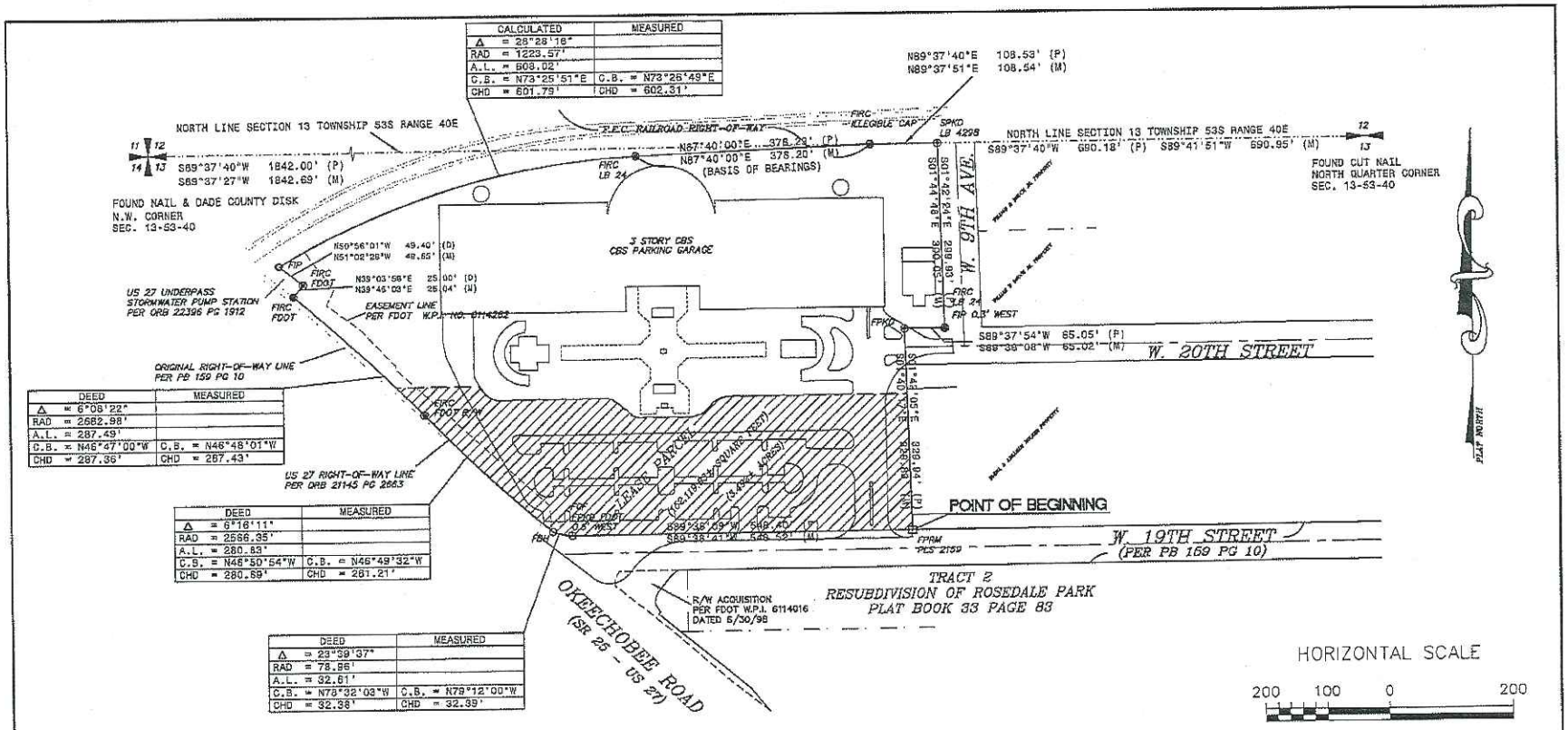
*JOHN R. MORGAN, II, PLS*
*PROFESSIONAL LAND SURVEYOR # 3520*
*STATE OF FLORIDA*

MORGAN & EKLUND, INC.
PROFESSIONAL SURVEY CONSULTANTS
8745 US HIGHWAY #1
P.O. BOX 1420
WABASSO, FL 32970
PHONE: (772) 388-5384
FAX: (772) 388-3165
1500 S.E. 3RD COURT
SUITE 110
DEERFIELD BEACH, FL 33441
PHONE: (954) 421-6882
FAX: (954) 421-0451

SKETCH OF DESCRIPTION
METRORAIL OKEECHOBEE STATION
SECTION 13 TOWNSHIP 53 SOUTH RANGE 40 EAST
FOR MIAMI-DADE COUNTY

| COLLECTION NO. | SCALE | DATE |
|---|---|---|
| 3691.25 | 1" = 6,000' | 7/22/09 |

| DRAWN BY | CHECKED BY | FIELD BOOK | PAGE NO. | DATE OF SURVEY | SHEET |
|---|---|---|---|---|---|
| CAG | JRM | | 43-63 | 7/2/09 | 1 of 4 |




SEE SHEET 1 FOR LOCATION SKETCH AND SURVEY NOTES
SEE SHEET 3 FOR SKETCH OF DESCRIPTION
SEE SHEET 4 FOR LEGAL DESCRIPTION


MORGAN & EKLUND, INC.
PROFESSIONAL SURVEY CONSULTANTS
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FAX: (954) 421-0451


SKETCH OF DESCRIPTION
METRORAIL OKEECHOBEE STATION
SECTION 13 TOWNSHIP 53 SOUTH RANGE 40 EAST
FOR MIAMI-DADE COUNTY

| DRAWN BY | CHECKED BY | FIELD BOOK / PAGE NO. | DATE SB | DATE OF SURVEY |
|---|---|---|---|---|
| CAG | JRM | 45-53 | | 7/2/09 |

COMMISSION NO. 3691.25
SCALE 1" = 200'
DATE 7/22/09
SHEET 2 OF 4

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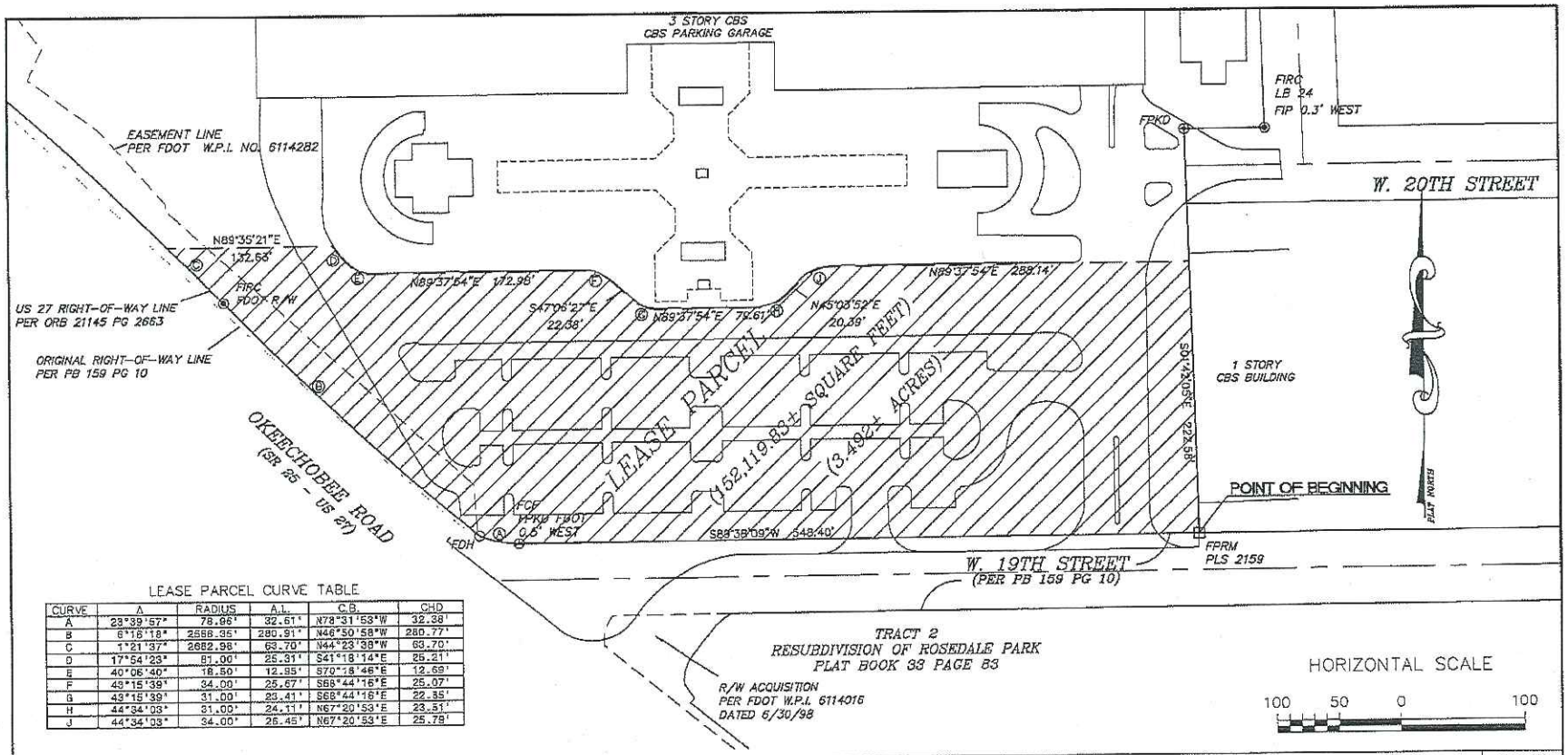


LEASE PARCEL CURVE TABLE

| CURVE | Δ | RADIUS | A.L. | C.B. | CHD |
|---|---|---|---|---|---|
| A | 23°39'57" | 78.96' | 32.61' | N78°31'53"W | 32.38' |
| B | 6°16'18" | 2566.35' | 280.91' | N46°50'58"W | 280.77' |
| C | 1°21'37" | 2682.98' | 63.70' | N44°23'38"W | 63.70' |
| D | 17°54'23" | 81.00' | 25.31' | S41°18'14"E | 25.21' |
| E | 40°06'40" | 18.50' | 12.95' | S70°18'46"E | 12.69' |
| F | 43°15'39" | 34.00' | 25.67' | S68°44'16"E | 25.07' |
| G | 43°15'39" | 31.00' | 23.41' | S68°44'16"E | 22.85' |
| H | 44°34'03" | 31.00' | 24.11' | N67°20'53"E | 23.51' |
| J | 44°34'03" | 34.00' | 26.45' | N67°20'53"E | 25.79' |

SEE SHEET 1 FOR LOCATION SKETCH AND SURVEY NOTES
SEE SHEET 2 FOR SKETCH OF PARENT TRACT
SEE SHEET 4 FOR LEGAL DESCRIPTION

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SKETCH OF DESCRIPTION
METRORAIL OKEECHOBEE STATION
SECTION 13 TOWNSHIP 53 SOUTH RANGE 40 EAST
FOR MIAMI-DADE COUNTY

| DRAWN BY | CHECKED BY | FIELD BOOK | DATE SB | DATE OF SURVEY | SHEET |
|---|---|---|---|---|---|
| CAG | JRH | PAGE NO. | 45-53 | 7/2/09 | 3 OF 4 |

COMPUTATION NO. 3691.25
SCALE 1" = 100'
DATE 7/22/09

## LEGAL DESCRIPTION

A PARCEL OF LAND LYING WITHIN THE PLAT OF "OKEECHOBEE STATION" AS RECORDED IN PLAT BOOK 159, PAGE 10 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND BEING IN THE NW ONE QUARTER OF SECTION 13, TOWNSHIP 53 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 4"X4" CONCRETE MONUMENT "PLS 2159" AT THE SOUTHEAST CORNER OF THE PLAT OF OKEECHOBEE STATION AS RECORDED IN PLAT BOOK 159, PAGE 10 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, PROCEED ALONG THE SOUTH LINE OF SAID PLAT OF OKEECHOBEE STATION (SAID LINE ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF W. 19TH STREET) S89°38'09"W A DISTANCE OF 548.40 FEET TO A "CROWS FOOT" MARK IN THE BACK OF A CONCRETE WALK AT A POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 78.96 FEET, A CENTRAL ANGLE OF 23°39'57" AND A CHORD BEARING OF N78°31'53"W; THENCE, ALONG THE ARC OF SAID CURVE A DISTANCE OF 32.61 FEET TO A DRILL HOLE IN THE BACK OF A CONCRETE WALK AT A POINT OF NON-TANGENCY TO A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 2566.35 FEET, A CENTRAL ANGLE OF 6°16'18" AND A CHORD BEARING OF N46°50'59"W; THENCE, ALONG THE ARC OF SAID CURVE A DISTANCE OF 280.91 FEET TO A POINT OF REVERSE CURVATURE TO A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 2682.98 FEET, A CENTRAL ANGLE OF 1°21'37" AND A CHORD BEARING OF N44°23'38"W; THENCE, ALONG THE ARC OF SAID CURVE 63.70 FEET TO A POINT OF NON-TANGENCY; THENCE, ALONG A NON-TANGENT LINE N89°35'21"E A DISTANCE OF 132.63 FEET TO A POINT OF NON-TANGENCY TO A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 81.00 FEET, A CENTRAL ANGLE OF 17°54'23" AND A CHORD BEARING OF S41°18'14"E; THENCE ALONG THE ARC OF SAID CURVE 25.31 FEET TO A POINT OF COMPOUND CURVATURE TO A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 18.50 FEET, A CENTRAL ANGLE OF 40°06'40" AND A CHORD BEARING OF S70°18'46"E; THENCE ALONG THE ARC OF SAID CURVE 12.95 FEET TO A POINT OF TANGENCY; THENCE ALONG A TANGENT LINE N89°37'54"E A DISTANCE OF 172.98 FEET TO A POINT OF CURVATURE TO A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 34.00 FEET, A CENTRAL ANGLE OF 43°15'39" AND A CHORD BEARING OF S68°44'16"E; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 25.67 FEET TO A POINT OF TANGENCY; THENCE ALONG A TANGENT LINE S47°06'27"E A DISTANCE OF 22.38 FEET TO A POINT OF CURVATURE TO A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 31.00 FEET, A CENTRAL ANGLE OF 43°15'39" AND A CHORD BEARING OF S68°44'16"E; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 23.41 FEET TO A POINT OF TANGENCY; THENCE ALONG A TANGENT LINE N89°37'54"E A DISTANCE OF 79.61 FEET TO A POINT OF CURVATURE TO A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 31.00 FEET, A CENTRAL ANGLE OF 44°34'03" AND A CHORD BEARING OF N67°20'53"E; THENCE ALONG THE ARC OF SAID CURVE 24.11 FEET TO A POINT OF TANGENCY; THENCE ALONG A TANGENT LINE N45°03'52"E A DISTANCE OF 20.39 FEET TO A POINT OF CURVATURE TO A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 34.00 FEET, A CENTRAL ANGLE OF 44°34'03" AND A CHORD BEARING OF N67°20'53"E; THENCE ALONG THE ARC OF SAID CURVE 26.45 FEET TO A POINT OF TANGENCY; THENCE ALONG A TANGENT LINE N89°37'54"E A DISTANCE OF 288.14 FEET TO A POINT ON THE EAST LINE OF THE PLAT OF OKEECHOBEE STATION; THENCE ALONG THE EAST LINE OF SAID PLAT OF OKEECHOBEE STATION S01°42'05"E A DISTANCE OF 222.58 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 152,119.83 SQUARE FEET OR 3.492 ACRES MORE OR LESS.

## ABBREVIATIONS LEGEND

| | |
|---|---|
| AL | ARC LENGTH (IN FEET) |
| C.B. | CHORD BEARING |
| CHD | CHORD LENGTH (IN FEET) |
| FDH | FOUND DRILL HOLE |
| FCF | FOUND CROWS FOOT MARK |
| FIRC | FOUND 5/8" REBAR & CAP |
| FIP | FOUND 1" IRON PIPE |
| SPKD | SET PK NAIL & DISK |
| FPKD | FOUND PK NAIL & DISK |
| FPRM | FOUND 4" X 4" CONCRETE MONUMENT |
| PB | PLAT BOOK |
| ORB | OFFICIAL RECORDS BOOK |
| PG | PAGE |
| U.E. | UTILITY EASEMENT |
| SR | STATE ROAD |
| CBS | CONCRETE BLOCK STRUCTURE |
| LB | LICENSED BUSINESS |
| RAD | RADIUS |
| R/W | RIGHT-OF-WAY |
| SEC | SECTION |
| (P) | PLAT |
| (M) | MEASURED |
| (D) | DEED |

SEE SHEET 1 FOR LOCATION SKETCH AND SURVEY NOTES
SEE SHEET 2 FOR SKETCH OF PARENT TRACT
SEE SHEET 3 FOR SKETCH OF DESCRIPTION

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SKETCH OF DESCRIPTION
METRORAIL OKEECHOBEE STATION
SECTION 13 TOWNSHIP 53 SOUTH RANGE 40 EAST
FOR MIAMI-DADE COUNTY

| | | | | |
|---|---|---|---|---|
| DRAWN BY CAG | CHECKED BY JRM | FIELD BOOK / PAGE NO. | CASE 58 / 45-63 | DATE OF SURVEY 7/2/09 |

COMMISSION NO. 3691.25
SCALE
DATE 7/22/09
SHEET 4 OF 4

SCHEDULE 1.3

CONFIRMATION OF COMMENCEMENT

**Schedule 1.3**

**COMMENCEMENT DATE CONFIRMATION**

Reference is made to the Lease Agreement dated August 8th, 2014 (the "Lease"), by and between Miami-Dade County, acting by and through its Department of Public Housing and Community Development ("PHCD") and Miami-Dade Transit (hereinafter "MDT") (together hereinafter "Landlord"), and THE CITY OF HIALEAH ("Tenant"). This Commencement Date Confirmation ("Confirmation") is attached to the Lease as Schedule 1.3 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, effective on the Commencement Date.

ATTEST:

HARVEY RUVIN, CLERK

By: _____

LANDLORD:

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

By: _____

TENANT:

_____

THE CITY OF HIALEAH,
A Municipal Corporation

_____

By: _____

SCHEDULE 4.24

RESPONSIBLE WAGES

a.) Miami-Dade County Code, Section 2-11, regarding Responsible Wages. The Tenant shall comply with Section 2-11 of the Miami-Dade County Code, 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, Miami-Dade County Code, in effect as of January 1st of the calendar year in which this Lease is executed. Thereafter, the 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 2-11.16(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.) The 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.) The 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.) The Tenant, Developer, Sublessee and/or any of their subcontractors, shall post in a conspicuous place on the Demised 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.) Provide that there may be withheld from the Tenant, Developer or Sublessee so much of accrued payments as may be considered necessary by the contracting officer to pay to employees employed by the 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 the Tenant, Developer, Sublessee, and/or any of its contractors, subcontractors and/or their agents; and

e.) The 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 Demised 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, the Tenant is required to submit to the 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 the 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 the 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.) The Landlord shall be permitted to periodically examine the records required to be kept in accordance with Miami-Dade County Code, Section 2-11.16. As to Responsible wages the Davis-Bacon Act applies (40 U.S.C. 276(a)) and the County Code Section 2-11 of the Miami-Dade County Code does not apply.

h.) The Tenant, Developer, Sublessee, contractor and/or subcontractor in addition to any other requirements under this Lease, shall be responsible for any and all costs

and/or fees associated with the SBD monitoring the Project, including the inspection and/or audit of any and all books, records and/or documents, to ensure that the Tenant, Developer, Sublessee, contractor and/or subcontractor, as the case may be, is in compliance with this Lease and Section 2-11 of the Miami-Dade County Code.

i.) The Tenant will comply with administrative procedures for monitoring compliance with and enforcement of the requirements of this Lease, in accordance with Miami-Dade County Code, Section 2-11.16. Such procedures provide that:

(i.) The Miami-Dade Department of Small Business Development ("SBD") may conduct investigations of compliance with the requirements of Miami-Dade County Code, Section 2-11.16, and issue written notices to the Tenant, and/or Developer and/or Sublessee (or contractor or subcontractor under the Tenant, Developer , and/or Sublessee) when it determines based on such investigation that the Tenant, Developer, or Sublessee (or contractor or subcontractor) has not complied with the requirements of Section 2-11.16;

(ii) The Tenant, Developer, Sublessee, contractor or subcontractor shall respond in writing to the notice of noncompliance;

(iii) Based on the response, SBD may determine to rescind the notice of noncompliance or to conduct a Compliance Meeting with the affected Tenant, Developer, Sublessee, contractor or subcontractor at which any additional evidence may be presented;

(iv) SBD shall make a written compliance determination following any Compliance Meeting. A determination that the Tenant, Developer, Sublessee, contractor or subcontractor has not complied with the requirements of this Lease (and/or with Miami-Dade County Code, Section 2-11.16) and shall state the basis therefore and shall advise the Tenant, Developer, Sublessee, contractor or subcontractor of its right to file a written request with the County Manager (or the County Manager's successor) within thirty (30) calendar days to schedule an administrative hearing before a hearing officer to appeal the determination as provided below; and

(v) Should the Tenant, Developer, Sublessee, contractor or subcontractor, as the case may be, fail to respond to a notice of noncompliance, and/or fails to attend a Compliance Meeting, or who does not timely request an administrative hearing from an adverse compliance determination made by SBD after a Compliance Meeting it shall be deemed not to have complied with the requirements of this Lease and/or the Miami-Dade County Code, Section 2-11.16, as stated in the notice or determination of non-compliance and, in the case of underpayment of the required overall per hour rate, an amount sufficient to pay any underpayment shall be deemed an event of default under this Lease, and the Landlord shall be permitted to undertake adequate remedies at law or in equity as it deems appropriate to compensate any affected employee or laborer, including but not limited to retaining any funds

otherwise due to the Tenant, Developer or Sublessee. Further should the Tenant, Developer, Sublessee or subcontractor who does not make the required payment of the underpaid wages or who does not pay any fine imposed hereunder shall not be deemed responsible to perform subsequent Miami-Dade County construction contracts and shall be ineligible to be awarded such contracts for so long as the identified underpayment or any penalties imposed therefor remain outstanding, not to exceed three (3) years.

## Schedule 7.1

## INDEMNIFICATION AND INSURANCE

The Tenant shall furnish to the Internal Services Department, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

### DESIGN STAGE

The Tenant shall provide or cause its Contractor to provide certificate(s) of insurance indicating the following insurance coverage:

A. Worker's Compensation Insurance for all employees of the Tenant as required by Florida Statute 440.

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 the Tenant or in the name of the licensed design professional for this project in an amount not less than $1,000,000 per claim. This insurance coverage shall be maintained for a period of two (2) years after Completion of Construction.

### CONSTRUCTION STAGE

The Tenant shall provide or cause its Contractor to provide certificate(s) of insurance indicating the following insurance coverage prior to Commencement of Construction:

A. Worker's Compensation Insurance for all employees of the Tenant as required by Florida Statute 440.

B. Commercial General Liability Insurance on a comprehensive basis in an amount not less than $50,000,000 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 (100%) percent of the insurable value of the building(s) or structure(s) under construction. The policy shall name the Tenant and the Landlord A.T.I.M.A.

**OPERATIONAL STAGE**

The Tenant shall provide or cause its Contractor to provide certificate(s) of insurance indicating the following insurance coverage:

A. Worker's Compensation Insurance for all employees of the Tenant as required by Florida Statute 440.

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.

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 by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

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

**NOTE: CERTIFICATE HOLDER MUST READ:**

**MIAMI-DADE COUNTY**
**111 NW 1st STREET**
**SUITE 2340**
**MIAMI, FL 33128**