Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 8(F)(1)(E)
01-25-07

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

RESOLUTION NO. R-37-07

RESOLUTION AUTHORIZING THE EXECUTION OF THE AGREEMENT OF PURCHASE AND SALE FOR ACQUISITION OF A PARKING GARAGE CONSISTING OF 1,583 PARKING SPACES CONSTRUCTED ON COUNTY OWNED PROPERTY KNOWN AS POINCIANA INDUSTRIAL CENTER LOCATED AT THEORETICAL NW 24TH AVENUE AND NW 75TH STREET, MIAMI FLORIDA FOR AN AMOUNT NOT TO EXCEED $23,542,114, AUTHORIZING THE COUNTY MANAGER TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THE ACQUISITION AUTHORIZED BY THE BOARD AND AUTHORIZING THE COUNTY MANAGER TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

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

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the execution of the Agreement of Purchase and Sale for acquisition of a parking garage consisting of 1,583 parking spaces constructed on County owned property known as Poinciana Industrial Center located at theoretical NW 24th Avenue and NW 75th Street, Miami Florida for an amount not to exceed $23,542,114, authorizing the County Manager to take all actions necessary to effectuate the acquisition authorized by the Board and authorizing the County Manager to exercise any and all other rights conferred therein.

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

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| | | | |
|---|---|---|---|
| Bruno A. Barreiro, Chairman | aye | | |
| Barbara J. Jordan, Vice-Chairwoman | aye | | |
| Jose "Pepe" Diaz | aye | Audrey M. Edmonson | aye |
| Carlos A. Gimenez | aye | Sally A. Heyman | aye |
| Joe A. Martinez | nay | Dennis C. Moss | aye |
| Dorrin D. Rolle | aye | Natacha Seijas | absent |
| Katy Sorenson | nay | Rebeca Sosa | aye |
| Sen. Javier D. Souto | aye | | |

The Chairperson thereupon declared the resolution duly passed and adopted this 25th day of January, 2007. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Jorge Martinez-Esteve

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# Memorandum

MIAMI-DADE COUNTY

**Date:** January 25, 2007

Amended
Agenda Item No. 8(F)(1)(E)

**To:** Honorable Chairman Bruno A. Barreiro
And Members, Board of County Commissioners

**From:** George M. Burgess
County Manager

**Subject:** Purchase of a parking garage located at theoretical NW 24th Avenue and NW 75th Street, Miami-Dade County, Florida on land owned by the Miami-Dade Empowerment Trust known as Poinciana Industrial Center R#37-07

## RECOMMENDATION

It is recommended that the Board approve the attached resolution approving the form of the Agreement of Purchase and Sale (Agreement) (ATTACHMENT A) for acquisition of a parking garage consisting of 1,583 parking spaces constructed on Miami-Dade Empowerment Trust owned property known as Poinciana Industrial Center (PIC) located at theoretical NW 24th Avenue and NW 75th Street, Miami Florida in an amount not to exceed $23,542,114. It is further recommended that the County Manager be authorized (i) to negotiate, finalize and execute the Agreement pursuant to the terms and conditions set forth in this memorandum; and (ii) to take all actions necessary to effectuate the acquisition and to exercise any and all other rights conferred in such Agreement.

| | |
|---|---|
| LOCATION | Poinciana Industrial Center |
| COMMISSION DISTRICT | 2 |
| ZONING | Industrial |
| PROPERTY OWNER | Miami-Dade Empowerment Trust |
| MASTER DEVELOPER AND LAND LESSEE | POINCIANA PARTNERS, LLLP, a Florida limited liability limited partnership<br>General Partner – Poinciana Park, LLC<br>Limited Partners – Poinciana Park, LLC<br>Miami-Dade Empowerment Trust |
| GARAGE DEVELOPER | PBP BUILDING NO. 5, LLC, a Florida limited liability company |
| OFFICE BUILDING 6A DEVELOPER | PBP BUILDING NO. 6, LLC, a Florida limited liability company |
| OFFICE BUILDING 6B DEVELOPER | PBP BUILDING NO. 6, LLC, a Florida limited liability company |
| GARAGE SELLER | PBP BUILDING NO. 5, LLC, a Florida limited liability company |

| | |
|---|---|
| TOTAL SQUARE FEET GARAGE | 476,205 |
| NUMBER OF PARKING SPACES | 1,583 |
| PURCHASE PRICE | Not to exceed $23,542,114 (including all construction, architectural and engineering and construction interest costs.) |
| FUNDING SOURCES | Not To Exceed $23,542,114 Building Better Communities General Obligation Bonds, Economic Development Fund (EDF) and any other available County funds such as County revenue bonds. |
| COST PER SQUARE FOOT | Not To Exceed $49.44 (This amount is determined by dividing the Purchase Price by the total square feet of the garage.) |
| COST PER PARKING SPACE | Not To Exceed $14,872 (This amount is determined by dividing the Purchase Price by the number of parking spaces.) |

**BACKGROUND**

Pursuant to Resolution No. R-570-01, approved May 22, 2001, the Board previously designated the Miami-Dade Empowerment Trust (MDET) as the Master Developer for the Poinciana Industrial Center with the authority to initiate, negotiate and finalize proposed terms for the sale, lease, or other uses of the land in the Poinciana Industrial Center. Accordingly on May 4, 2005, the MDET entered into a 75-year lease agreement with Poinciana Partners LLLP (Poinciana Partners) for the use and development of the property, which is presently referred to as Poinciana Biopharmaceutical Park.

The Poinciana Partners is a Florida limited liability limited partnership formed for the purpose of developing the Poinciana Biopharmaceutical Park located in a designated Empowerment Zone in Liberty City (Exhibit A, A-1, A-2). Its General Partner is Poinciana Park, LLC and its Limited partners are the MDET and Poinciana Park, LLC.

The Poinciana Partners' proposed comprehensive development project is a planned industrial, commercial and residential community located within a designated Empowerment Zone in the Liberty City area of Miami-Dade County. The project will be developed in a minimum of three (3) phases. (It should be noted that at this time the developer does not control all the property required for the buildout of all three phases [see ATTACHMENT B] thus the County must rely solely on the completion of Phase I to satisfy the conditions of the Agreement.) The initial phase consists of approximately 818,350 square feet of office, residential and retail space, including a parking garage. Specific uses in Phase I proposed within the Park are Office Building 6A containing a Jackson Memorial Hospital outpatient clinic and Center of Excellence which will provide medical treatment to residents in the area, a Miami campus facility of the Pharmacy School of Florida A&M University, and an office for MediVector, a pharmaceutical company consulting firm; Office Building 6B includes the Massachusetts Institute of Technology's Imaging Center, the Alliance for the Management of Substance Abuse, Wyeth Pharmaceuticals and a training center run by Miami-Dade College to train Park employees to work in the clinical and administrative functions of the research being performed. The garage is scheduled for

completion in January 2008, Building 6A in March 2008 and Building 6B in May 2008. A 59-unit apartment complex to serve as a housing component for employees and community residents is scheduled to be completed in March 2008. It is projected that during the first year of operations these facilities will create over 600 permanent jobs and by the third year over 2,300 jobs. Phase 1 construction cost is estimated to be in excess of $109 million. The project is referred to as the Poinciana Biopharmaceutical Park.

The parties will enter into the Agreement in the form attached to the Resolution with such changes approved by the County Manager following approval by the County Attorney's Office. The Agreement provides for the typical remedies upon default (including time to cure, right to seek specific performance, pursuit of any other remedy at law or in equity) but does limit the County's right to terminate the Agreement in the event of a default to Poinciana Partners' failure to complete the garage within 24 months of the Effective Date of the Agreement and /or provision of the leases, operating agreements or letters of intent for the two office buildings within 90 days of the Effective Date of this Agreement.

The parking garage is critical and integral to the development of Poinciana Biopharmaceutical Park for compliance with permitting regulations requiring over 1,583 parking spaces for the proposed development. The garage will be used to provide public parking for the public visiting the Park's facilities and Park tenants that will occupy the Park's facilities. As an inducement for attracting businesses to the Park and stimulating economic development in this area, it is anticipated that the parking fees charged to the users will be below market rates and will be the same for each type of user i.e. daily, weekly, monthly etc. It is reasonable to expect that some of the beneficial economic impacts will accrue to the local residents and further the economic revitalization of the Liberty City area.

County staff has determined by a recent in-house analysis that the general cost (including all hard and soft costs) of constructing comparable, multi-level, pre-cast concrete parking structures is estimated to be approximately $16,000 per space. Therefore, a 1,583 space parking garage would be estimated to be $25.328 million, which is above the purchase price for this project.

It is recommended that the County acquire the garage pursuant to the following terms:

1. The garage will be acquired from the developer and a closing scheduled to occur following the issuance of a Certificate of Occupancy (CO) for the garage, the receipt by the County of 75% of the executed leases/operating agreements for Buildings 6A and 100% of the executed leases/operating agreements or letters of intent for Building 6B with the entities named above and the receipt, in form and substance satisfactory to the County, of a personal guarantee of completion for Buildings 6A and 6B from Dennis Stackhouse, Managing Member of Poinciana Park, LLC. The exact date of the Closing shall be at the option of the County, but shall be no later than twenty-four (24) months from the Effective Date of the Agreement.
2. At closing of the garage purchase, $1.5 million will be placed in escrow as assurance that Building 6A and 6B will be completed as anticipated.
3. The garage will be owned and operated by the County;
4. The garage will be constructed for a public purpose to provide parking for the public and the Poinciana Biopharmaceutical Park's tenants;
5. The existing ground lease between MDET and Poinciana Partners will be amended to remove the land under the garage from the Lease and MDET will convey this parcel back to the County, at the nominal cost of $10 dollars. As a result, the County will own and have beneficial control of the land and parking garage;

6. The Developer must repay in full, based on the terms of its agreement with MDET, the $3 million loan MDET has given to the Developer for its five percent interest in Poinciana Partners LLLP from the proceeds of the construction loan with Citibank.
7. The developer must provide, in perpetuity, any easements and appurtenances appropriate to the county's access to and maintenance of the garage.

**FUNDING SOURCE**

The Building Better Communities General Obligation Bond Program (GOP Program) included the funding of economic development such as public infrastructure through an economic development fund (GOB Economic Development Fund). The GOB Economic Development Fund, when funded with GOB bond proceeds, includes up to $75 million for countywide projects and $15 million for Targeted Urban Areas for the purpose of providing public infrastructure improvements to spur economic development and attract new businesses to the community.

The garage qualifies as public infrastructure and is eligible for funding from the GOB Program, provided it serves a public purpose. In order to serve a public purpose, it is essential that it be owned by the County as a public garage and that there be a reasonable expectation that the garage will be utilized by the public. This reasonable expectation will be achieved by the construction and occupancy of office Buildings 6A and 6B for healthcare research and other public purposes, including leases with public entities such as Jackson Memorial Hospital and FAMU. Since the garage qualifies as public infrastructure, I am recommending that the Board approve the use of GOB Economic Fund proceeds to finance the garage in support of the Poinciana Biopharmaceutical Park. A preliminary report was made to the Citizens Committee for the General Obligation Bonds in November 2006. Staff will make a complete report based on this recommendation of the proposed use of these funds at their meeting on January 24, 2007.

In July 2005, the Miami-Dade County, Florida General Obligation Bonds (Building Better Communities Program Series 2005 Bonds) were issued in the amount of $263 million to fund numerous projects as listed in the eight questions approved by the voters. These Series 2005 Bonds provided funding of $782,000 for EDF projects. Inasmuch as additional funding is required for the construction of the Poinciana Park parking garage and the project falls within the $75 million approved by the voters for the EDF, it is recommended that the total amount of $23,542,114 be approved to be funded from the Series 2005 Bonds. In the event the funds for the purchase of the garage are disbursed after the arbitrage deadline for the Series 2005 bonds of July 2008, subsequent bond sale proceeds may be used. It should be noted that for arbitrage purposes, we have committed to spend the bond proceeds within three years of bond issuance. As such, any bond program expenditure that is ready for funding and has been approved by the voters and the Board is acceptable to be charged to the Series 2005 Bonds. As the next series of bonds is planned, staff will recommend funding for those projects that were initially earmarked to be funded in the first series but do not yet require cash flow. I want to assure the Board that we are not recommending to de-fund any projects, but are in fact spending bond proceeds as quickly as possible for projects that the Board has approved.

**PURCHASE PRICE**

The construction cost of the garage is estimated to be $21,848,830. In the event the construction costs of the garage are more than projected, the developer is responsible for the additional cost. It is anticipated that the garage will take up to twelve months to complete and, in the case of Building 6A, up to 30 months and, in the case of Building 6B up to 36 months. The order of construction for Phase I is to immediately commence building the garage and to begin the construction of Buildings 6A and 6B

shortly thereafter. In order to fund this project, the developer may need to extend his construction loan for up to twelve months beyond the scheduled completion date of the garage, depending on when the County becomes obligated to purchase it. As a result, the final purchase price of the garage may include an additional amount which is equal to the interest cost on the developer's construction loan. The final purchase price, however, will not exceed $23,542,114 which represents the purchase price of $21,848,830 and interest on that amount ($1,693,284) calculated at an assumed interest rate of seven and three quarter percent (7.75%) per annum over twenty-four months. The purchase price, however, will be reduced to reflect the actual interest cost which will be less if the actual interest rate is less than seven and three quarter percent (7.75%) or the County purchases the garage sooner than twenty-four months as anticipated and/or if the actual cost to mitigate the Contaminated Soils is less than the estimate contained in the project's budget.

**CONCLUSION**

The Poinciana Industrial Center project is a centerpiece of Miami-Dade County's commitment to allocate the economic development element of the Building Better Communities / General Obligation Bond funds to targeted projects that have the greatest potential for quickly producing jobs that provide our citizens not only with economic betterment, but most importantly, skills that create careers in high demand, technical jobs. While this goal is paramount, we must also ensure that projects of this nature are based upon good business sense and with guarantees that the investment of public funds, not to exceed $23,542,114 will be met with significantly greater investment of private capital, in this case estimated to be $109,000,000. This melds public investment with entrepreneurial spirit while allowing the County to raise capital and efficiently complete infrastructure. This project delivers that partnership and its completion is personally guaranteed by a developer with the means to complete it. Notably, this transaction is based on the delivery of public funds after the garage is complete and operational leases for the office space have been delivered. There is also a schedule and monthly reporting requirement that ensures constant monitoring. It is my intention to appoint a senior staff person who will have "ownership" and responsibility for the timely completion of the project and delivery of its economic development expectations. This person will be held accountable for the delivery of these goals.

Finally, any expenditure of bond proceeds from the GOB Economic Fund will be in accordance with the GOB Administrative Rules, subject to County audit and review by the County's Office of Inspector General. It is therefore recommended that the County Manager be authorized to temporarily reallocate existing Series 2005 Bonds funds from within any bond question in sufficient amounts for the purchase of the Poinciana Park parking garage. These proposed, temporary reallocations will be suggested during the Infrastructure and Land Use Committee and Community Empowerment and Economic Revitalization Committee meetings of January 16, 2007.

Roger M. Carlton
Assistant County Manager

# MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: January 25, 2007

FROM: Murray A. Greenberg County Attorney

SUBJECT: Amended Agenda Item No. 8(F)(1)(E)

**Please note any items checked.**

_____ **"4-Day Rule" ("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**

_____ **Bid waiver requiring County Manager's written recommendation**

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

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

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## ATTACHMENT A

## AGREEMENT OF PURCHASE AND SALE

**THIS AGREEMENT OF PURCHASE AND SALE** (hereinafter "Agreement") is entered into this ____ day of _____, 2007, by and between **POINCIANA PARTNERS, LLLP** (hereinafter "Poinciana Partners"), a Florida limited liability limited partnership, **PBP BUILDING No. 5, LLC** (hereinafter "PBP No. 5"), a Florida limited liability company, **PBP BUILDING No. 6, LLC** (hereinafter "PBP No. 6"), a Florida limited liability company, **(all of whom shall jointly be referred to hereinafter as the "Developer"), MIAMI-DADE EMPOWERMENT TRUST, INC.** (hereinafter "MDET"), a Florida not-for-profit company, and **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida (hereinafter "County").

## RECITALS

WHEREAS, pursuant to Resolution No. R-570-01, the Miami-Dade County Board of County Commissioners (hereinafter "BCC") previously designated the MDET as the Master Developer for the Poinciana Industrial Center, located in a designated Empowerment Zone in the Liberty City section of Miami-Dade County, with the authority to initiate, negotiate and finalize proposed terms for the sale, lease, or other uses of the land in the Poinciana Industrial Center ("the PIC"); and

WHEREAS, the Poinciana Partners was formed for the purpose of developing the PIC into the Poinciana Biopharmaceutical Park (hereinafter "Park"), its General Partner being Poinciana Park, LLC and its limited partners being Poinciana Park, LLC and MDET; and

WHEREAS, Poinciana Partners have proposed a comprehensive and phased development project of a planned industrial and commercial community "the Park Master Plan (Exhibit A), Phase I (Exhibit A-1) and Phase II (Exhibit A-2) all of which shall jointly be referred to hereafter as "the Park"; and

WHEREAS, the Park is to be developed in three (3) phases (Phase I, Phase II, and Phase III), where Phase I consists of the following four structures: (1) a six (6) story garage of approximately 476,205 square feet and containing approximately 1,583 parking spaces, (2) Buildings 6A and 6B that together consist of approximately 245,000 square feet of office and clinical uses including a research clinic specializing in asthma, diabetes, hypertension and AIDS research, (3) a Jackson Memorial Hospital outpatient clinic and Center of Excellence to provide medical treatment to area residents, and a Miami campus facility of the Pharmacy School of Florida A&M University (Exhibit B – letters of intent), and (4) an approximately 90,000 square foot residential/retail building and parking lot along NW 79th Street to serve the needs of Park workers, visitors and area residents; and

WHEREAS, Phase II consists of the expansion of the residential/retail building along 79th Street and the replacement of the parking lot with a second similarly sized residential/retail building; and

WHEREAS, it is projected that during the first year of operations these Phase I facilities will create over 600 permanent jobs and by the third year over 2,300 jobs, and whose construction cost is estimated to be in excess of $109 million; and

WHEREAS, the parking garage is integral to the successful development of the Park; and

WHEREAS, on or about May 4, 2005, MDET entered into a 75-year GROUND LEASE (hereinafter "Lease") with Poinciana Partners for the use and development of the property, known as the PIC ("Exhibit C"); and

WHEREAS, subject to the terms and conditions of the Lease, on or about April 1, 2006, Poinciana Partners entered into a LEASE AGREEMENT with PBP Building No. 5, LLC (hereinafter "Sublease") for the specific purpose of constructing a parking garage and related facilities in the Phase I portion of the project ("Exhibit D"); and

WHEREAS, the parties to the Lease and Sublease Agreements, who are all parties to this Agreement, agree to amend or otherwise modify the Lease and Sublease agreements knowingly, intentionally and voluntarily in order to carry out all of the terms and conditions of this Agreement; and

WHEREAS, subsequent to receiving the Poinciana Partners proposal, the County and PBP No. 5 determined that by constructing a garage of 1,583 spaces the needs of both the public (approximately 883 spaces) and the tenants of the Park (approximately 700 spaces) will be properly served; and

WHEREAS, PBP No. 6 was retained by Poinciana Partners for the specific purposes of constructing two (2) office buildings in the Park, Building 6A and Building 6B, and while no sublease agreement has been entered into as of the date of this Agreement, all of the parties hereto stipulate that any such agreement shall be binding on the parties to this Agreement; and

WHEREAS, PBP No. 5 is desirous of constructing and selling to the County the parking garage and PBP No. 6 is desirous of constructing office buildings 6A and 6B of Phase I of the development project; and

WHEREAS, the County is desirous of purchasing a parking garage, with a minimum of 1,583 parking spaces, including the land on which the parking garage will be constructed in the Park, for the successful development of the Phase I portion of the development project, as well as for the overall improvement and growth of the Liberty City community; and

WHEREAS, prior to any closing in this matter, and pursuant to the County's desire to purchase the garage and the land on which the parking garage will be constructed in the Park, it is necessary that the Lease, the Sublease, and any Phase I tenant and/or space lease(s), if any, be amended to reflect the terms of this Agreement, including but not limited to the conveyance of the Garage and the Land free and clear of the Lease, the Sublease, the Other Property Lease and the Park Lease.

WHEREAS, upon the Closing, or at any time prior thereto, pursuant to the terms of this Agreement, the Lease and the Sublease shall be amended, and the premises, land or ground (however described in the Lease and Sublease) upon which the parking garage will sit, including any easements, covenants, improvements and appurtenances thereto providing suitable access and allowing for the proper maintenance of the Garage, will be conveyed ~~to M~~DET by PBP No. 5 and to the County by MDET so that the Land will become the sole property, in fee simple, of Miami-Dade County; and

WHEREAS, the parties acknowledge that there are several provisions to this Agreement which are to apply after the Closing of the Garage purchase and agree that those provisions shall survive the Closing of the Garage purchase.

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

**TERMS:**

1. **INCORPORATION OF RECITALS.** The foregoing Recitals are true and correct, and are hereby incorporated herein by reference.

2. **DEFINITIONS.**

A. The term **"Garage"** shall mean a proposed commercial parking garage structure of approximately 476,205 square feet of Gross Built Area containing a minimum of 1,583 parking spaces, constructed of concrete, and to be located on the land currently leased by MDET to Poinciana Partners, in Liberty City, which land is more particularly described below.

B. The term **"Land"** shall mean the premises, upon which the Garage is located, being more particularly described in "Exhibit E", attached hereto and by this reference incorporated herein, along with any and all easements and appurtenance appropriate to the Garage and the Land, including any easements, covenants, improvements and appurtenances thereto providing suitable access and allowing for the proper maintenance of the Garage

C. The term "**Property**" shall mean the Garage, the Land including any easements, covenants, improvements and appurtenances thereto providing suitable access and allowing for the proper maintenance of the Garage.

D. The term "**Building Codes**" shall mean the Florida Building Code and any Miami-Dade County laws and ordinances that specify the minimum acceptable standards of health, safety and welfare for the public in relationship to the construction of buildings and non-building structures, and land use, as well as the compliance with any other governmental authority's regulation governing the construction or operation of buildings located in Miami-Dade County.

E. For purposes of this Agreement, the term **"Effective Date"** shall mean the date on which the Board of County Commissioners ("BCC") approves this Agreement plus the ten (10) day Mayoral veto period or, if the Mayor vetoes the Board's approval, the date the Board overrides such veto, if it so desires (usually at its next regularly scheduled meeting).

## 3. CONDITION AND DELIVERY OF GARAGE.

A. Condition of the Garage. PBP No. 5, at its own expense, shall cause the Garage to be built in accordance with approved plans and specifications (see "Exhibit F"), and any and all Building Codes. The Garage, when completed, shall be suitable for use as a commercial parking garage, with a minimum of 1,583 parking stalls, for usage by the County, the public, and the tenants of the Park, as of the date of the Certificate of Occupancy.

B. Delivery of Garage. PBP No. 5 hereby states that it will complete its construction of the Garage within twenty four (24) months from the Effective Date of this Agreement ("Garage Delivery Date"), or such extended period of time agreed to by the County as provided for in Article 6 herein, with the completion of the Garage evidenced by the date of the Certificate of Occupancy; and PBP No. 5, Poinciana Partners and MDET shall convey all right, title and interest in the completed Garage structure, free and clear of all liens and encumbrances, along with the Land, free and clear of all liens and encumbrances, to the County at Closing. The parties hereto agree that delivery of the completed Garage and the conveyance of the Land shall occur simultaneously with all other provisions as agreed to in Article 5. If possession of the Garage has not been delivered by the Garage Delivery Date, for any reason whatsoever, except for matters of *Force Majeure* (The term "Force Majeure" as used in this paragraph shall include: 1) fire, hurricane, earthquake, flood, tornado, acts of God, strike or other labor disturbance beyond the reasonable control of PBP, riot or civil commotion, failure of power, restrictive government laws or regulation, court order, insurrections, war or any other matter or situation of a like nature (including hostility, with or without formal declaration of war) it shall be deemed an event of default under this Agreement. Upon such event of default, the County may, at its sole discretion, terminate this Agreement, and the County shall have no further obligation to any party under this agreement. The County may also, at its sole discretion, elect to waive its right to terminate this Agreement, which waiver of termination, if given, shall be evidenced by a written instrument signed by the County Manager.

C. County's Acceptance Agreement. Within thirty (30) days after the County is notified by PBP No. 5 that the Garage is complete by delivery to the County of the Certificate of Occupancy, but no later than the Garage Delivery Date, the County shall execute and deliver to PBP No. 5 an Acceptance Agreement substantially in the form attached hereto as "Exhibit G". The County shall state in such Acceptance Agreement any reasonable objections or defects in the Garage remaining to be repaired or completed by PBP No. 5, and County thereby shall preserve its objection to such listed defects. PBP No. 5 shall be obligated to fully address any objections, and perform any and all repairs or complete any uncompleted work prior to the Closing and/or the County otherwise taking possession of the Garage. If by the Closing Date PBP No. 5 has not completed the repairs or any and all of the reasonable objections and/or defects listed or identified in the Acceptance Agreement it shall be considered an event of default under this Agreement. Upon such event of default, the County may, at its sole discretion, terminate this Agreement, and the County shall have no further obligation to any party under this agreement. The County may also, at its sole discretion, elect to provide PBP No. 5 with an additional period of time to complete any repairs or otherwise properly address any objections or defects identified in the Acceptance Agreement, without limiting or waiving its right to terminate this Agreement. Should the County, at its sole discretion, elect to waive its right to terminate this Agreement, such waiver of termination, if given, shall be evidenced by a written instrument signed by the County Manager. The County shall have waived any objection or identification of any defects not so listed in the Acceptance Agreement except that County shall retain the right to object to latent defects not subject to detection upon reasonable inspection of the Garage prior to occupancy thereof, provided that objections to latent defects not disclosed in writing to PBP No. 5 within one (1) year subsequent to the Garage Delivery Date, or any subsequent date due to later repairs or completion, shall be deemed waived.

D. Developers' Obligations to Deliver Documents Within 90 Days. In addition to any other obligations the Developer may have with regard to this Agreement, the Developer hereby agrees to provide to the County, within ninety (90) days from the Effective Date of this Agreement the following documents:

For Building 6A, which shall consist of no less than 70,000 square feet, the Developer shall deliver copies of fully executed leases and/or operating agreements for 75% of the building's space. Such leases and/or operating agreements shall be with the following three (3) tenants listed immediately below:

i. Jackson Memorial Hospital
ii. Florida A&M University
iii. MediVector, Inc.

For Building 6B, which shall consist of no less than 175,000 square feet, the Developer shall deliver copies of fully executed leases, operating agreements or letters of intent for all of the building space. Such leases, operating agreements or letters of intent shall be with the following three (3) tenants listed immediately below:

i. Massachusetts Institute of Technology
ii. Wyeth Pharmaceuticals
iii. Miami-Dade College
iv. The Alliance for the Management of Substance Abuse

Should the Developer fail, in any respect, to provide the County with the foregoing documents within ninety (90) days of the Effective Date of this Agreement, then it shall be considered an event of default, and this Agreement shall immediately terminate, and the County shall have no further obligation to any party under this agreement. The County, at its sole discretion, may elect to provide PBP No. 5 with additional time to deliver to the County the documents needed for PBP No. 5 to fulfill its responsibility under this Agreement, without limiting or waving the County's right to terminate this Agreement. Should the County, at its sole discretion, elect to waive its right to terminate this Agreement, such waiver of termination, if given, shall be evidenced by a written instrument signed by the County Manager.

The parties further agree that should one of the above-mentioned tenants decide, subsequent to the execution of this Agreement, not to enter into a lease, operating agreement and/or letter of intent for space in either Building 6A or Building 6B, then PBP No. 6 may be permitted to substitute a like type tenant in the building, so long as such substitute tenant will employ the same or greater number of employees, and such substitute tenant will perform the same or similar business, trade, or research function as the tenant that elected not to enter into the lease, operating agreement and/or letter of intent for the space in either Building 6A or Building 6B.

E, The County's Obligation to Purchase the Garage and Land. The County has agreed to enter into this Agreement to acquire the Garage and Land within twenty-four (24) months of the Effective Date of this Agreement. The parties acknowledge, understand and agree that absent the County's receipt of all of the necessary documents which are to be supplied by PBP No. 6, PBP No. 5, Poinciana Partners, MDET, and/or the Developer collectively, and/or Dennis C. Stackhouse, in addition to the timely compliance by PBP No. 5 and/or the Developer with all of the terms and conditions under this Agreement, the County shall have no obligation, whatsoever, to purchase the Garage and/or the Land.

F. Poinciana Partners and PBP No. 5 Waiver of Rights under the Lease and Sublease. Both Poinciana Partners and PBP No. 5 hereby understand and agree that so long as the County is not in default under the terms of this Agreement,

neither Poinciana Partners nor PBP No. 5 shall be permitted to exercise any right under the Lease and/or Sublease to purchase either the Land and/or Garage.

G. Personal Guaranty by Dennis C. Stackhouse. Dennis C. Stackhouse, an individual, has agreed to provide a personal guaranty to the County for assurance of the completion of Building 6A and Building 6B (hereinafter "Personal Guaranty"). The Personal Guaranty shall be an assurance in addition to any amount of money held in Escrow (as herein later defined), under this Agreement. The Personal Guaranty from Dennis C. Stackhouse for the timely construction of Building 6A and Building 6B is attached hereto, marked "Exhibit I", and is incorporated herein by reference.

**4. PURCHASE PRICE.** In consideration of the construction of the Garage and for the amendments to the Lease and the Sublease, the parties hereto have agreed to the following purchase price and manner of payment:

**A.** The cost of the garage is estimated to be $21,848,830. In the event the garage costs more than projected, the developer is responsible for the additional cost. In order to fund this project, the developer may need to extend his construction loan for up to twelve months beyond the scheduled completion date of the garage, depending on when the County becomes obligated to purchase it. As a result, the final purchase price of the garage may include an additional amount which is equal to the interest cost on the developer's construction loan up to a certain amount of the interest expense, which is identified herein below. The final purchase price will not, under any circumstance, exceed $23,542,114, which amount represents the purchase price of $21,848,830, together with the maximum amount of interest that the County will pay on that amount, $1,693,284, which is hereby agreed to be calculated at a maximum interest rate of seven and three quarter percent (7.75%) per annum over twenty-four (24) months. The purchase price, however, will be reduced to reflect the actual interest cost which will be less if the actual interest rate is less than seven and three quarter percent (7.75%), and/or, if the County purchases the Garage sooner than the expiration of the twenty-fourth (24th) month from the Effective Date of this Agreement as anticipated and/or if the actual cost to mitigate any contaminated soils is less than the estimated amount of $1,800,000.00 as contained in the Poinciana Development Garage Budget, which is attached hereto, marked "Exhibit H" and incorporated herein by reference, then the purchase price shall be reduced accordingly.

**B.** With specific regard to the preceding paragraph, 4.A., PBP No. 5 hereby agrees to use its best efforts to construct the Garage with the goal of reducing the amount of the interest expense and the cost to mitigate any contaminated soils as much as possible. In addition, PBP No. 6 hereby agrees to use its best efforts to build Building 6A and Building 6B as expeditiously as possible in order to provide for the expected use for the Garage as quickly as possible (the County acknowledging in Paragraph 37 of this Agreement and that the Personal Guaranty, which is an exhibit to this Agreement, is being executed simultaneously with this Agreement

and that, by its terms, it only becomes effective at time of Closing). The Personal Guaranty, the sums in Escrow (as herein later defined), along with any other remedy available to the County at law, in equity or under this Agreement may be pursued by the County against PBP No.5 or PBP No. 6, except that against PBP No. 5, the County shall be limited to the full amount of the sums in Escrow. PBP No 5. and Poinciana Partners hereby agree to deliver and/or make available to the County, any and all books, records and receipts relating to the construction of the Garage including a copy of the extension loan, if any.

C. PBP No. 5 hereby warrants that the POINCIANA GARAGE DEVELOPMENT BUDGET includes only items directly pertaining to the development of the Garage and those items properly attributed to the land and other buildings comprising Phase I of the Park, as defined in the POINCIANA GARAGE DEVELOPMENT BUDGET, attached hereto as Exhibit H. If it is later determined, or found by an audit performed by the Audit and Management Services Department (AMS) for the County, or by any other entity as directed by the County, that the POINCIANA GARAGE DEVELOPMENT BUDGET includes items or matters that are not directly attributable to the construction of the Garage or the other elements of Phase I of the Park, it shall be an event of default under this Agreement subject to notice provisions of Paragraph 19, and with a right to cure within two (2) business days only, and further to other remedies available to the County. PBP No. 5 shall immediately reimburse the County for any and all sums determined to be owing to the County as a result of the audit.

D. **ESCROW**. The parties hereby agree that the financial institution providing the construction loan for the Garage shall from the time of Closing act as an escrow agent for the parties, and hold in escrow the amount of One Million Five Hundred Thousand ($1,500,000.00) Dollars in an interest bearing bank account, which is FDIC insured (hereinafter "Escrow"). The Escrow money shall be held to ensure the proper and timely completion of Building 6A and Building 6B. Should PBP No. 6, the Developer and/or Dennis C. Stackhouse fail to timely construct Building 6A and/or Building 6B, in accordance with the plans for Phase I and this Agreement, as described in Paragraph 3(D) above, including, but not limited to, the timely commencement, on-going construction and timely completion of Building 6A and Building 6B, the County shall be entitled to, upon demand and without order of court, the total amount held in Escrow, including any and all interest. The County shall be entitled to forever retain such sums irrespective of the subsequent completion of Building 6A and/or Building 6B by any of the parties to this Agreement or other third party.

In the event that Buildings 6A and 6B are completed in accordance with this Agreement, the disbursement of the Escrow funds shall occur as follows: PBP No. 6 shall receive Five Hundred Thousand ($500,000.00) Dollars upon the issuance of the certificate of completion for Building 6A, which must be completed within thirty (30) months from the Effective Date of this Agreement, and PBP No. 6 shall receive the

remaining balance of One Million ($1,000,000.00) Dollars upon the issuance of the certificate of completion for Building 6B, which must be completed within thirty-six (36) months from the Effective Date of this Agreement. Any interest earned on the amount in Escrow shall remain in Escrow until PBP No. 6 has completed the construction of both Building 6A and Building 6B in accordance with this Agreement. If either Building 6A or Building 6B is not completed in a timely manner, the County shall be entitled to such interest.

**5. CLOSING DATE.**

A. Closing on the Garage and the Land (the "Closing") shall, at the sole discretion of the County, be held not earlier than on or about the thirtieth (30th) day after the County receives delivery of the Certificate of Occupancy for the Garage from PBP No. 5, and not later than twenty-five (25) months from the Effective Date (the "Closing Date"), unless moved to a later date by the County based on incomplete work, if any, as itemized in the Acceptance Agreement, or upon the election and consent of the County as provided for herein and which consent is within the County's sole and discretion, to a date mutually acceptable by the parties, to ensure that all work and the necessary review and examination of the work is completed prior to Closing. The Closing will take place at a location mutually determined by the County Attorney's Office and the attorneys for PBP No. 5. At no point in time shall the County advance any sum or amount to PBP No. 5 and/or Poinciana Partners prior to the Closing.

B. In addition to the above the parties agree to the following, subject to Paragraph 37, that Building 6A and Building 6B of Phase I are integral portions of the project that must be completed in a timely manner in order to justify and complement the acquisition of the Garage and Land, and that it is agreed that construction for Building 6A and Building 6B will be completed in the manner as described below:

BUILDING 6A:

a. The "vanilla shell" of Building 6A (which is identified in the plans of Poinciana Partners as being part of its "Phase I" project) shall be completed within thirty (30) months from the Effective Date, be ready for tenant specific improvement work to commence, and has received a Certificate of Completion ("COC") from the appropriate government authority, and

b. PBP No. 6 shall deliver to the County on or before the thirtieth (30th) month from the Effective Date of this Agreement copies of the executed construction contracts for the specific tenant improvement work, and

BUILDING 6B:

a. The "vanilla shell" of Building 6B (which is identified in the plans of Poinciana Partners as being part of its "Phase I" project) shall be completed within thirty-six (36) months from the Effective Date, be ready for tenant specific improvement work to commence, and has received a Certificate of Completion ("COC") from the appropriate government authority, and

b. PBP No. 6 shall deliver to the County on or before the thirty-sixth (36th) month from the Effective Date of this Agreement copies of the executed construction contracts for the specific tenant improvement work, and

The parties hereby agree that should the construction of Building 6A and/or Building 6B not proceed as outlined above, and/or that copies of executed construction contracts for specific tenant improvement work not be delivered to the County on or before the dates specified in this Agreement, it shall be considered an event of default under this Agreement, and the County may forever keep or retain any sum held in Escrow at Closing, in addition to seeking any other remedy it may have against Poinciana Partners, PBP No. 6 and/or Dennis C. Stackhouse. The County, at its sole discretion, may permit PBP No. 6, the Developer and/or Dennis C. Stackhouse to complete such necessary construction work within thirty (30) days of the dates specified, and/or provide the County with the necessary executed construction contracts for tenant improvement work within thirty (30) days, with the understanding that the County will release or return to PBP No. 5 the amount in Escrow.

C. In an effort to keep the County completely informed of the construction progress of Phase I, and in addition to the documentation already required to be delivered to the County, both PBP No.5 and PBP No. 6 shall provide the County with the following as they become available:

(i) a copy of the executed construction contract for each building no later than:

Garage – February 1, 2007
Building 6A – August 1, 2007
Building 6B – February 1, 2008

(ii) a copy of the building permit for each building no later than:

Garage – March 1, 2007
Building 6A – September 1, 2007
Building 6B – March 1, 2008

(iii) notice of commencement of construction no later than:

Garage – April 1, 2007
Building 6A – October 1, 2007
Building 6B – April 1, 2008

(iv) certification from the project architect as to when the base building construction of each of the buildings has reached 33% completion, 67% completion and 100% completion.

**6. TIME EXTENSIONS:** To the extent that changes are made to the Phase I plans or scope of work subsequent to the execution of this Agreement, then within thirty (30) days of any changes, written approval and acceptance must be obtained from the County in order to delay the twenty-four (24) month completion date for the construction of the garage; the thirty (30) month completion date for the construction of Building 6A; and/or the thirty-six (36) month completion date for the construction of

Building 6B, which approval and acceptance is and shall remain in the County's sole and absolute discretion. Failure to secure the County's written approval and acceptance of any changes which could delay the completion date of the construction work for Phase I will result in PBP No. 5's or PBP No. 6's and or the Developer's, as the case may be, waiver to any claim that the respective construction periods should be extended in order to accommodate the changes to the plans or project. If the County's written acceptance and approval is secured within thirty (30) days of any changes, which approval clearly notes and acknowledges the delay in the completion period, then the respective time period(s) shall be extended by the agreed upon number of days required to complete such additional construction work or change.

7. **CLOSING DOCUMENTS.** To the extent PBP No. 5, PBP No. 6, Poinciana Partners, MDET and/or the County are parties to such documents, upon the Closing of the Garage, and as a necessary condition of the Closing, the following documentation, at minimum, shall be executed and delivered by the parties:

A. Amendment of the Sublease executed by the Poinciana Partners and PBP No.5, amending the Sublease so that the Poinciana Partners has full rights as landlord over the Land, and can then relinquish its interest in the Land to MDET, so that the Land can be conveyed to the County; and

B. Amendment to the Lease executed by MDET and Poinciana Partners, amending the Lease, so that the MDET has full rights as landlord, and owner of the Land, to convey it, in fee simple, to the County; and

C. A General Warranty Deed conveying the Land free and clear of any liens or encumbrances from MDET to the County; and

D. Such other documentation as reasonably required by the parties hereto to evidence the transfer of ownership in the Garage from PBP No. 5 and/or Poinciana Partners and/or MDET to the County, free and clear of any lien or other encumbrance; and

E. A Bill of Sale for the Garage and its appurtenances to make it fully operational; and

F. Current copies of all specified leases, operating agreements or letters of intent for the tenants in Building 6A and Building 6B, as described above (the copies of specified leases, operating agreements and/or letters of intent here relates to any leases, operating agreement or letters of intent previously provided to the County which have been updated, revised, modified, amended, or which have otherwise been changed or replaced in any manner whatsoever. PBP No. 6 hereby agrees to immediately provide the County with any updated, revised, modified, or amended agreement or document); and

G. A Phase II Environmental Report for the Land.

H. A survey with a legal description of the Land including any easements, covenants, improvements and appurtenances thereto providing suitable access and allowing for the proper maintenance of the Garage prepared and sealed by a Florida registered Land Surveyor.

**8. CLOSING COSTS.** Each party shall bear the costs of the Closing, as appropriate, including without limitation, any attorneys' fees. Without limiting the foregoing, County, a political subdivision of the State of Florida, is exempt from payment of ad valorem taxes. PBP No. 5, PBP No. 6, Poinciana Partners and/or MDET shall be responsible for all documentary stamp taxes, transfer taxes, surtax and all similar taxes relating to any leases, transfers, and the construction and conveyance of the Garage and the Land.

**9. ZONING AND GOVERNMENTAL APPROVALS.** PBP No. 5 and PBP No. 6 and Poinciana Partners hereby warrant that the development, construction, intended use, occupancy and operation of the Garage shall be in conformance with all applicable laws, all necessary or existing government approvals, and all covenants, conditions and restrictions contained in any deed, lease or other instrument or agreement covering or affecting all or any portion of the Property. PBP No. 5, PBP No. 6 and Poinciana Partners also warrant that all government approvals (except to the extent the same are of a nature so as not to be obtainable until a later stage of construction or completion of the Garage) have been obtained and are valid and in full force and effect. PBP No. 5, PBP No. 6 and Poinciana Partners warrant that upon completion of the Garage all government approvals will be in place, valid and in full force and in effect. Further, PBP No. 5, PBP No. 6 and Poinciana Partners have no knowledge of any zoning or other restrictions, rules or regulations that will prevent the utilization of the Garage for the purpose of it being used as a 1,583 vehicle commercial parking structure.

**10A. COUNTY COOPERATION TO OBTAIN AND MAINTAIN ALL REQUIRED LAND USE AND BUILDING APPROVALS** The Parties agree that this transaction has been entered into for the successful development of the Park of which the Garage is an integral facility. Accordingly the County agrees that upon acceptance of the Property, and subject to the paragraph that follows, it will cooperate, strictly in its capacity as owner and operator of the Garage, and to maintain land use approvals for the Park that rely on the Property. These land use approvals include but are not limited to the following: (i) an existing Unity of Title encompassing the Land, (ii) County site plan approvals that include the Property, and (iii) proposed covenants calling for use of the Garage by future Park residents (which do not include any rental fee, presumed rental fee or waiver of any rental fee for the use of the Garage) as contemplated in Phase I and Phase II.

**10B. COUNTY'S RIGHTS AS SOVEREIGN.** Notwithstanding its obligation to cooperate as an owner of the Garage, the County retains all of its sovereign prerogatives and rights as a county under Florida laws and shall in no way be estopped from withholding or refusing to issue any approvals of applications for building, design, construction and development of the Garage and the Park or the operation thereof, or be liable for the same: and

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

11. **INSPECTIONS.** County shall be permitted to inspect the Property at any time, without notice, prior to the Closing Date. The County shall be permitted to conduct its own studies, tests, inspection, investigation, evaluation, surveys and/or examination of the Property, at its costs, as it deems necessary with prior written notice to PBP and provided such studies, tests, inspection, investigation, evaluation, surveys and/or examination of the Property do not unreasonably interfere with the construction of the garage. However, such inspection of the Property shall not be assumed to include any testing of the soil, groundwater or surface water, as Poinciana Partners and PBP hereby warrant to the County that the Property, shall, upon the Closing Date, be free from any type of Hazardous Materials, to the greatest extent that the Lease and the Sublease shall permit (hereinafter "Hazardous Materials" shall mean any substance in the soil, air and/or water that is found to be harmful or unsafe, which include, but are not limited to pollutants, contaminants, toxic substances, pathogens, radioactive materials, and/or wastes, whether solid, liquid or gaseous, or any other substance which becomes defined as a hazardous waste, hazardous substance, pollutant or contaminant under any Environmental Law), and that the construction of the Garage in no way negatively impacted or contributed to damaging the Land, groundwater, surface water or the air. Notwithstanding the foregoing, the County, when acting in its regulatory or police function, shall be authorized to perform any inspections or investigations needed to preserve public safety or welfare.

12. **ENVIRONMENTAL CONDITIONS.** The County hereby acknowledges, recognizes and hereby incorporates the language in the Lease and Sublease agreements with regard to the various parties' responsibilities as it relates to any pre-existing Environmental Conditions on or about the Land. Notwithstanding the foregoing, PBP No. 5 understands and agrees to convey the Garage to the County free from any Hazardous Materials and free from any Environmental Conditions that may cause the County to be responsible for any type of Environmental Claim in the future, due to any chemical, toxin, poison, or pollution caused by, or due to, its construction of the Garage. In addition to any other type of warranty or indemnification found in this Agreement, PBP No. 5 hereby warrants, indemnifies and agrees to defend the County from and against any and all future claims from any Environmental Conditions (as herein later defined), Environmental Claims (as herein later defined) or Environmental Damages (as herein later defined) as a direct result of an intentional act or omission to act on its part due to it releasing, discharging, spilling, leaking, pumping, emitting, pouring, emptying, or dumping of any substance that might give rise to an Environmental Condition (as herein later defined), Environmental Claim (as herein later defined) or Environmental Damages (as herein later defined). In addition, at least sixty (60) days prior to Closing, PBP No. 5 will deliver a Phase II Environmental Report, conducted within the previous ninety (90) days by a certified, licensed, environmental engineer, confirming that there are no environmental issues with the Property, that were caused by or due to the construction of the Garage. An

"Environmental Claim" shall mean any claim, notice, order, demand, or other communication made by any person, including but not limited to PBP No. 5 and/or the current lessor and sub-lessor of the Land, that: (i) alleges a violation of an environmental law, (ii) alleges a liability for Environmental Damages, (iii) orders investigation, corrective action, cleanup, remediation or other response under an Environmental Law, (iv) demands information under an Environmental Law, or (v) alleges that there is or may be contamination. This clause shall survive the termination or expiration of this Agreement.

"Environmental Conditions" shall mean any conditions of the environment including, without limitation, the work place, natural resources (including flora or fauna), soil, surface water, ground water, any actual or potential drinking water supply sources, substrata or the ambient air, relating to or arising out of, or caused by the use, handling, storage, cleanup, treatment, recycling, generation, transportation, release, spilling, leaking, pumping, emptying, discharging, injecting, escaping, leaching, disposal, dumping, threatened release or other management or mismanagement of regulated substances, including but not limited to Hazardous Materials, resulting from the construction of the Garage, or the use of, or operation on, the Property.

"Environmental Damages" shall mean any and all claims, judgments, damages, losses, penalties, fines, liabilities, liens, costs, and expenses of investigation and/or defense of any claim, whether or not such claim is ultimately defeated, of whatever kind or nature, including without limitation any and all attorneys' fees and disbursements and contractors' and consultants' fees and disbursements, any of which are incurred at any time as a result of the actual or alleged presence of Hazardous Materials, or the actual or alleged violation of an Environmental Law, including, without limitation, claims and demands by any person for damages for personal injury, property damage, environmental investigation costs, environmental cleanup costs, response costs under any federal or state hazardous sites cleanup law, or any other cost or damage attributable to Hazardous Materials or the violation of or liability under Environmental Laws. Without limiting the generality of the foregoing, Environmental Damages shall also include any diminution in the market value of the Garage, the Land and/or the Property caused by the actual or alleged presence of Hazardous Materials.

"Environmental Law(s)" shall mean all present and future governmental rules and regulations pertaining to the protection of the environment, including, without limitation, those pertaining to reporting, licensing, permitting, investigating, remediation, handling, manufacturing, treating, storing, generating, disposing, transporting, or releasing chemical substances, pollutants, contaminants, hazardous substances, toxic substances, pathogens, radioactive materials, or wastes, whether solid, liquid or gaseous. Without limiting the generality of the foregoing, Environmental Laws shall specifically include all federal and state laws, ordinances, rules and regulations.

13. **SUBORDINATION.** PBP No. 5 and PBP No. 6, Poinciana Partners and MDET understand and agree that any financing that is obtained for the construction of the Garage, or any other building or structure within the Park, or for any other endeavor

related to the Park, must be subordinate to MDET's interest in the Park, provided the mortgagee is given commercially reasonable notice and opportunity to cure any default.

**14. DEFAULT.** The occurrence of any of the following by PBP No. 5 or PBP No. 6 or Poinciana Partners, LLC shall constitute an event of default ("Default") hereunder:

A. Failure to timely complete and deliver the Garage and the Land to the County on or before twenty-fourth (24th) month from the Effective Date of this Agreement, the Garage Delivery Date, shall be considered an event of default, subject to Force Majeure, and neither PBP No. 5 nor Poinciana Partners shall have any right to cure such default.

B. It shall be an event of default under this Agreement if PBP No. 5 and/or Poinciana Partners ceases to exist, operate or is dissolved.

C. It shall be an event of default if PBP No. 5 and/or Poinciana Partners files for bankruptcy, is involuntarily brought into a bankruptcy proceeding, or is otherwise involved in a bankruptcy proceeding, and PBP No. 5 does not timely move forward with the completion of the Garage

D. It shall be an event of default if Poinciana Partners and or PBP No. 6 does not timely move forward with the completion of Building 6A and Building 6B, as provided in this Agreement, except that it shall not effect the County's obligation to purchase the Garage and Land from PBP No. 5. This default provision shall survive the expiration of this Agreement.

E. It shall be an event of default if PBP No. 5 fails to correct any defects in the Garage or properly address any of the County's objections in the Acceptance Agreement within the time delays specified in this Agreement.

F. If a COC is not issued within thirty (30) months of the Effective Date of this Agreement for the construction of Building 6A and within thirty-six (36) months of the Effective Date for the construction of Building 6B (as identified by Poinciana Partners as being part of its Phase I), then PBP No. 6 and Poinciana Partners shall be considered in default of this Agreement, except that it shall not effect the County's obligation to purchase the Garage and Land from PBP No. 5. This default provision shall survive the expiration of this Agreement.

G. An event of default under this Agreement shall be considered an event of default under the Lease and under the Sublease, the County or MDET shall have the right to buy-out the Leasehold and Fee Mortgage, Assignment of Rents, Security Agreement and Fixture Filing, which was entered into on or about December 29, 2005, by and between Poinciana Partners, LLLP, Miami-Dade Land Holdings, LLC and Poinciana Funding, LLC, for the unamortized portion of the loan, or any portion thereof, in order to secure from PBP No. 5, PBP No. 6 and/or Poinciana Partners the land needed for Phase I as described

in this Agreement. Further, the parties hereby agree that any portion of the land needed for Phase I of the project cannot be further encumbered without the prior written consent of the County, which consent shall not be unreasonably withheld or denied.

H. The parties agree, notwithstanding anything else in this Agreement, that should the construction of the Garage not be completed within twenty-four (24) months, and the Garage and the Land made available to the County within twenty-four (24) months from the Effective Date of this Agreement, subject to Force Majeure, this Agreement shall terminate and the County shall have no further obligation to any party under this Agreement.

I. Further, if any other of PBP No. 5 and PBP No. 6, Poinciana Partners', MDET's or the County's obligations under this Agreement are not timely met or fulfilled, or any party has failed to perform under the terms of this Agreement, and provided that the non-defaulting party claiming the other party is in default has given written notice to the defaulting party within ten (10) days of said default, then the non-defaulting party may, in addition to other remedies contained herein, elect to (i) bring an action for damages for any loss or injury suffered by a party, or injunctive relief if in such event the party is irreparably harmed for which there is no adequate remedy at law or (ii) elect to seek specific performance of the other party's obligations, as the case may be, under this Agreement and, (iii) in addition to any remedy mentioned in this Agreement, the non-defaulting party may pursue any other remedy at law or in equity that it may be entitled to seek.

I. Should either party bring an action against the other for a party's non-performance of a required term, condition or covenant under this Agreement, for failure to perform (which includes failure to timely perform) its duties or obligations, the prevailing party shall be entitled to receive all reasonable costs and expenses of such action, including but not limited to reasonable attorneys' fees, expert witness fees, and court costs, through all appellate proceedings. Further, wherever provision is made in this Agreement for "attorneys' fees," such term shall be deemed to include attorneys', accountants' and other consultants' or professional fees, whether or not litigation is commenced, including such costs through appellate and post judgment proceedings and for paralegals and similar persons.

J. Should PBP No. 6 fail to timely and properly construct Building 6A and Building 6B, Dennis C. Stackhouse, based upon his Personal Guaranty, which is attached hereto and incorporated herein by reference, along with PBP No. 6 shall be in default of this Agreement. The parties hereby agree that should Building 6A and Building 6B not be completed on time, Dennis C. Stackhouse shall be personally responsible and obligated to the County for the full cost to complete Building 6A and Building 6B in a timely manner, including, but not limited to any cost or expense to locate, hire and retain a

contractor. This default provision shall survive the expiration of this Agreement.

**15. CURE OF DEFAULT.** If PBP No. 5 or PBP No. 6 or Poinciana Partners, LLLP breaches or fails to comply with any of the terms, provisions, conditions or covenants of this Agreement, and such breach or failure shall continue for more than thirty (30) days subsequent to the date of receipt by the defaulting party of written notice of such breach or failure from the County, and if the matter in question is not reasonably susceptible of cure by Tenant within the 30-day period, then the defaulting party shall have such additional time as may reasonably be necessary, but not more than thirty (30) days, within which to effect curative action provided that defaulting party institutes the curative action within the 30-day period and prosecutes the same diligently to completion.

**16. INDEMNIFICATION.** To the extent authorized by Florida law, each of the Developer's respective entities hereby agrees to indemnify, defend and hold harmless the County from all claims, demands, liabilities and suits of any nature whatsoever arising out of, because of or due to the breach of this Agreement by the respective Developer entity, its agents or employees. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the County for its sole negligence or breach of contract.

Each Developer entity hereby understands and agrees that the scope of the indemnity shall include, but not be limited to, (i) the burden and expense of defending all claims, suits and administrative proceedings from the outset, with counsel approved by the County, even if such claims, suits or proceedings are groundless, false or fraudulent, and (ii) cooperating with the County with regard to all negotiations, and (iii) paying and discharging, when and as they become due, any and all claims, judgments, damages, losses, penalties, fines, liabilities, liens, costs, expenses, fees or other sums or obligations incurred by or against the County.

**17. LIEN WAIVER.** PBP No. 5, Poinciana Partners and MDET agree to convey the Garage and the Land to the County free from any type of lien, encumbrance, or pending lawsuit. PBP No. 5 hereby agrees to deliver at Closing a statement or letter from any and all potential lienholders, including but not limited to any materialmen, laborers, vendors, contractors and subcontracts, establishing that all work and material have been properly paid and that there is no amount due or outstanding as a result of the construction of the Garage.

**18. INSURANCE.** PBP No. 5 understands and accepts that it shall bear the risk of loss for the Garage up to the time of Closing. Should the Garage be destroyed or damaged by fire or other casualty, PBP No. 5 hereby agrees to immediately notify the County of such destruction or damage, and the County shall then have the option, in its sole discretion, to continue with this Agreement with an appropriate adjustment in purchase price or with an assignment of insurance proceeds, or with PBP No. 5, after notice to it and its mortgagee, being given a reasonable time to repair the Building. PBP No. 5 understands and agrees that it shall have sole responsibility to insure the Garage, the Land and/or the Property up

to the time of Closing, at its sole cost and expense. PBP No. 5 understands and agrees that to help ensure proper compliance with any and all Building Codes and to avoid the filing of any liens against the property, that its contractors or licensees are properly and adequately insured in accordance with the requirements of Miami-Dade County, Florida.

**19. NOTICES.** Any notice required or permitted to be given under this Agreement shall be delivered by hand, by the United States Post Office, sent Certified Mail, Return Receipt Requested, postage pre-paid, or by a nationally recognized overnight delivery service, with the requirement of signature upon delivery, and addressed as described below, and all such notices will be deemed effective or received only upon receipt or refusal of delivery.

| | |
|---|---|
| Notice to PBP No. 5: | PBP Building No. 5, LLC<br>780 Fisherman Street<br>Opa-Locka, Florida 33154<br>Attention: Dennis C. Stackhouse |
| Notice to PBP No. 6: | PBP Building No. 6, LLC<br>780 Fisherman Street<br>Opa-Locka, Florida 33154<br>Attention: Dennis C. Stackhouse |
| Notice to Poinciana Partners: | Poinciana Partners, LLLP<br>780 Fisherman Street<br>Opa-Locka, Florida 33154<br>Attention: Dennis C. Stackhouse |
| With a copy to: | Akerman Senterfitt<br>One South East Third Avenue, Suite 2800<br>Miami, Florida 33131<br>Attention: Julie A.S. Williamson, Esquire |
| Notice to County: | Miami-Dade County<br>General Services Administration<br>Director<br>111 N.W. First Street, Suite 2410<br>Miami, Florida 33128 |
| With a copy to: | Miami-Dade County<br>Office of the County Attorney<br>111 N.W. First Street, Suite 2800<br>Miami, Florida 33128 |

Notice to MDET Miami Dade Empowerment Trust
3131 Biscayne Boulevard
Miami, FL

For purposes of this Agreement, as well as the Lease and Sublease, the parties hereby agree that any notice to PBP shall be deemed as notice also to Poinciana Partners. Likewise, any notice to Poinciana Partners shall be deemed as notice also to PBP.

**20. ASSIGNABILITY.** The parties mutually agree and understand that this Agreement is not assignable by either party unless approved by both parties in writing.

**21. GOVERNING LAW.** This Agreement has been negotiated and executed in Florida. ~~The~~ parties hereby agree that this Agreement shall be construed and governed in accordance with the laws of the State of Florida, without application of conflicts of laws principles.

**22. SAVINGS CLAUSE.** In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal, ineffective, unenforceable or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

**23. CONSTRUCTION OF AGREEMENT.** Each party has participated fully in the negotiation and preparation of this Agreement with full benefit of counsel. Accordingly, this Agreement shall not be more strictly construed against either party.

**24. NUMBERS AND GENDER.** Whenever used in this Agreement, the singular shall include the plural, the plural shall include the singular, any gender shall include every other and all genders, and captions and paragraph headings shall be disregarded.

**25. CAPTIONS.** The captions or headings in this Agreement are inserted for the convenience of reference only and shall not be deemed to alter any provision of this Agreement, or affect its meaning or construction.

**26. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought.

**27. EXHIBITS.** All references in this Agreement to exhibits, schedules, paragraphs, subparagraphs and sections refer to the respective subdivisions of this Agreement, unless the reference expressly identifies another document.

**28. SUCCESSORS.** All of the terms of this Agreement, including but not limited to the representations, warranties and covenants of PBP and/or Poinciana Partners, shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors, administrators and assigns.

29. **TIME IS OF THE ESSENCE.** Time is of the essence as to all material terms of this Agreement.

30. **RADON GAS NOTICE.** Pursuant to Florida Statutes Section 404.056(5), PBP hereby makes, and County hereby acknowledges, the following notification:

"RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it 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 your county public health unit."

31. **TENANCIES.** PBP No. 5, Poinciana Partners and MDET hereby agree and warrant that at the time of Closing, no person or entity shall have any leasehold interest, or any other type of property interest, in the Garage and the Land other than PBP No. 5, Poinciana Partners, and MDET which shall, on the Closing Date, convey all of its right, title and interest in the Garage and the Land to the County, including, but not limited to, any easements and appurtenances thereto, and all future development rights.

32. **CALCULATION OF DAYS.** All references in this Agreement to time periods, unless otherwise described herein, shall refer to business days, and thereby exclude Saturdays, Sundays and Miami-Dade County holidays.

33. **BROKERAGE.** There are no brokerage fees or commissions payable with respect to the purchase and sale of the Garage, or the conveyance of the Land to the County by the amendments of the Lease and Sublease.

34. **AMENDMENTS.** All amendments to this Agreement must be in writing and signed by PBP No. 5 and PBP No. 6, Poinciana Partners and MDET prior to execution by the then-current County Manager (or if the County Manager is no longer vested with the responsibility and authority then the acting chief executive officer or other officer vested with the authority to bind the County hereunder), which the County warrants and represents is or shall be authorized to sign amendments on behalf of the Board of County Commissioners.

35. **BEST EFFORTS.** PBP No. 5 and PBP No. 6 and Poinciana Partners will continually use its best efforts to keep the buildings in the Park completely tenanted at all times recognizing that the use of the Garage and therefore its net revenue is, to a great extent, dependent on the occupancy of the Park. This paragraph will survive the expiration of this Agreement.

36. **COUNTERPARTS.** This Agreement may be executed in counterparts and by each party on a separate but identical counterpart, each of which, when so executed and delivered shall be an original, but all of which together shall constitute one and the same instrument. The parties also hereby agree that No. 5 and PBP No. 6, Poinciana Partners and MDET will execute this Agreement first, prior to the County's time or requirement for execution.

37. **OBLIGATIONS RELATING TO BUILDING 6A AND 6B.** The parties agree that progress towards the completion of Building 6A and 6B, as describe and required in Paragraph 3D above, does not affect the County's obligation to purchase the Garage and the Land.

38. **BIFURCATION OF LEASE.** The parties agree that Poinciana Partners may, at any time prior to the Closing Date, divide the Lease into two (2) or more separate leasehold interests. At the time of any such bifurcation of the Lease, only the leasehold entity with an interest in the Land will be obligated and responsible for adhering to such duties and obligations found under this Agreement as it relates to the construction of the Garage and the conveyance of the Garage and the Land to the County.

39. **POINCIANA PARTNERS**. At time of any bifurcation of the Lease, dividing the Lease into more than one (1) leasehold interests, Poinciana Partners shall have no further interest in the Land or the Garage. Any representations and warranties, if any, by Poinciana Partners with relation to the Land shall apply as to matters occurring prior to such bifurcation only. Nothing, however, in this provision shall be deemed to release Poinciana Partners from its obligations under the Lease, and Poinciana Partners agrees that it shall continue to cooperate in the parties' mutual execution of documents, such as covenants and cross-easements, for the effective development and operation of the Park.

40. **ESTOPPEL CERTIFICATES**

Developer and County agree that, at any time and from time to time, upon not less than thirty (30) days prior written notice by such party, to execute, acknowledge, and deliver to the other a statement in writing:

(a) certifying that this Agreement has been unmodified since its execution and is in full force and effect (or if Agreement has been modified since its execution, that it is in full force and effect, as modified, and stating the modifications);

(b) stating whether or not to the knowledge of Developer or County, as the case may be, there are then existing any defaults under this Agreement (and, if so, specifying the same);

(c) stating the address to which notices to Developer or County, as the case may be, should be sent. Any such statement delivered pursuant thereto shall provide that such statement may be relied upon by Developer or County or any prospective purchaser or mortgagee or lessee or assignee of the Property, or any part thereof or estate therein.

However, the County specifically states here that the estoppel letter(s) shall not be construed by anyone to be a certification as to PBP No. 5's progress on the construction of the Garage, and such estoppel letters shall not be used against the County should PBP No. 5 fail to timely perform under this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their respective authorized representatives as of the date first

hereinabove written, and they intend to be legally bound hereby to all of the terms and conditions of this Agreement.

**COUNTY:**

MIAMI-DADE COUNTY, FLORIDA,
a political subdivision of the State of
Florida by its Board of County
Commissioners

By:_____
Name:_____
Title:_____

ATTEST:

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

APPROVED FOR FORM AND LEGAL SUFFICIENCY

By:_____
Name: Jorge Martinez-Esteve
Title: Assistant County Attorney

**PBP No. 5:**

PBP BUILDING No. 5, LLC,
a Florida limited liability company

By: _____
Name: D Stackhouse
Title: Managing Member

_____
Witness/Attest:

_____
Witness/Attest:

STATE OF Florida
COUNTY OF Miami-Dade

SS:

The foregoing instrument was acknowledged before me this 15 day of January, 2007, by Dennis C Stackhouse, of PBP Building No. 5, LLC, a Florida limited liability company _____ ~~has produced~~ _____ ~~as identification.~~ who is personally known to me.

(SEAL)

_____
Notary Public-State of Florida
Commission Number

JULIE A.S. WILLIAMSON
Notary Public - State of Florida
My Commission Expires Sep 20, 2006
Commission # DD149387
Bonded By National Notary Assn.

[SIGNATURES AND ACKNOWLEDGMENTS CONTINUE ON NEXT PAGE]

**PBP No. 6:**

PBP BUILDING No. 6, LLC,
a Florida limited liability company

Witness/Attest:

By: _____
Name: D. Stackhouse
Title: Managing Member

Witness/Attest:

STATE OF Florida
SS:
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 15 day of January, 2007, by Dennis C. Stackhouse, of PBP Building No. 6, LLC, a Florida limited liability company who has produced _____ as identification. is personally known to me

(SEAL)

_____
Notary Public, State of
Commission Number

JULIE A.S. WILLIAMSON
Notary Public - State of Florida
My Commission Expires Sep 20, 2006
Commission # DD149387
Bonded By National Notary Assn.

[SIGNATURES AND ACKNOWLEDGMENTS CONTINUE ON NEXT PAGE]

**Poinciana Partners:**

Poinciana Partners LLLP,
a Florida limited liability partnership

By: Poinciana Park, LLC a Florida limited liability company, General Partner

By: [signature]
Name: D Stackhouse
Title: Managing Partner

[signature]
Witness/Attest:

[signature]
Witness/Attest:

STATE OF Florida
COUNTY OF Miami Dade

SS:

The foregoing instrument was acknowledged before me this 15 day of Jan, 2007, by Dennis C Stackhouse, of Poinciana Partners LLLP, a Florida limited liability partnership who ~~has produced~~ ~~as identification.~~ is personally known to me.

(SEAL)

[signature]

Notary Public-State of
Commission Number:

JULIE A.S. WILLIAMSON
Notary Public - State of Florida
My Commission Expires Sep 20, 2006
Commission # DD149387
Bonded By National Notary Assn.

[SIGNATURES AND ACKNOWLEDGMENTS CONTINUE ON NEXT PAGE

**MDET:**

Miami-Dade Empowerment Trust,
a Florida not-for-profit company

_____ By:_____
Witness/Attest: Name:_____
Title:_____

_____
Witness/Attest:

STATE OF _____
SS:
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by _____, of Miami-Dade Empowerment Trust, a Florida not-for-profit company_____ has produced _____as identification.

(SEAL)

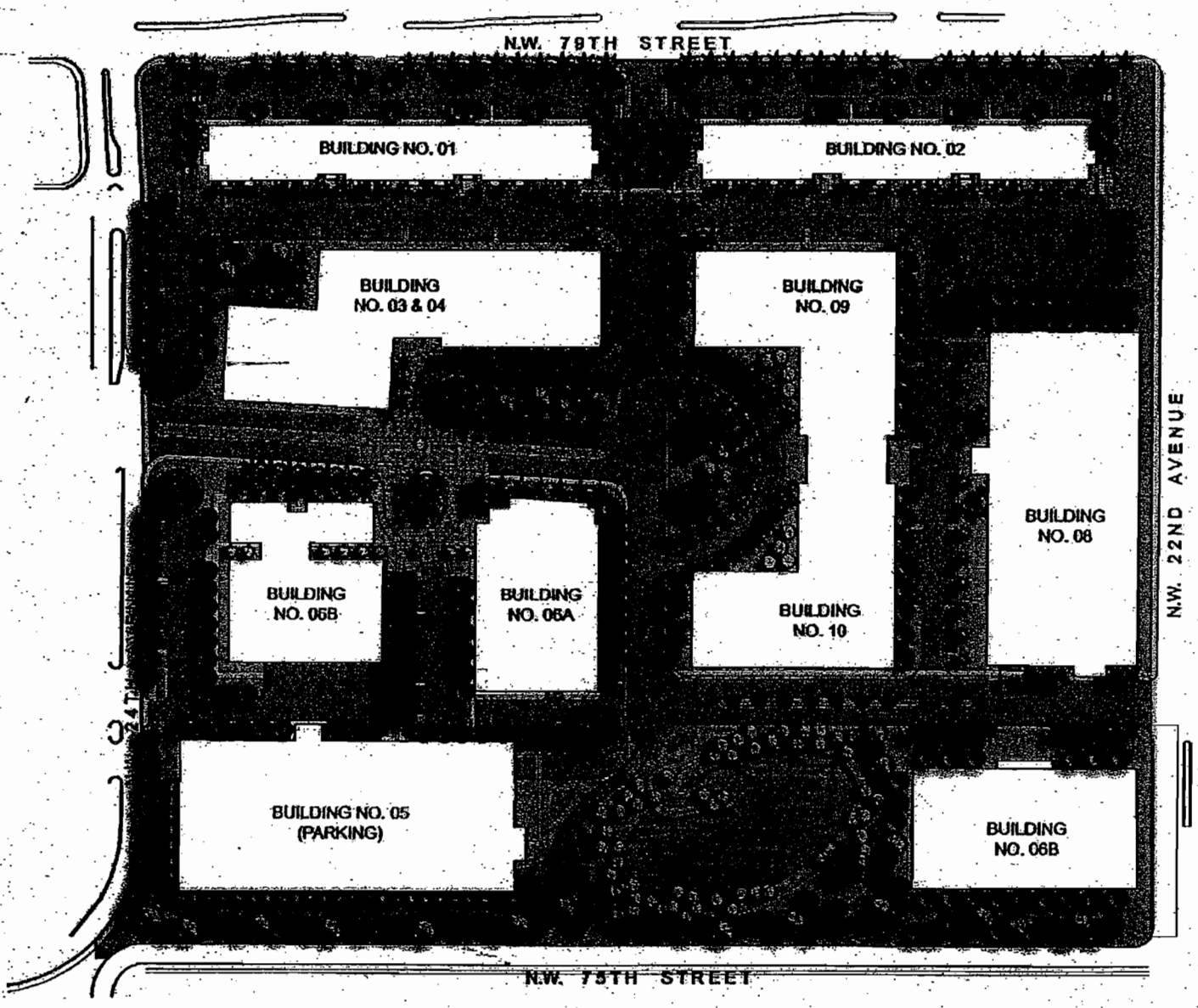
_____
_____
Notary Public-State of_____
Commission Number: _____

[SIGNATURES AND ACKNOWLEDGMENTS CONTINUE ON NEXT PAGE]

**"Exhibit A"**

**COMPREHENSIVE DEVELOPMENT PLAN AND PROJECT FOR ALL PHASES OF THE PROJECT**

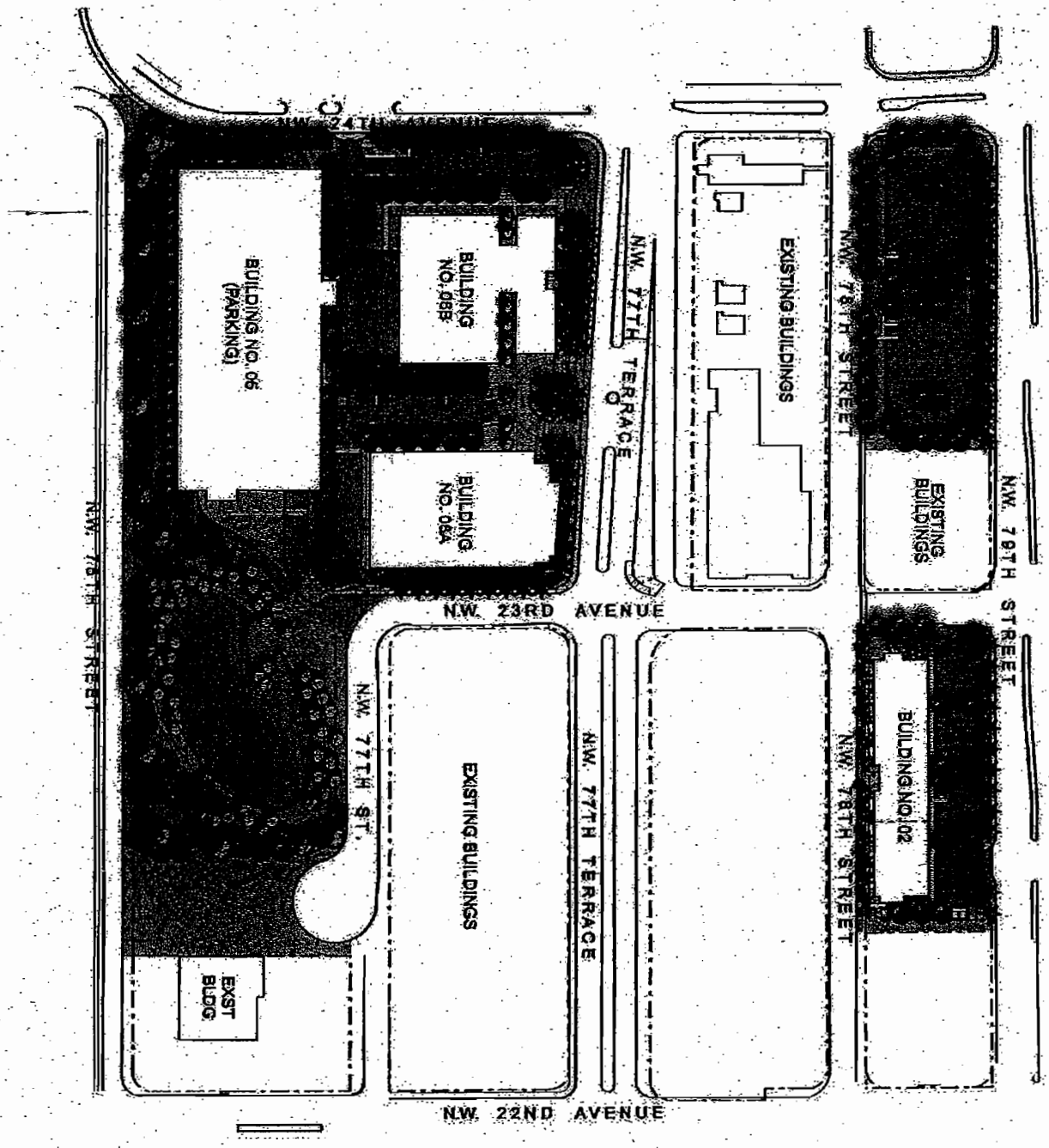
EXHIBIT A


N.W. 79TH STREET
BUILDING NO. 01
BUILDING NO. 02
BUILDING NO. 03 & 04
BUILDING NO. 09
BUILDING NO. 08
N.W. 22ND AVENUE
BUILDING NO. 06B
BUILDING NO. 06A
BUILDING NO. 10
BUILDING NO. 05 (PARKING)
BUILDING NO. 06B
N.W. 75TH STREET

**"Exhibit A-1"**

**COMPREHENSIVE DEVELOPMENT PLAN AND PROJECT FOR PHASE I**

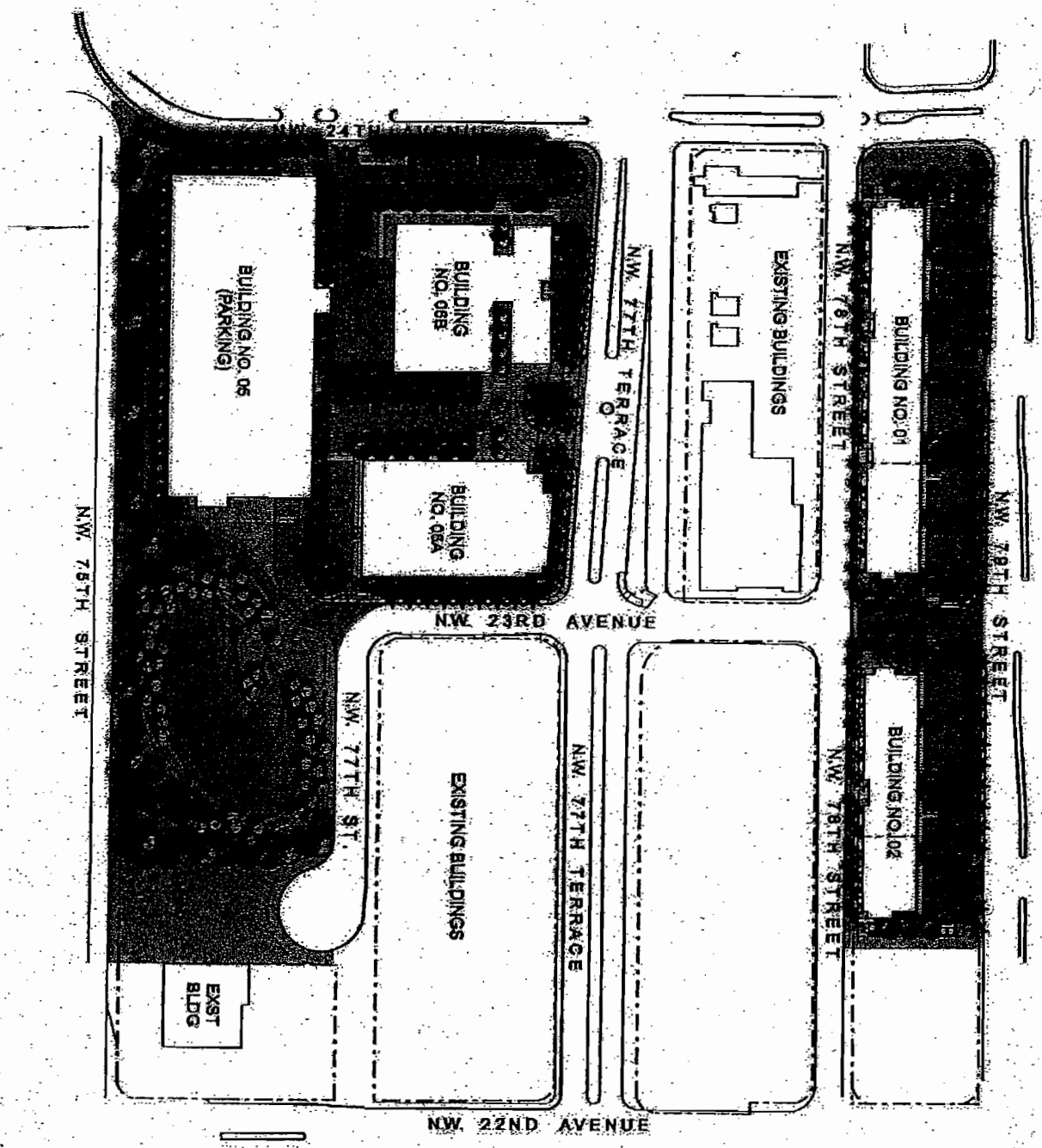
EXHIBIT A-1


N.W. 24TH
BUILDING NO. 06 (PARKING)
BUILDING NO. 06B
BUILDING NO. 06A
N.W. 77TH TERRACE
EXISTING BUILDINGS
N.W. 78TH STREET
EXISTING BUILDINGS
N.W. 78TH STREET
N.W. 23RD AVENUE
N.W. 77TH ST.
EXISTING BUILDINGS
N.W. 77TH TERRACE
N.W. 78TH STREET
BUILDING NO. 02
EXST BLDG
N.W. 22ND AVENUE

**"Exhibit A-2"**

**COMPREHENSIVE DEVELOPMENT PLAN AND PROJECT FOR PHASE II**

EXHIBIT A - 2


24T
BUILDING NO. 05 (PARKING)
BUILDING NO. 05B
BUILDING NO. 05A
N.W. 77TH TERRACE
EXISTING BUILDINGS
N.W. 78TH STREET
BUILDING NO. 01
N.W. 78TH STREET
N.W. 75TH STREET
N.W. 23RD AVENUE
N.W. 77TH ST.
EXISTING BUILDINGS
N.W. 77TH TERRACE
N.W. 78TH STREET
BUILDING NO. 02
EXST BLDG
N.W. 22ND AVENUE

**"Exhibit B"**

**LETTERS OF INTENT FROM PROSPECTIVE TENANTS**

Jackson HEALTH SYSTEM

October 16, 2006

Yvonne Edwards, Administrator
Liberty City Health Center
1320 NW 62 Street
Miami, Florida 33147

Dennis Stackhouse
Town Center Properties
780 Fisherman Street
Opa-Locka, FL 33054

RE: New Center Visit Volume

Dear Mr. Stackhouse:

This provides you with an update on the projected volumes of the client visits for the new center. The new location chosen will accommodate the clients currently attending two existing operating centers – Liberty City Health Center and Juanita Mann Health Center. The centers house programs from both the Miami-Dade County Health Department (DOH) and Jackson Health Systems (JHS). In evaluating the present services provided and projecting increase volumes of additional services, the following grid provides a breakdown by departments.

| SERVICE DEPARTMENT | DAILY VISITS | FTEs | YEARLY VISITS |
|---|---|---|---|
| Jackson Medical Center - JHS | 350 | 65 | 87,500 |
| DOH Family Planning | 30 | 12 | 7,500 |
| DOH Special Immunology | 40 | 10 | 10,000 |
| DOH WIC | 200 | 8 | 54,000 |
| **TOTAL** | **650** | **95** | **159,000** |

The opportunity to increase medical services in a state of the art facility to the population of Liberty City and Hialeah will be invaluable. This will provide space to add additional services for the community that would include Radiology, Dentistry and a Wellness Program.

Sincerely,

*Yvonne Edwards*

Yvonne Edwards
Administrator
LC & JMHC

**Poinciana Biopharmaceutical Park**

**PBP Building 5, LLC.**

**Financial Support**

**Grants**

| | | |
|---|---|---|
| *Job Training* | $362,749 | Florida Department of Education<br>*Funds received* |
| *Job Training* | $1,250,000 | US Department of Labor<br>*Funds received* |
| *Job Training* | $3,500,000 | US Department of Energy Title V<br>*Funds received* |

**Appropriation Earmarks**

| | | |
|---|---|---|
| *Construction* | $72,750 | Received Fiscal 2005; Applied for fiscal 2007 |
| *Training* | $250,000 | Housing and Urban Development |
| *Training* | $1,000,000 | Food and Drug Administration<br>*Applied for in 2006, application process pending* |
| *Training* | $500,000 | Department of Energy<br>*Applied for in 2006, application process pending* |

Office of the Dean for Student
and Administrative Services
950 N.W 20th Street
Miami, Florida 33127-4693
(305) 237-4212 • Fax (305) 237-4227
Email: mpumarie@mdc.edu

Miami Dade College

Medical Center Campus

Madeline Pumariega
Dean for Student
and Administrative Services

October 16, 2006

Dennis Stackhouse
Town Center Properties
780 Fisherman Street
Opa-Locka, FL 33054

RE: Poinciana Biopharmaceutical Park

Dear Mr. Stackhouse:

As you know the College was awarded a U.S. Department of Labor, MDC has pledged to deliver industrial pharmaceutical manufacturing (IPM) training to both incumbent and future workers. MDC's *Biosciences Job Growth Initiative* (BJGI) plans to support both state and local economic development in the Biosciences by (1) increasing the capacity of education and training providers; (2) establishing a pipeline to access untapped labor pools; (3) developing specialized industry-specific skill sets that promote lifelong learning; (4) developing competency models within the context of integrated lifelong learning and career advancement; (5) training 800 incumbent and future IPM professionals (6) increase retention of new and incumbent workers by 30% annually; (7) introducing good manufacturing-, good laboratory-, good clinical-, and good documentation practices into IPM curricula, pedagogy, and industry processes; and (8) delivering career guidance at all stages of lifelong learning. MDC has already made great strides toward achieving these goals. We have established a team of professionals that consist of industry experts as well as MDC faculty and staff. We are actively contacting local industries and performing on-site needs assessments to aid in development of industry-specific training modules. We are also recruiting students from the community to participate in our programs, which will serve to train future workers for employment within the IPM profession.

We expect that the new Poinciana Biopharmaceutical Park will allow for the College to train between 300-400 of these individuals. We will be offering a variety of courses for students to enroll in to prepare them for this job market. The College expects that the daily parking requirement for these students would be approximately 350.

This is an opportunity to increase medical and educational services in a state of the art facility to the population of Liberty City and Hialeah that will be invaluable. This will provide space to add additional academic course offering to the community.

Sincerely,

Madeline Pumariega

| Requests | Amount | Member | Appropriations Subcommittee: Account | Congressional Action Taken | Next Step |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| Miami Dade College / Carrie Meek Biopharmaceutical Institute - Biopharmaceutical industry training and lab construction | $2,500,000 | Meek | Transportation, Treasury & Housing and Urban Development: Economic Development Initiative | In H.R. 5576, the House version of the Transportation, Treasury and HUD, states "$250,000 to Florida A&M, Miami Dade College, Florida for renovation and build out of facilities." | We have requested that the earmark language be changed to the Empowerment Zone Trust. We will work with Congressman Meek's office and HUD Appropriations committee leadership to have earmark preserved and/or increased during conference. |
| | | | | | |
| | | | | | |
| Date: House of representative passed bill on 06/14/2006 | | | | | |
| | | | | | |
| *Pending senate resolution* | | | | | |

719. $72,750 to the Vietnam Veterans of San Diego for the construction of a new homeless shelter in San Diego, California;

720. $72,750 to the City of Fresno, California for improvements in the Southern Fresno Industrial Park;

721. $169,750 to the City of Palo Alto, California for restoration of the Palo Alto Children's Library;

722. $291,000 to the Second Harvest Food Bank in Santa Cruz and San Benito Counties, California for facilities construction and renovations;

723. $97,000 to the County of Imperial, California for project planning of the Imperial County Eco Park;

724. $72,750 to the City of Los Angeles, California for land acquisition and development of the East Wilmington Park;

725. $72,750 to the City of San Jose, California for renovations and upgrades to a shopping district;

726. $121,250 to the County of Alameda Public Works Agency for sidewalks improvements in Cherryland and Ashland, California;

727. $97,000 to the City of San Jose, California for construction of a multipurpose community center;

728. $291,000 to the Sacramento Area Regional Technology Alliance for an economic development planning study and facility construction and renovation;

729. $121,250 to the City of Long Beach, California for renovation and expansion of the Museum of Latin American Art;

730. $72,750 to the South Montebello Irrigation District in Montebello, California for construction of a community center;

731. $291,000 to the International Museum of Women in San Francisco, California for rehabilitation and buildout;

732. $388,000 to the Filipino Cultural Center in San Francisco, California for construction and buildout;

733. $72,750 to the El Proyecto Pastoral for construction of a pre-school center in Los Angeles, California;

734. $121,250 to the East Los Angeles Community Corporation for renovation of office space in Boyle Heights, Los Angeles, California;

735. $121,250 to the El Pueblo de Los Angeles Historic Park for restoration of a mural in Los Angeles, California;

736. $97,000 to the City of Anaheim, California for the reconstruction and lighting of the Magnolia High School athletic fields;

737. $72,750 to the City of Burbank, California for construction of the Ovrom Recreation Center and Community Day School;

738. $72,750 to the City of Porter Ranch, California for facility expansion of the North Valley YMCA;

739. $97,000 to the City of Azusa, California for construction of a health care clinic;

740. $97,000 to the City of Duarte, California for construction of a new library;

741. $97,000 to the City of Fremont, California for facilities renovations to the Kidango Rix Child Care Center;

742. $97,000 to the City of San Leandro, California for the construction of the San Leandro Senior Citizens Center;

743. $121,250 to the City of Lafayette, California for the construction of a veterans memorial building;

744. $72,750 to the City of American Canyon, California for construction of the Veterans Memorial Park;

745. $72,750 to the City of Windsor, California for the rehabilitation of Keiser Park;

746. $97,000 to the City of Lawndale, California for construction of the Lawndale Senior Center;

747. $169,750 to the City of Inglewood, California for construction of the Inglewood Senior Center;

748. $72,750 to the City of Los Angeles, California for renovation of the Barnsdall House and Park;

749. $266,750 to the City of Santa Monica, California for facilities construction and renovation of the Santa Monica National Mountains Gateway Visitors Center;

750. $97,000 to the Valley of the Moon Children's Home for construction in Santa Rosa, California;

751. $97,000 to Center Point, Inc. in Marin County, California for renovation of a treatment facility for youth;

752. $72,750 to the Denver Department of Human Services for renovations and buildout of a homeless shelter in Denver, Colorado;

753. $121,250 to the Greater Dwight Development Corporation for construction of the Dwight Community Child Care Center in New Haven, Connecticut;

754. $145,500 to the City of Derby, Connecticut for the Sterling Opera House renovation;

755. $194,000 to the Main Street Development Corporation for land acquisition, planning and facilities construction associated with the Naugatuck Valley Economic Growth Initiative in Naugatuck Valley, Connecticut;

756. $121,250 to the University of Hartford, Connecticut for renovations to the Hartt Performing Arts Center;

757. $97,000 to Gonzaga High School in Washington, District of Columbia for facilities renovation and construction;

758. $145,500 to the Tri-County Ag Complex in Altha, Florida for construction of a multipurpose center;

759. $145,500 to the City of Carrabelle, Florida for construction of a recreation park;

760. $194,000 to the City of Orlando, Florida for land acquisition in the Parramore Neighborhood;

761. $72,750 to the City of St. Petersburg, Florida to rehabilitate the Jordan School;

762. $72,750 to the Urban League of Broward County, Florida for construction of a community building resource center;

763. $72,750 to Hendry County, Florida for sidewalks, street furniture, and facade improvements at Hendry LaBelle Community Civic Park;

764. $72,750 to the Miami-Dade County Empowerment Zone Trust for facility construction of the Poinciana Biopharmaceutical Park;

765. $145,500 to the Office of Farmworker Ministry in Apopka, Florida for facilities construction;

766. $72,750 to the SOWEGA Council on Aging for construction of senior center in Albany, Georgia;

767. $72,750 to America's Second Harvest of Georgia for facility buildout in centers;

768. $72,750 to Lowndes Association Ministries to People (LAMP) for renovation of a multipurpose center in Valdosta, Georgia;

769. $72,750 to the East Baker Historical Society/21st Century Community Corporation in Georgia for facility repairs;

770. $97,000 to the City of Plains, Georgia for construction and facilities buildout of the Plains Rural History Resource Center;

771. $97,000 to Phoebe Putney Memorial Hospital in Dougherty County, Georgia for building renovation;

772. $97,000 to the National Infantry Foundation in Columbus, Georgia for construction of New National Infantry Museum and Heritage Park;

773. $97,000 to Morris Brown College in Atlanta, Georgia for renovation of a building;

774. $97,000 to the Flint River Auditorium Alliance for renovation of an auditorium in Flint River, Georgia;

775. $97,000 to the Albany Theater in Albany, Georgia for facilities renovations;

776. $194,000 to the Miller County Development Authority for construction of a sound stage in Colquitt, Georgia;

777. $145,500 to the Covenant House of Atlanta, Georgia to purchase and construct a new crisis shelter for homeless youth;

778. $145,500 to Spelman College in Atlanta, Georgia for renovations to Rockefeller Hall;

779. $121,250 to the Tubman Museum in Macon, Georgia for construction;

780. $97,000 to the City and County of Honolulu, Hawaii for expansion and renovation of the Makiki Library;

781. $121,250 to the City of Des Moines, Iowa for land acquisition for a technology park;

782. $169,750 to the City of Benton, Illinois for construction of a new library;

783. $242,500 to the Night of Ministry in Chicago, Illinois for rehabilitation and construction of the Night of Ministry Homeless Youth Housing Shelter;

784. $970,000 to the Rush-Presbyterian-St. Luke's Medical Center in Chicago, Illinois for facilities construction;

785. $72,750 to the Academy for Urban School Leadership for construction of a gymnasium and playing fields in Chicago, Illinois;

786. $194,000 to the City of Grafton, Illinois for development of the marina and harbor, including construction of sidewalks;

787. $194,000 to the Western Illinois University for construction of the Quad City Campus in Moline, Illinois;

788. $194,000 to the Chicago Park District for the Davis Square Park reconstruction in Chicago, Illinois;

789. $121,250 to The Inner Voice/A Little Bit of Heaven for facility upgrades to homeless shelters on the South Side of Chicago, Illinois;

790. $169,750 to the Calumet Area Redevelopment Initiative for land acquisition and restoration of the Lake Calumet area;

791. $339,500 to the Greater Chicago Food Depository for construction of a new foodbank and training facility

792. $388,000 to the Village of Western Springs, Illinois for land acquisition and construction of a parking lot;

793. $72,750 to the Chicago Board of Education for construction and renovations for a high school in Chicago, Illinois;

794. $72,750 to the City of Des Plaines, Illinois for expansion of the Des Plaines Community Senior Center;

795. $145,500 to the University of Indianapolis for facility expansion in Indianapolis, Indiana;

796. $268,750 to the City of Whiting, Indiana for renovation of the Whiting Social Center Facility;

797. $485,000 to the Town of Schererville, Indiana for construction of a recreational facility;

798. $72,750 to El Centro, Inc. for facilities construction and renovation in a business park;

799. $121,250 to the Kansas Chapter, National Korean War Veterans' Association for construction of the Korean War Memorial of Overland Park, Kansas;

800. $121,250 to Morehead State University for construction and expansion of classrooms in Mt. Sterling, Kentucky;

801. $121,250 to the St. Mary's Women and Infants Center for renovations to its facilities for homeless women and children in Boston, Massachusetts;

802. $97,000 to the Town of Barnstable, Massachusetts for site preparation, design, sidewalks, street furniture, and façade improvements;

803. $72,750 to the Town of Dedham, Massachusetts for parks improvements;

804. $220,500 to the Mystic Valley Development Corporation in Medford, Massachusetts

directed to submit a proposed spending plan for the use of these funds prior to expenditure.

Includes modified language designating $35,000,000 for Neighborhood Networks grants similar to language proposed by the Senate. Language is also included allowing up to $1,000,000 to be made available for technical assistance and to allow centers established under these grants to serve individuals receiving housing assistance under other programs funded in this Act. Language is included as proposed by the Senate, requiring such funds to be competitively awarded. The conferees remind HUD that these funds, and all other funds provided in this Act, are to be awarded on a competitive basis in accordance with the requirements set forth in section 205 under administrative provisions in this title, except where explicitly authorized. The House did not include similar language.

The conference agreement does not designate $30,000,000 for demolition, relocation and site remediation for obsolete and distressed public housing units as proposed by the Senate. The House did not address this matter.

PUBLIC HOUSING OPERATING FUND

Appropriates $2,458,000,000 for the public housing operating fund, instead of $3,425,000,000 as proposed by the House and $2,610,000,000 as proposed by the Senate.

Modified language is included, similar to language proposed by the Senate, to synchronize the funding cycles for all public housing authorities' operating subsidy payments to the same calendar year. The conferees believe that this conversion will simplify and improve administration and oversight of the program. This change results in a one-time savings to this account. The House did not include similar language.

Includes modified language designating $8,000,000 for programs to assist in the investigation, prosecution and prevention of criminal activities in public housing to be administered through a cooperative agreement with the Department of Justice (DOJ) similar to language proposed by the House. The Senate did not propose a similar provision.

Includes language designating $10,000,000 for a program to provide bonus funding for PHAs that assist families in moving away from dependency on housing assistance programs, instead of $15,000,000 as proposed by the Senate. The House did not propose a similar provision. The conferees expect the Department to allocate these funds through a Notice of Funding Availability that provides clear eligibility criteria for this program.

Language proposed by the Senate to designate $30,000,000 for transition costs associated with synchronization to a calendar year funding basis is not included. The House did not address this matter.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

Appropriates $144,000,000 for the revitalization of severely distressed public housing program (HOPE VI), instead of $150,000,000 as proposed by the Senate and $143,000,000 as proposed by the House.

Language is included making funds available for obligation until September 30, 2006 as proposed by the House, instead of making funds available for one year as proposed by the Senate.

NATIVE AMERICAN HOUSING BLOCK GRANTS

(INCLUDING TRANSFERS OF FUNDS)

Appropriates $627,000,000 instead of $622,000,000 as proposed by the House and $650,241,000 as proposed by the Senate.

Includes $4,500,000 for inspections, training, and technical assistance and $2,200,000 for the National American Indian Housing Council for technical assistance and capacity building as proposed by the Senate. The House proposed $4,300,000 and $2,100,000 respectively for these activities.

Includes $2,000,000 for guaranteed loans to subsidize a total guaranteed loan principal of up to $17,926,000 as proposed by the Senate instead of $1,914,000 to subsidize a total loan volume of up to $17,155,000 as proposed by the House.

Includes $2,600,000 for information technology systems instead of no less than $2,600,000 as proposed by the House and $500,000 as proposed by the Senate. Modified language is included to broaden the uses of these funds to include other departmental information technology needs.

The conference agreement also includes language elsewhere in this title rescinding $21,000,000 from prior year unobligated balances remaining for title VI loan guarantees. Both the House and Senate proposed this rescission.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Appropriates $5,000,000 to subsidize a total loan principal of up to $145,345,000 as proposed by the House instead of $1,000,000 to subsidize a total loan principal of $29,069,767 as proposed by the Senate.

The conference agreement also includes language elsewhere in this title rescinding $33,000,000 from prior year unobligated balances remaining from this program. Both the House and Senate proposed this rescission.

NATIVE HAWAIIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Appropriates $1,000,000 for guaranteed loans for Native Hawaiian housing to subsidize a total guaranteed loan principal of up to $37,403,000 as proposed by the House and Senate.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

Appropriates $284,000,000 for housing opportunities for persons with AIDS (HOPWA) instead of $282,000,000 as proposed by the House and $294,800,000 as proposed by the Senate.

RURAL HOUSING AND ECONOMIC DEVELOPMENT

Appropriates $24,000,000 for rural housing and economic development as proposed by the House instead of $25,000,000 as proposed by the Senate. Language is included requiring funds to be awarded competitively by September 1, 2005. The Senate had proposed that funds be awarded by June 1, 2005.

EMPOWERMENT ZONES/ENTERPRISE COMMUNITIES

Appropriates $10,000,000 for grants to the second round of empowerment zones. The House had proposed $14,250,000 for this account and the Senate did not include funding for this activity. The Conferees direct that funding in this account be distributed equally among the 15 Enterprise Zones and Enterprise Communities (EZ/ECs) designated in Round II.

COMMUNITY DEVELOPMENT FUND

(INCLUDING TRANSFERS OF FUNDS)

Appropriates $4,708,000,000 for various activities funded in this account as proposed by the House instead of $4,950,000,000 as proposed by the Senate. The conferees agree to the following:

—$4,150,035,000 for formula grants under the Community Development Block Grant program (CDBG), instead of $4,304,900,000 as proposed by the House and $4,547,700,000 as proposed by the Senate. The amount provided for CDBG includes grants to Insular areas as proposed by the House. The Senate had proposed funding Insular areas as a Section 107 set-aside;

—$69,000,000 for grants to Indian tribes, including up to $4,000,000 for emergencies as proposed by the House, instead of $72,000,000 as proposed by the Senate;

—$3,300,000 for the Housing Assistance Council as proposed by the Senate instead of $3,200,000 as proposed by the House;

—$2,400,000 for the National American Indian Housing Council as proposed by the House instead of $2,500,000 as proposed by the Senate;

—$43,700,000 for section 107 grants, instead of $35,700,000 as proposed by the House and $51,000,000 as proposed by the Senate. Within the amount provided for section 107 grants, the conference agreement provides the following:

$10,000,000 for historically black colleges and universities, of which up to $2,000,000 may be used for technical assistance;

$2,900,000 for community development work study;

$6,700,000 for Hispanic Serving Institutions;

$6,700,000 for the Community Outreach Partnerships program;

$3,000,000 for tribal colleges and universities;

$4,000,000 for Alaska Native-Serving Institutions and Native Hawaiian-Serving Institutions;

$9,000,000 for assistance under the Hawaiian Homelands Homeownership Act of 2000; and

$1,400,000 for technical assistance.

Does not provide $7,000,000 for Insular areas within section 107 activities. Instead, Insular areas are funded within Community Development Block Grants.

—$4,800,000 for the National Housing Development Corporation for continuation of its program of acquisition, rehabilitation, and preservation of at-risk affordable housing, including $2,000,000 for operating expenses as proposed by the House. The Senate did not propose funding for this program;

—$4,800,000 for the National Council of La Raza HOPE Fund, of which $500,000 is for technical assistance and fund management and $4,300,000 is for investments and financing as proposed by the House. The Senate did not propose funding for this program;

—$25,000,000 for grants to eligible grantees under section 11 of the Self-Help Housing Opportunity Program (SHOP) as proposed by the Senate instead of $26,000,000 as proposed by the House;

—$34,500,000 for capacity building, of which $30,000,000 is for the Community Development and Affordable Housing program for LISC and the Enterprise Foundation for activities as authorized by section 4 of the Department of Housing and Urban Development Demonstration Act, as in effect before June 12, 1997, including $6,000,000 for rural areas; and of which $4,500,000 is for Habitat for Humanity International. The House proposed $33,500,000 for capacity building including $28,800,000 for LISC and the Enterprise Foundation and $4,700,000 for Habitat for Humanity; and the Senate proposed $33,500,000 for such activities including $30,000,000 for LISC and the Enterprise Foundation and $3,500,000 for Habitat for Humanity;

—$82,000,000 for Youthbuild as proposed by the House instead of $65,000,000 as proposed by the Senate. Within amounts available for Youthbuild, the agreement provides $9,000,000 for underserved and rural areas;

—$262,000,000 for economic development initiatives instead of $136,500,000 as proposed by the House and $128,000,000 as proposed by the Senate. This amount is 5% below the amounts appropriated for EDI grants in fiscal year 2004. Language is included prohibiting funds from being used for program operations as proposed by both the House and

Florida Agricultural and Mechanical University
TALLAHASSEE, FLORIDA 32307-3200

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OFFICE OF THE PROVOST AND
VICE PRESIDENT FOR ACADEMIC AFFAIRS

September 30, 2004

The ~~Honorable~~ Carrie P. Meek
The Carrie Meek Biopharmaceutical Institute
780 Fisherman Street
Opa-Locka, Florida 33054

Dear Representative Meek:

Please find enclosed a signed version of the "Biopharmaceutical Educational Collaboration Agreement" between the Carrie Meek Biopharmaceutical Institute and Florida Agricultural & Mechanical University.

We anticipate that this agreement will lay the foundation for collaborative activities in biopharmaceutical education and research that will enhance citizens in South Florida and students at Florida A&M University.

Thank you for this opportunity and for your continued investment in your alma mater, Florida A&M University.

Sincerely,

Larry Robinson

Larry Robinson
Provost

cc: Dr. Fred Gainous
Dr. Robert Thomas

Enclosure

# BIOPHARMACEUTICAL EDUCATIONAL COLLABORATION AGREEMENT

**PARTIES:**

The Carrie Meek Biopharmaceutical Institute
Miami Dade College
Florida A&M University

**DATE:** June ___, 2004

## RECITALS

WHEREAS, The Carrie Meek Biopharmaceutical Institute (the "**Institute**") is a not-for-profit educational institution whose purpose is to (1) create and coordinate a specialized supplemental curriculum in biopharmaceutical technology courses in conjunction with institutions of higher education, and (2) offer continuing career and regulatory training for employees of emerging biopharmaceutical companies located in South Florida; and

WHEREAS, the School of Allied Health at Miami Dade College ("**MDC**") is a leader in health education offering over twenty health-related degree and certificate programs in areas such as biotechnology, nursing, primary care health assistant, and health management information systems, as well as a vocational credit certificate in pharmacy technician training; and

WHEREAS, the College of Pharmacy and Pharmaceutical Sciences at Florida A&M University ("**FAMU**") provides an outstanding program for pharmaceutical education, including clinical training opportunities, which allows FAMU to produce highly qualified pharmacy practitioners; and

WHEREAS, the Institute, MDC and FAMU desire to merge their collective expertise in the educational and career training fields to provide a combination of classroom teaching and hands-on training to provide the education, training and technological skills required for students to enter and succeed in the pharmaceutical industry; and

WHEREAS, the Institute, MDC and FAMU agree that developing a collaborative program utilizing the skills, expertise and assets of each party will promote the goals of the institutions as well as the communities which they serve.

NOW, THEREFORE, the Institute, MDC and FAMU desire to create and undertake the operation of a Joint Biopharmaceutical Educational Collaborative as outlined in the memoranda of understanding between the Institute and each of MDC and FAMU attached hereto as **Exhibits A and B**, and made a part hereof.

## AGREEMENT

The Institute, MDC and FAMU hereby agree that they will (a) proceed in good faith and use their best efforts to create, promote and utilize the Joint Biopharmaceutical Educational Collaborative as outlined in each Memorandum of Understanding attached hereto as **Exhibit A** and **Exhibit B**, the terms and conditions of which are incorporated herein by this reference, and (b) provide the human, physical and financial assets determined by them, in collaboration with one another, to be necessary in order to implement the collaborative educational project outlined therein.

**THE CARRIE MEEK BIOPHARMACEUTICAL INSTITUTE**

By:_____
Name:
Its

**MIAMI DADE COLLEGE**

By:_____
Name:
Its

**FLORIDA A&M UNIVERSITY**

By: Fred Gaines
Name:
Its President

Approved as to form and legal sufficiency:
Elizabeth A McBride 9/29/04
General Counsel

**"Exhibit C"**

**COPY OF GROUND LEASE (LEASE) BETWEEN MIAMI-DADE EMPOWERMENT TRUST, INC. AND POINCIANA PARTNERS, LLLP**

# GROUND LEASE

This GROUND LEASE (this "Lease") is made this 4th day of May, 2005 ("Commencement Date") by and between **MIAMI-DADE EMPOWERMENT TRUST, INC.**, a Florida non-profit corporation, whose address is 3050 Biscayne Blvd., Suite 300, Miami, Florida 33137, or its assigns ("Landlord") and **POINCIANA PARTNERS, LLLP**, a Florida limited liability limited partnership ("Tenant").

## RECITALS

A. Landlord is the owner of certain real property located in the County of Miami-Dade, legally described on Exhibit A attached hereto.

B. Landlord has agreed to lease the real property to Tenant for seventy-five (75) years pursuant to the terms of this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

## ARTICLE 1
## REFERENCE DATA

1.1. Definitions. The following terms shall have the following definitions in this Lease:

"Adjustment Year" is defined in Section 3.1 of this Lease.

"Assignee" is defined in Section 5.1 of this Lease.

"Award" is defined in Section 6.2 of this Lease.

"Bankruptcy Law" is defined in Section 8.1 of this Lease.

"Base Rent" is defined in Section 3.1 of this Lease.

"Base Index Number" is defined in Section 3.1 of this Lease.

"Base Interest Rate" means the "prime" interest rate announced from time to time in the Wall Street Journal, plus five percent (5%) per annum, but in no event greater than the legal rate of interest.

"Commencement Date" is defined in the preamble to this Lease.

"County" means Miami-Dade County, a political subdivision of the State of Florida.

"CPI" is defined in Section 3.1 of this Lease.

"Current Index Number" is defined in Section 3.1 of this Lease.

"Development" means the Premises and the Improvements.

"Environmental Laws" shall mean and refer to all Federal, state and local laws, ordinances, rules and regulations now or at any time hereafter in effect which regulate, relate to or impose liability or standards of conduct concerning any Hazardous Substances, including The Comprehensive Environmental Response Compensation and Liability Act (42 USC § 9601 et. seq.), The Resource Conservation and Recovery Act (42 USC § 6901 et. seq.), and The Toxic Substances Control Act (15 USC § 2601 et. seq.).

"Event of Default" is defined in Section 8.1 of this Lease.

"Extension Term(s)" is defined in Section 2.3 of this Lease.

"Force Majeure" shall mean any of the following events, provided that the occurrence of such event is beyond such party's control: (a) an act of God; (b) an act of war on other military act initiated by a sovereign government; (c) a shortage of supplies or materials resulting from an embargo, rationing order, or similar action or order by a sovereign government; (d) a strike, lockout, or other substantial labor dispute; (e) a riot or other substantial civil disturbance; or (f) a fire, explosion, or similar casualty or disaster.

"Governing Documents" means this Lease and any other documents entered into between Landlord and Tenant regarding the use of the Premises.

"Hazardous Substances" shall mean and include (a) any friable asbestos or asbestos-containing material, polychlorinated biphenyls, dioxins or urea formaldehyde foam insulation; (b) any petroleum or petroleum-derived products; (c) any waste, substance, material, pollutant or contaminant defined as hazardous or toxic in or for purposes of any Environmental Laws.

"Improvements" means all repairs, betterments, buildings and improvements now or hereafter existing at the Premises, including commercial developments anticipated (but not required) to be developed at the Premises, including any parking areas, walkways, landscaping, fencing, or other amenities at the Premises.

"Insurable Property" is defined in Section 4.3.

"Landlord" means the entity described in the preamble to this Agreement, its successors and assigns.

"Lease" shall mean this Ground Lease agreement as the same may be amended from time to time.

"Lease Year" shall be, in the case of the first Lease Year, the period from the Commencement Date through December 31, 2005; thereafter, each successive twelve

calendar month period following the expiration of the first Lease Year of the Term; except that in the event of the termination of this Lease on any day other than the last day of a Lease Year then the last Lease Year of the Term shall be the period from the end of the preceding Lease Year to such date of termination.

"Leasehold Mortgage(s)" is defined in Section 9.1.

"Leasehold Mortgagee(s)" is defined in Section 9.2.

"Major Contractor" is defined in Section 4.3.

"Mortgage" is defined in Section 9.2 (a)(ix).

"Permitted Mortgagee(s)" is defined in Section 9.2.

"Permitted Mortgage(s)" is defined in Section 9.1.

"Premises" means the land in Miami-Dade County, Florida described in Exhibit A, together with all necessary easements for utilities, sewer and drainage, and all tenements, hereditaments and appurtenances related thereto.

"Real Estate Impositions" is defined in Section 3.2.1.

"Rent" means Base Rent plus other sums due pursuant to Article 3 of this Lease.

"State" means the State of Florida.

"Taking" shall mean any taking of the title to, access to, or use of the Premises or any portion thereof by any governmental authority or any conveyance under the threat thereof, for any public or quasi-public use or purpose. Takings may be total or partial, permanent or temporary.

"Tenant" means the entity described in the preamble to this Agreement, its successors and assigns.

"Tenant's Personal Property" shall mean any personal property of Tenant (but not of subtenants) located upon or used by Tenant in connection with the Premises or the Development, including:

(1) all tangible personal property located at or on or intended to be used in connection with the Premises or the Development; all articles of personal property now or hereafter attached to or intended to be used in or about or in connection with the Premises or the Development and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Premises or the Development;

(2) All contracts, contract rights, accounts, warranties, and agreements, including rights to return of deposits, prepaid premiums or other payments, receivables,

rents, chattel paper and instruments, development rights, trade names, plans and specifications, permits, approvals and general intangibles and all other choses in action now or hereafter existing with respect to the Premises or the Development, and all proceeds from the foregoing;

(3) all books and records relating to the operation of the Premises and the Development.

"Term" is defined in Section 2.2.

"Total Taking" is defined in Section 6.3.

1.2. Exhibits. Exhibits attached at the end of this instrument are incorporated in this Lease by this reference and are to be construed as a part of this Lease.

## ARTICLE 2
## PREMISES AND TERM

2.1. Premises. Landlord hereby leases and demises to Tenant and Tenant hereby leases from Landlord, subject to and with the benefit of the terms, covenants, conditions and provisions of this Lease, the Premises.

2.2. Term. The Premises are hereby leased unto Tenant and its successors and assigns for the term, commencing on the date hereof and ending on December 31, 2080 (the "Term") unless sooner terminated or extended in accordance with the terms hereof.

2.3. Extension of Term. Tenant may elect to extend the Term for two (2) additional period(s) of twenty-five (25) years each ("Extension Term(s)"), upon the terms specified in this Lease, subject to the following terms and conditions: (a) Tenant shall give Landlord notice of such election not less than twenty-four (24) calendar months before the expiration of the initial Term or the subsequent Term, as applicable; and (b) the Base Rent for each Extension Term shall be calculated based on the CPI as described in Article 3, below.

## ARTICLE 3
## RENT AND OTHER TENANT OBLIGATIONS

3.1. Base Rent.

(a) In addition to Tenant's obligation to pay the ad valorem real property taxes and assessments, if any, assessed on the Premises, as described in Section 3.2 of this Lease, Tenant shall pay Landlord the following Base Rent, which the parties agree is reasonably based on the Fair Market Value ("FMV") of the Premises taking into account the state of development of the property over the past two decades, the proposed use of the Project which shall create and encourage the future creation of both entry level jobs

for low to moderate income persons as well as the training of such persons for increasing income-producing jobs, and the general economic and social benefits to the community of the development of the property in a manner consistent with the goals of the Office of Community and Economic Development and of the Trust which is the Landlord:

Lease Years 1-2: 1% of FMV, which is agreed to be $1,891,560; annual rent is $18,916.00

Lease Years 3-10: 10% of FMV, which is agreed to be $1,891,560; annual rent is $189,156.00

Lease Years 11-75: an amount to be determined by the parties every five (5) years, beginning with the first month of Lease Year 11, calculated at 10% of the FMV by utilizing the CPI Adjustment, as defined and described in section (b) below.

The first year Base Rent shall be prorated based on the number of months left in the year after the execution of the Lease. The last year's Base Rent shall be prorated based on the number of actual calendar months in the last Lease Year.

(b) Prior to the first day of Lease Year 11 and the first day of every five (5) year period of the remaining term of the Lease and any extensions thereof, of by way of an appraisal, obtained by the Landlord, the FMV of the land subject to this Lease shall be re-determined (e.g. prior to the start of Lease Years 11, 16, 21, 26, 31, 36, 41, 46, 51, 56, 61, 66, 71, etc.). for the first year of each new five-year period the rent payment shall be computed at 10% of the re-determined FMV. At the commencement of each of the second through fifth years of each new five-year period the rent computed at 10% of FMV shall be adjusted, on an annual and cumulative basis, by the annual percentage adjustment of the CPI.. The "CPI" means the Consumer Price Index for All Urban Consumers (1982-84=100), U.S. City Average, All Items," published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is not published by the Bureau of Labor Statistics or another governmental agency at any time during the Term of this Lease, then the foregoing calculations shall be made using the most closely comparable statistics on the purchasing power of the consumer dollar as published by a responsible financial authority as mutually selected by the parties.

3.2. Additional Obligations.

(a) In order that the Base Rent shall be absolutely net to Landlord, Tenant covenants and agrees to pay, without notice or demand and without set-off, abatement, suspension or deduction, all taxes, payments in lieu of taxes, betterment assessments, water and sewer rents and charges.

(b) Tenant will furnish to Landlord, once per year, concurrently with Landlord's annual review of Tenant's financial statements, proof of payment of all items referred to in this Section 3.2 which are payable by Tenant; provided that Tenant will in addition furnish to Landlord proof of payment of any taxes or payments in lieu thereof and proof of payment of insurance premiums promptly after demand therefor.

3.2.1. Additional Obligations include Real Estate Impositions, if any.

(a) Tenant shall pay or cause to be paid, directly to the authority charged with the collection thereof, all taxes or payments in lieu thereof in accordance with the provisions of law, and each installment of all assessments levied or assessed by or becoming payable to any governmental authority having jurisdiction over the Development, for or in respect of the Premises and all Improvements constructed thereon (such taxes and installments of assessments being hereinafter together referred to as "Real Estate Impositions") for each tax or installment period wholly included in the Term, all such payments to be made not less than five (5) days prior to the last date on which the same may become delinquent and be paid without interest or penalty and for any fraction of a tax or installment period included in the Term at the beginning or end thereof, Tenant shall pay to Landlord, within twenty (20) days after Tenant's receipt of invoice therefor, the fraction of such taxes or installments which is allocable to such included period.

(b) If Tenant shall elect to contest the payment of any Real Estate Imposition, Tenant may make such payment under protest or, if postponement of such payment will not jeopardize Landlord's title to the Premises, or subject Landlord to the risk of any criminal liability or civil liability or penalty, Tenant may postpone the same according to the then-applicable laws and regulations. If Landlord then so requires, Tenant shall secure such payment and the interest and penalties thereon and the costs of the contest on the determination or the proceedings or suit in which such contest may be had, by causing to be delivered to Landlord cash or other security in form and amount satisfactory to Landlord, or a bond of indemnity of a good and solvent surety company, in form and amount satisfactory to Landlord, or evidence of such funds in a trust account with Tenant's attorney, separately established for such purposes. Either party paying any Real Estate Imposition shall be entitled to recover, receive and retain for its own benefit all abatements and refunds of such Real Estate Imposition, unless it has previously been reimbursed by the other party. Tenant agrees to indemnify, defend and save Landlord harmless from all costs and expenses incurred on account of Tenant's participation in such proceedings or as a result of Tenant's failure to pay real estate taxes and other related charges with respect to the Development. Landlord, without obligating itself to incur any costs or expenses in connection with such proceedings, shall cooperate with Tenant with respect to such proceedings so far as reasonably necessary. Neither party shall discontinue any abatement proceedings begun by it without first giving the other party written notice of its intent so to do and reasonable opportunity to be substituted in such proceedings. Landlord shall promptly furnish to Tenant a copy of any notice of any actual or proposed Real Estate Impositions or other tax or assessment received by Landlord.

(c) In the event Tenant fails to make any payment referred to in this Section 3.2.1 when due, Landlord shall have the right, after twenty (20) days notice to Tenant specifying the payment to be made and Landlord's intent to make payment on behalf of Tenant, to make any such payment on behalf of Tenant and charge Tenant therefor, together with interest thereon from the date of payment at the Base Interest Rate.

(d) Nothing contained in this Lease shall require Tenant to pay any franchise, corporate, estate, inheritance, succession, capital levy or transfer tax of Landlord, or any income, profits or revenue tax or charge upon the Rent payable by Tenant under this Lease.

3.2.2. Utilities. Tenant shall pay or cause to be paid all charges for water, gas, sewer, electricity, light, heat or power, telephone or other service used, rendered or supplied to Tenant in connection with the Development and shall not contract for the same in Landlord's name. Tenant shall pay or cause to be paid all insurance premiums and charges related to the premiums, and all costs of maintenance, repairs and other operating expenses relating to any Improvements at the Premises. Tenant further covenants and agrees to pay without notice or demand and without set-off, abatement, suspension or deduction, all other costs, general and special, ordinary and extraordinary, foreseen and unforeseen, which are due and payable during the Term hereof at any time imposed or levied against the Improvements or the Premises.

3.2.3. Other. Tenant covenants to pay and discharge, when the same shall become due, all other amounts, liabilities, and obligations which Tenant assumes or agrees to pay or discharge pursuant to this Lease, together with every fine, penalty, interest and cost which may be added for nonpayment or late payment thereof (provided that Tenant shall not be liable for any payment or portion thereof which Landlord is obligated to pay and which payment Landlord has failed to make when due); and, in the event of any failure by Tenant to pay or discharge the foregoing, Landlord shall have all the rights, powers and remedies provided herein, by law or otherwise in the case of nonpayment of rent.

3.2.4. Landlord's Obligation to Cooperate. Landlord recognizes that Tenant intends to file an application with the appropriate County officials for abatement of real property taxes. Landlord agrees to cooperate with Tenant and to promptly execute any other documents reasonably requested by Tenant, provided that such documents do not impose any financial or unreasonable obligations on Landlord for which payment is not made or provided for by Tenant.

3.2.5. Community Development. The parties acknowledge that the Project is required to meet the public benefit requirements applicable to the United States Department of Housing and Urban Development (USHUD) Community Development Block Grant (CDBG) Program. These public benefit requirements include the creation of both entry-level jobs for low- to moderate-income persons as well as the training of such persons for jobs that increase their incomes. Tenant shall comply with the applicable requirements of the USHUD CDBG Program relative to such goals and the Project. Such CDBG requirements may include training or creation of at least 51% of the expected 300 jobs that will be created within the first three years of the project for, or public benefit to, low- to moderate-income persons. It is acknowledged that the training and development within the project may elevate the income and the standard of living of the employees at the project or other persons benefited by the project. The parties further acknowledge that the significant time and monies which have been and which shall be invested by Tenant require protections against inadvertent violations of such provisions and therefor, notwithstanding anything to the contrary in this Lease, any deemed violations by Tenant of this and related provisions in this Lease shall require notice from Landlord stating the

violation with specificity, and further allowing Tenant commercially reasonable time in which to cure any actual violation.

Tenant will maintain or cause to be maintained, in Miami-Dade County, adequate documentation available to show the number and type of jobs created and the hiring process used. Tenant will allow access to such documentation for review and inspection at the place maintained by or on behalf of Tenant for such documentation, at reasonable times and on reasonable notice during normal business hours by appropriate personnel or representatives of Landlord, Miami-Dade County, and/or USHUD.

Tenant agrees to execute such other documents, or provide such other future assurances, as may be required by Landlord, Miami-Dade County, and/or USHUD to confirm Tenant's compliance with the job creation and other CDBG requirements.

## ARTICLE 4
## INDEMNITY, LIENS AND INSURANCE

4.1. Indemnification.

(a) Tenant agrees to pay and to defend, indemnify and hold harmless Landlord from and against any and all liabilities, losses, damages, causes of action, suits, claims, demands, judgments, costs and expenses of any kind or any nature whatsoever (including reasonable experts' and attorneys' fees and expenses), known or unknown, foreseen or unforeseen, which may at any time be imposed upon, incurred by, or asserted or awarded against Landlord, its employees, agents, officers, directors or other persons serving in an advisory capacity to any of them or against the Improvements or the Premises or any portion thereof, arising from:

(i) any injury to or death of or claim of injury to or death of any person or any damage to or loss of or claim of damage to or loss of property at the Improvements or the Premises or on adjoining sidewalks, streets or ways, in each case growing out of or connected with the use, non-use, possession, ownership, condition or occupation of the Premises, the Improvements or any part thereof from and after the date hereof until the expiration of the Term;

(ii) violation of any agreement or condition of this Lease by Tenant;

(iii) violation by Tenant of any contract or agreement to which Tenant is a party;

(iv) violation by Tenant, its employees, agents, or tenants, or invitees of any of them, of any restriction, statute, law, ordinance or regulation, including all environmental laws relating to the presence, release or threat of release of oil or any Hazardous Substances in each case affecting the Premises or the

Improvements or any part thereof or the ownership, occupancy or use thereof from and after the date hereof, provided, that Tenant shall not have any liability to Landlord for any loss or damage arising out of any release of Hazardous Substances for which Landlord is responsible under Section 7.3 hereof or which is caused by Landlord or Landlord's agents or employees;

except for matters caused by the negligence or malfeasance of Landlord or Landlord's agents or employees.

(b) Landlord shall give Tenant prompt and timely notice of any claim made or suit instituted against it or any other party of which it has knowledge, relating to any matter which in any way may result in indemnification pursuant to this Section 4.1. The obligations of Tenant and Landlord under this Section 4.1 shall survive the expiration or earlier termination of the Term of this Lease.

4.2. Liens.

(a) Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons, firms, and corporations doing any work, furnishing any materials or supplies or renting any equipment to Tenant or any of its contractors or subcontractors in connection with the construction, reconstruction, furnishing, repair, maintenance or operation of the Development, and in all events will bond or cause to be bonded, with surety companies reasonably satisfactory to Landlord, or pay or cause to be paid in full forthwith, any mechanics', materialmen's or other lien or encumbrance that arises, whether due to the actions of Tenant or any person other than Landlord, against the Development other than mortgages and financings permitted by Section 9.1 hereof.

(b) Tenant shall have the right to contest any such lien or encumbrance by appropriate proceedings which shall prevent the collection of or other realization upon such lien or encumbrance so contested, and the sale, forfeiture or loss of the Development to satisfy the same, provided that such contest shall not subject Landlord to the risk of any criminal liability or civil penalty, and provided further that Tenant shall give such reasonable security as may be requested by Landlord to insure payment of such lien or encumbrance and to prevent any sale or forfeiture of the Premises by reason of such nonpayment, and Tenant hereby indemnifies Landlord for any such liability or penalty. Upon the termination after final appeal of any proceeding relating to any amount contested by Tenant pursuant to this Section 4.2, Tenant shall immediately pay any amount determined in such proceeding to be due, and in the event Tenant fails to make such payment, Landlord shall have the right after twenty (20) days notice to Tenant, specifying the payment to be made and Landlord's intent to make payment on behalf of Tenant, to make any such payment on behalf of Tenant and charge Tenant therefor, together with interest thereon from the date of payment at the Base Interest Rate.

(c) Nothing contained in this Lease shall be construed as constituting the consent or request of Landlord, expressed or implied, to or for the performance of any labor or services or the furnishing of any materials for construction, alteration, addition, repair or demolition of or to the Development or of any part thereof. Notice is hereby

given that Landlord will not be liable for any labor, services, or materials furnished or to be furnished to Tenant, or to anyone holding the Development or any part thereof through or under Tenant, and that no mechanic's or other liens for any such labor, services or materials shall attach to or affect the fee interest of Landlord in and to the Premises unless otherwise consented to by Landlord.

4.3. Insurance Requirements. Beginning on the date of this Lease and continuing until the expiration or earlier termination of the Term, Tenant shall at all times carry such liability, worker's compensation, property and other insurance coverage with respect to the Premises and the Improvements thereof, and any other insurable property and equipment therein or thereon (all of the above known as "Insurable Property") as required by Landlord and commercially reasonably available and in any event in at least the following amounts and extents of coverage:

(a) Commercial general liability insurance applicable to the Insurable Property for death and bodily and other personal injury in amounts of $2,000,000 per person and $2,000,000 per occurrence, and for property damage in the amount of $2,000,000 per occurrence and $2,000,000 in the aggregate, any or all of which may be increased or decreased, as the case may be, from time to time but no more frequently than annually to reflect changes in amounts of such insurance carried by owners of comparable properties in the city in which the Development is located;

(b) Umbrella liability insurance coverage on an occurrence form, covering losses in excess of the primary general liability and employer's liability coverages, in an amount not less than $10,000,000, or such other amount as may be reasonably acceptable to Landlord;

(c) Workers' compensation insurance required by law in respect of any work performed by Tenant's employees on or about the Development;

(d) Fire and extended coverage insurance and additional "Special Perils" insurance in amounts sufficient to comply with any co-insurance clause applicable to the location and character of the Insurable Property and in any event in amounts not less than eighty percent (80%) of the then repair and replacement cost of the Insurable Property, with commercially reasonable deductibles, and with a joint loss agreement if a separate boiler and machinery policy is secured with a separate carrier pursuant to clause (e) below. Replacement cost values should be determined annually by a method acceptable to the insurance company providing coverage, provided that if Landlord requests independent appraisals shall be conducted at least every five years by an appraiser to be mutually agreed upon by Landlord and Tenant;

(e) To the extent not covered by commercial general liability insurance property insurance, broad "comprehensive" form coverage for all boilers or other pressure vessels used on the Premises, equipment, and machinery, apparatus and appurtenant equipment. Coverage shall be provided on a replacement cost and agreed amount basis, in an amount reasonably satisfactory to Landlord. A joint loss agreement shall be provided if the boiler and machinery policy is issued by a carrier different than that issuing the property policy;

(f) Flood insurance if at any time the Premises are located in any federally designated "special hazard area" (including any area having special flood hazards, as shown on a Flood Hazard Boundary map or a Flood Insurance Rate Map published by the Federal Emergency Management Agency) in an amount equal to the full replacement cost or the maximum amount then available under the National Flood Insurance Program;

(g) During any construction periods, builder's risk coverage in amounts appropriate for the construction work undertaken;

(h) Any other insurance required by the Governing Documents;

(i) Tenant shall require any contractor for work greater than $100,000 ("Major Contractor") to carry commercially reasonable commercial general liability and auto liability coverage and statutorily required workers' compensation insurance. Such general liability and auto liability coverages shall include Tenant and Landlord as additional insureds. Tenant shall obtain and keep on file certificates of insurance which show that the Major Contractor is so insured and Landlord shall have the right, from time to time, upon request, to review such Major Contractor information. In the alternative, Tenant may provide that its coverage shall include such Major Contractors;

(j) Tenant shall require any architect, engineer, or other person or entity providing professional services to Tenant and/or employed in connection with the maintenance of the Premises and the Improvements, or in the construction of the Improvements, to carry professional liability (errors and omissions) insurance in an amount not less than (a) $2,000,000 with respect to any professional services in connection with the Development, and (b) following final completion of the Development as described in the Governing Documents, such amount as Landlord may reasonably require after consultation with Tenant, taking into account the cost of the Improvements being constructed at the Premises. Tenant shall obtain and keep on file certificates of insurance which show that the architect, engineer or other such professional is so insured;

(k) All such insurance under (i) and (j) above shall contain such contingent liability endorsements as shall make such insurance congruent with the fire and extended coverage insurance required by Section (d) of this Section 4.3. The minimum coverages stated in this Section shall be reviewed annually by Landlord and Tenant and shall be adjusted by mutual agreement at such intervals if such adjustments are necessary to reflect changes in the nature or degree of risks insured or standards, customs or products that are commercially reasonably available.

4.4. Insurance Provisions. Insurance maintained by Tenant pursuant to the requirements of Section 4.3 shall:

(a) be by standard policies, obtained from financially sound and responsible insurance companies authorized to do business in the State and reasonably acceptable to Landlord;

(b) have attached thereto a clause making the loss payable to Tenant, Landlord, and Permitted Mortgagees, if any, as their respective interests may appear;

(c) be written to become effective at the time Tenant becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for such period as Tenant is subject to such risk or hazard;

(d) if available, provide for waiver of subrogation and payment of losses to Tenant or Landlord, respectively, notwithstanding any act of negligence of Landlord or Tenant.

4.5. Waivers of Insured Claims. Each of Landlord and Tenant hereby waives all rights of recovery against the other for loss or injury against which the waiving party is protected by insurance, but only to the extent of insurance proceeds received in connection with such loss or injury.

4.6. Additional Provisions. The following provisions shall apply to the insurance coverages described above:

(a) For all liability insurance coverage, Landlord is to be covered as additional insured as respects liability arising out of the Premises occupied, used or owned, in whole or in part, by Tenant;

(b) All policies required hereunder shall be endorsed to provide for a minimum thirty (30) day notice of cancellation, non-renewal or material modification to Tenant, Landlord, and Permitted Mortgagees, if any;

(c) Tenant shall deliver annually, upon Landlord's written request, certificates of insurance evidencing the existence of all required coverages, where applicable. Tenant shall deliver to Landlord, upon Landlord's written request, but no more frequently than annually, complete copies of all original policies and endorsements;

(d) In addition to notifying its insurer(s) in accordance with each policy, Tenant shall provide prompt written notice to Landlord as soon as reasonably possible of accident or loss relating to the Premises likely to exceed $100,000.00.

4.7. Provisions Regarding Permitted Mortgagees. Notwithstanding any provision of this Article 4, no Permitted Mortgagee shall have any liability under this Section unless and until such Permitted Mortgagee takes title to Tenant's interest hereunder or becomes mortgagee in possession of Tenant's interest hereunder.

## ARTICLE 5
## USE, REPAIRS, ALTERATIONS

5.1. Use and Assignment.

(a) Tenant covenants, promises and agrees that during the Term of this Lease it shall use the Premises only for lawful purposes.

(b) Tenant's use of the Premises may include the assignment or subletting or use of all or any part of the interest of Tenant in this Lease or the Premises to other persons or entities which shall agree (and such agreement may be by their interests being subordinate by law to a recorded copy or memorandum or short form of this instrument) that their use of the Premises shall be consistent with the use required by this Agreement. Landlord's consent to any such assignment or subletting shall not be unreasonably withheld, conditioned or delayed, shall be deemed given if Tenant does not receive written denial of consent within ten (10) days of written request therefor, and shall not be required for transfers to related entities or entities in which one or more of the current owners has an ownership interest. As to any subletting, Tenant shall remain liable hereunder for the payment and performance of all of Tenant's obligations hereunder. Any such assignment shall relieve Tenant of its obligations hereunder with respect to that portion of the Premises assigned, according to the provisions of Section 5.1(d) below.

(c) Notwithstanding anything to the contrary in this Lease, Tenant may but is not obligated to develop the Premises, and may but is not obligated to rebuild any Improvements which may be damaged or destroyed or required to be removed because of eminent domain. Tenant shall, however, maintain any Improvements which exist from time to time in commercially reasonable good condition and repair.

(d) In the event that Tenant assigns all or part of its leasehold interest under this Lease or in the Premises to a third party ("Assignee") then (a) Assignee shall be deemed to have assumed and Tenant shall be released from all tenant obligations under this Lease as to that portion of the Premises that is subject to the Assignment, and (b) this Lease shall be deemed to be bifurcated so that there shall be deemed to be separate leases, one (or more, as applicable) as to each Assignee and its interest and one as to the remaining interest of Tenant, and (c) upon request of Tenant, Landlord and Assignee shall enter into a separate lease as to the Premises subject to such assignment and this Lease shall be modified to delete and release such assigned Premises.

5.2. Landlord Responsibility for Services or Facilities. Landlord shall not under any circumstances be required to furnish any services or facilities or to make any repairs, replacements or alterations of any nature or description on or to the Premises or any Improvements thereon, whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen, or to make any expenditure whatsoever in connection with this Lease or to maintain the Premises or any Improvements thereon in any way, except for matters, if any, that may be caused by Landlord's gross negligence or willful malfeasance.

5.3. Compliance with Law. Tenant shall, at its expense, perform all its activities on the Premises in compliance, and shall cause all occupants of any portion thereof to comply, with applicable laws, ordinances, codes and regulations affecting the Premises or its use, as the same may be administered by authorized governmental officials. Landlord shall, without expense to Landlord absent consent therefor, cooperate with Tenant in obtaining all required licenses, permits and the like, and shall sign all papers and documents at any time needed in connection therewith, including such instruments as may be required for the laying out, maintaining, repairing, replacing and using of water, gas, electric, telephone, drain or other utilities.

5.4. Ownership of Improvements/Surrender of Premises. All Improvements, including fixtures, shall be or become part of the Premises upon completion of construction, but such Improvements shall be owned by Tenant until the expiration or earlier termination of the Term of this Lease, and during the Term, Tenant alone shall be entitled to the tax attributes thereof, including depreciation deductions and low income housing or other tax credits thereon for income or other tax purposes. At the expiration or earlier termination of the Term of this Lease or any portion thereof, Tenant shall peaceably leave, quit and surrender the Premises and the Improvements thereon (or the portion thereof so terminated), subject to the rights of tenants in possession of portions of the Premises under leases with Tenant or subleases thereof, provided that such tenants or subtenants are not in default thereunder and attorn to Landlord as their Landlord. Subject to the rights of the Permitted Mortgagees, upon such expiration or termination the Premises and the Improvements thereon (or portion thereof so terminated) shall become the sole property of Landlord at no cost to Landlord and shall be free of all liens and encumbrances and in good condition, subject only to reasonable wear and tear (consistent with prudent and appropriate property management and maintenance during the Term). Landlord waives any statutory or other lien it may have, as landlord, on any property of subtenants of Tenant and subordinates its liens to Tenant's or its assignee's lenders and purchase money financers and lessors, as to their Personal Property or Improvements.

5.5. Cooperation in Development. Landlord agrees that Tenant may develop all or part of the Premises alone or in conjunction with other properties owned by Tenant; Landlord shall promptly join with and cooperate with Tenant in all applications, permittings, and similar proceedings including replattings, zoning and land use applications, road closings, building approvals, and bonding and financing applications, to enable such development of the Premises and Tenant's other properties. The parties understand and agree that the development of the entire site shall be undertaken and completed over the course of several years in a reasonably paced phased development, and that it is the intent of the parties to initiate such development promptly in a commercially reasonable manner. The first of the properties to be developed, currently envisioned to be a building on the southwest corner of the property, shall be commenced and substantially completed during the first three years after the due execution of this Lease, and upon such completion the development shall be deemed to meet the requirements of the underlying PIC Land Conveyance Agreement as it exists on the date of this Lease. If the Conveyance Agreement is modified in the future, the modified provisions shall be deemed to control so long as they are not more restrictive upon, nor require additional payments by, Tenant, unless Tenant joins in such modifications. The parties further understand that the actual development shall be subject to the permitting requirements of governmental authorities including Miami-Dade County; the obligations of Tenant to develop, and the timing thereof,

shall therefor be subject to the granting of the permits, licenses, and certifications by the applicable authorities as well as to Acts of God.

## ARTICLE 6
## TAKING

6.1. 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 such other party may also appear in such proceeding and be represented by counsel, who may be counsel for the party receiving such notice.

6.2. Special Account. The full amount of any award whether pro tanto or final for any Taking (the "Award"), shall, notwithstanding any allocation made by the awarding authority, be paid and allocated as set forth below, provided that there shall first be deducted from the Award in the order stated (i) all reasonable fees and expenses of collection, including reasonable attorneys' fees and experts' fees, which shall be paid to the party which has incurred such fees and expenses, (ii) any Rent or impositions under Article 3 outstanding prior to the Taking, which shall be paid to Landlord, and (iii) any outstanding amounts secured by Permitted Mortgages to the extent required under such Permitted Mortgages, which shall be paid to the Permitted Mortgagees in their respective order of priority. With respect to the balance of such award, Landlord and Tenant shall be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings, or as may be otherwise agreed, taking into consideration the fact that Landlord's interest in the Premises is limited to the land as encumbered by this Lease, and a reversionary interest in the Premises upon the expiration of the Term.

6.3. Total Taking. In the event of a permanent Taking of the fee title to or of control of the entire leasehold estate hereunder (a "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 of 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 6.2.

6.4. Partial Taking. In the event of a permanent Taking of less than all of the Premises (a "Partial Taking"), if Tenant reasonably determines that the continued development, use or occupancy of the remainder of the Premises by Tenant cannot reasonably be made to be economically viable, structurally sound, consistent with the Governing Documents, or otherwise feasible, then Tenant may terminate this Lease pursuant to this Agreement, and the Award shall be applied in accordance with Section 6.2.

6.5. Taking by Landlord. Landlord shall not condemn or otherwise "take" the Premises or any part thereof, nor by exercise of its powers diminish or destroy the use of the Premises or Tenant's leasehold interest therein.

## ARTICLE 7
## CONDITION OF PREMISES

7.1. Condition, Title. The Premises are demised and let in an "as is" physical condition as of the date hereof. The Premises are demised and let to Tenant subject to:

(a) zoning regulations, restrictions, rules, laws and ordinances now in effect or hereafter adopted by any governmental authority;

(b) unpaid real estate taxes for the current fiscal tax year which are not yet due and payable (to the extent there are such taxes after the Effective Date), Landlord hereby agreeing to defend, indemnify, and hold Tenant harmless from any claim for payments in lieu of taxes, water and sewer charges and any other liens made by the local governmental authorities for periods prior to the date hereof, and all matters of record.

Landlord covenants that it has good and marketable fee title to the Premises, that it has the power and authority to enter into this Lease, and that Tenant shall have good and marketable leasehold title to the Premises. If Tenant is unable to obtain a marketable leasehold title insurance policy in form and with Florida-approved endorsements satisfactory to Tenant and its lender(s), showing any Permitted Mortgage to be a valid first lien on Tenant's leasehold interest in the Premises, or if Tenant's underwriter shall require execution of corrective title documents by Miami-Dade County or Landlord, in order to clear title to all or any part of the Premises or to property owned by Tenant which is part of the development by Tenant of the Premises, and adjacent and neighboring property, then Landlord shall undertake such measures as may be reasonably necessary so that Tenant may obtain such coverage, but Landlord shall not be required to incur any out-of-pocket expenses for such clearing of title provided the title issue has not been caused by Landlord. Landlord shall remove any liens existing at time of execution of this Lease, or caused by Landlord or attaching to Landlord's interests in the future. Landlord has informed Tenant that the Property may be subject to requirements of consent to transfer, lease or use by the County; if so, Landlord will cooperate with Tenant to meet all such requirements.

7.2. Quiet Enjoyment. Landlord covenants and agrees with Tenant that so long as Tenant is not in material uncured default beyond any applicable notice, cure or grace period, Tenant shall and may, at all times during the Term as extended, peaceably and quietly have, hold and enjoy the Premises and all rights, appurtenances and privileges belonging or in any way appertaining thereto for the uses permitted in Section 5.1 hereof without hindrance or molestation; provided that Landlord may enter upon and examine the Premises as provided herein.

7.3. Pre-Existing Environmental Conditions. Tenant shall not cause or permit to exist, as a result of an intentional act or omission on its part, a releasing, discharging, spilling, leaking, pumping, emitting, pouring, emptying or dumping of a "Hazardous Substance" onto the Premises; Tenant shall not however be responsible for matters arising from or related to the Hazardous Substances and related conditions existing as of the date of execution of this Lease, or from any Hazardous Substances that migrate onto the Premises from property owned by Landlord or Miami-Dade County. Tenant hereby agrees to indemnify, reimburse, defend and hold harmless Landlord and Miami-Dade County, their officers, directors, employees, successors

and assigns from and against all demands, claims, civil or criminal actions or causes of action, liens, assessments, civil or criminal penalties or fines, losses, damages, liabilities, obligations, costs, disbursements, expenses or fees of any kind or of any nature (including, without limitation, cleanup costs, attorneys', paralegals', consultants' or experts' fees and disbursements and costs of litigation) which may at any time be imposed upon, incurred by or asserted or awarded against, Landlord or Miami-Dade County, in favor of any third parties, directly or indirectly, related to or resulting from: (a) any acts or omissions of Tenant at, on or about Premises which contaminate air, soils, surface waters or groundwaters over, on or under the Premises; (b) the breach of any Tenant representation or warranty under this Lease, related to a Hazardous Substance; (c) pursuant to or in connection with the application of any Environmental Law, to the acts or omissions of Tenant or any other person and any environmental damage alleged to have been caused, in whole or in part, by the manufacture, processing, distribution, use, handling, transportation, treatment, storage, or disposal of any Hazardous Substance on the Premises, other than related to or growing out of the matters and conditions existing at time of execution of this Lease, or caused by Landlord or Miami-Dade County; or (d) the presence, whether present or future, of any Hazardous Substances on, in or about the Premises, found to have occurred during the existence of the Lease, other than related to or growing out of the matters and conditions existing at time of execution of this Lease, or caused by Landlord or Miami-Dade County. In the event any action is commenced against Landlord or Miami-Dade County, for which Tenant is required to indemnify Landlord or Miami-Dade County hereunder, Landlord or Miami-Dade County, as applicable, shall immediately notify Tenant and Tenant shall have the option of electing to defend such action with counsel of its choice, which counsel shall be subject to the approval of Landlord or Miami-Dade County in their reasonable discretion. If Landlord or Miami-Dade County defends any action brought against it for which it seeks indemnification hereunder, Landlord or Miami-Dade County shall not settle any such claim without Tenant's prior consent. This indemnification by Tenant shall not apply to demands, claims, causes of actions, liens, penalties, fines, losses, damages, liabilities, obligations, cost, disbursements, expenses or fees which are imposed as a result of Landlord's or Miami-Dade County's negligence, misconduct or for acts that arose before Tenant took control of the Premises or related to or arising from matters or conditions which exist at the date of execution of this Lease or from Hazardous Substances which migrate onto the Premises hereafter from any other property owned by Landlord or Miami-Dade County.

Without limiting the foregoing, this indemnification provision specifically protects the Landlord and Miami-Dade County against any claim or action from activities described in (a), (b), (c) or (d) above, based in whole or in part upon any Environmental Law, whether now in existence or enacted in the future. Tenant's indemnification obligation under this section shall not be limited to any extent by the term of the Lease and shall continue, survive and remain in full force and effect notwithstanding the termination of the Lease.

Landlord and Miami-Dade County hereby agree, subject to the limits set by law, to indemnify, reimburse, defend and hold harmless Tenant and its officers, directors, employees, successors and assigns from and against all demands, claims, civil or criminal actions or causes of action, liens, assessments, civil or criminal penalties or fines, losses, damages, liabilities, obligations, costs, disbursements, expenses or fees of any kind or of any nature (including, without limitation, cleanup costs, attorneys', paralegals', consultants' or experts' fees and

disbursements and costs of litigation) which may at any time be imposed upon, incurred by or asserted or awarded against, Tenant, in favor of any third parties, directly or indirectly, related to or resulting from: (a) any acts or omissions of Landlord or Miami-Dade County at, on or about Premises which contaminate air, soils, surface waters or groundwaters over, on or under the Premises; (b) the breach of any Landlord representation or warranty under this Lease, related to a Hazardous Substance; (c) pursuant to or in connection with the application of any Environmental Law, to the acts or omissions of Landlord or Miami-Dade County or any other person and any environmental damage alleged to have been caused, in whole or in part, by the manufacture, processing, distribution, use, handling, transportation, treatment, storage, or disposal of any Hazardous Substance on the Premises, other than those related to or growing out of the matters and conditions that are *not* related to those existing at time of execution of this Lease, or caused by Landlord or Miami-Dade County; or (d) the presence, whether present or future, of any Hazardous Substances on, in or about the Premises, found to have occurred during the existence of the Lease, other than those that are *not* related to or growing out of the matters and conditions existing at time of execution of this Lease, or caused by Tenant. In the event any action is commenced against Tenant, for which Landlord or Miami-Dade County is required to indemnify Tenant hereunder, Tenant shall immediately notify Landlord or Miami-Dade County, as applicable, and Landlord or Miami-Dade County, as applicable, shall have the option of electing to defend such action with counsel of its choice, which counsel shall be subject to the approval of Tenant in its reasonable discretion. If Tenant defends any action brought against it for which it seeks indemnification hereunder, Tenant shall not settle any such claim without Landlord's or Miami-Dade County's, as applicable, prior consent. This indemnification by Landlord and Miami-Dade County shall not apply to demands, claims, causes of actions, liens, penalties, fines, losses, damages, liabilities, obligations, cost, disbursements, expenses or fees which are imposed as a result of Tenant's negligence, misconduct or for acts that first arose after Tenant took control of the Premises or related to or arising from matters or conditions which did not exist at the date of execution of this Lease or from Hazardous Substances which migrate onto the Premises hereafter from any other property owned by Landlord or Miami-Dade County.

Without limiting the foregoing, this indemnification provision specifically protects Tenant against any claim or action from activities described in (a), (b), (c) or (d) above, based in whole or in part upon any Environmental Law, whether now in existence or enacted in the future. Landlord's and Miami-Dade County's indemnification obligation under this section shall not be limited to any extent by the term of the Lease and shall continue, survive and remain in full force and effect notwithstanding the termination of the Lease.

Notwithstanding anything to the contrary in this Section 7.3 or otherwise in this Lease, Landlord and Tenant acknowledge that Hazardous Substances are located on or under the Premises and such conditions must be fully remediated; such remediation is Landlord's responsibility and Landlord shall be responsible for and agrees to indemnify Tenant from and against any and all loss, cost, damage or expense (including reasonable attorneys' fees) arising out of or related to any Hazardous Substances on, in, under or affecting all or any portion of the Premises, which exist as of the date of this Lease, or which migrate onto the Premises hereafter from any other property owned by Landlord, or which are caused by Landlord or its agents or employees (but not matters which are solely caused by Tenant or its sublessees, contractors or agents). In consideration of Tenant entering into this Lease prior to the full remediation of such

matters, Tenant may give Landlord notice to cure any such matters and, if not fully cured within ten (10) days, Tenant may effectuate all or a portion of such cure and in such event shall have the right to reimbursement from Landlord and the right to setoff its costs against money due to Landlord.

7.4. Right of First Refusal. Tenant shall have the following right of first refusal: if Landlord shall accept an offer to transfer title to all or part of the Premises, it shall give Tenant notice thereof and Tenant shall have sixty (60) days in which to accept or reject purchasing such property on the same price and terms, or reasonably similar terms satisfactory to Landlord and to Tenant, and Landlord shall not have the authority to convey any of the Premises without Tenant having waived such right of first refusal. Tenant's right of first refusal shall continue for the Lease Term, notwithstanding that Tenant may not have exercised such right one or more times during the Term.

7.5. Option to Purchase. Tenant shall have the option to purchase all or a portion of the Premises (the "Option to Purchase"), which may be exercised by notice duly given to Landlord no less than ninety (90) days prior to the date which Tenant shall specify as the Closing Date. If Tenant exercises its Option to Purchase, Landlord shall deliver good and marketable title thereto, the grantee shall be Tenant or a related entity designated by Tenant, and the purchase price shall be the FMV of the land which is purchased (the improvements thereon and thereto being acknowledged to have been made by Tenant and to be owned by Tenant); the purchase price shall be a negotiated price for the land to be purchased that is no less than the FMV of the land to be purchased as determined by an appraisal obtained by the Landlord, the appraiser to be reasonably approved by Tenant (who shall object, if at all, within five (5) business days). Closing documentation shall be on commercially reasonable forms standard in Miami-Dade County Florida for such transactions, and the parties shall cooperate with each other in executing and delivering such documentation. Should Tenant exercise its Option to Purchase prior to satisfaction of the job creation requirements listed in Section 3.2.5 of this Lease, then Landlord shall add appropriate language to the deed or other appropriate document, requiring Tenant to satisfy the conditions set forth in Section 3.2.5.

## ARTICLE 8
## DEFAULTS

8.1. Default. The occurrence of any of the following events shall constitute an event of default ("Event of Default") hereunder:

(a) if Tenant fails to pay when due any Rent or other impositions due hereunder pursuant to Section 3.3 of this Lease and any such default shall continue for thirty (30) days after the receipt of written notice thereof by Tenant; or if Tenant fails to observe or perform any covenant, condition, agreement or obligation hereunder or under any other Governing Document not addressed by any other event described in this Section 8.1, and shall fail to substantially cure, correct or remedy such failure within thirty (30) days after the receipt of written notice thereof, unless such failure cannot be

cured by the payment of money and cannot with due diligence be cured within a period of thirty (30) days, in which case such failure shall not be deemed to continue if Tenant proceeds promptly and with due diligence to cure the failure and diligently completes the curing thereof within a reasonable period of time, not to exceed two hundred seventy (270) days; or

(b) if any representation or warranty of Tenant set forth in this Lease, in any certificate delivered pursuant hereto, or in any notice, certificate, demand, submittal or request delivered to Landlord by Tenant pursuant to this Lease shall prove to be incorrect in any material and adverse respect as of the time when the same shall have been made and the same shall not have been remedied to the reasonable satisfaction of Landlord within thirty (30) days after written notice from Landlord; or

(c) if Tenant shall be adjudicated bankrupt or be declared insolvent under the Federal Bankruptcy Code or any other federal or state law (as now or hereafter in effect) relating to bankruptcy, insolvency, reorganization, winding-up or adjustment of debts (hereinafter collectively called "Bankruptcy Law"), or if Tenant shall (a) apply for or consent to the appointment of, or the taking of possession by, any receiver, custodian, trustee, United States Trustee or liquidator (or other similar official) of Tenant or of any substantial portion of Tenant's property; (b) generally not pay debts as they become due or admit in writing its inability to pay its debts generally as they become due; (c) make a general assignment for the benefit of its creditors; (d) file a petition commencing a voluntary case under or seeking to take advantage of a Bankruptcy Law; or (e) fail to contest in a timely and appropriate manner, or in writing acquiesce to, any petition commencing an involuntary case against Tenant pursuant to any Bankruptcy Law; or

(d) if an order for relief against Tenant shall be entered in any involuntary case under the Federal Bankruptcy Code or any similar order against Tenant shall be entered pursuant to any other Bankruptcy Law, or if a petition commencing an involuntary case against Tenant or proposing the reorganization of Tenant under the Federal Bankruptcy Code shall be filed in and approved by any court of competent jurisdiction and not be discharged or denied within ninety (90) days after such filing, or if a proceeding or case shall be commenced in any court of competent jurisdiction seeking (a) the liquidation, reorganization, dissolution, winding-up or adjustment of debts of Tenant, (b) the appointment of a receiver, custodian, trustee, United States Trustee or liquidator (or other similar official of Tenant) of Tenant or of any substantial portion of Tenant's property, or (c) any similar relief as to Tenant pursuant to any Bankruptcy Law, and any such proceeding or case shall continue undismissed, or any order, judgment or decree approving or ordering any of the foregoing shall be entered and continued unstayed and in effect, for sixty (60) days.

8.2. Remedies for Default. If there shall occur an Event of Default on the part of Tenant, Landlord may terminate this Lease upon not less than thirty (30) additional days' written notice to Tenant, setting forth Tenant's uncured, continuing default and Landlord's intent to exercise its right to terminate under this Section 8.2, whereupon unless Tenant's alleged default has been cured before such termination date, or Tenant shall have commenced such cure (and diligently proceeds to cure such default), this Lease may be terminated after such thirty (30) day

period by a written notice of same from Landlord; provided, however, that Tenant may elect to purchase the Premises for the fair market value of the real property (less the Improvements and other enhancements by Tenant and its Assignees or other persons other than Landlord), by notice duly given Landlord during such thirty (30) day period; in such event, Tenant shall promptly order a title insurance commitment and proceed to closing, with Landlord delivering marketable title according to the standards then promulgated by The Florida Bar or otherwise then customary in Miami-Dade County, Florida.

8.3. Rights and Obligations Upon Termination. Upon such termination, Tenant's interest in the Premises and the Improvements shall automatically revert to Landlord.

8.4. Rights Upon Termination. Upon termination of this Lease pursuant to Section 8.3, provided Tenant does not elect to purchase the Premises, Landlord may:

(a) retain, at the time of such termination, any Rent or other impositions paid hereunder, without any deduction, offset or recoupment whatsoever; and

(b) enforce its rights under any bond outstanding at the time of such termination; and

(c) require Tenant to deliver to Landlord, or otherwise effectively transfer to Landlord, any and all governmental approvals and permits, and any and all rights of possession, ownership or control Tenant may have in and to any and all financing arrangements, plans, specifications, and other technical documents or materials related to the Development.

8.5. Performance by Landlord. If Tenant shall fail to make any payment or perform any act required under this Lease, within the time period applicable thereto, Landlord may (but need not) cure such default for the account of Tenant, after notice specifying the payment or performance to be made or done and Landlord's intent to make payment or perform on behalf of Tenant. Tenant shall promptly pay Landlord the amount of such charges, costs and expenses as Landlord shall have incurred in curing such default, together with interest at the Base Interest Rate.

8.6. Legal Costs. Tenant shall be liable for the reasonable and actual legal expenses of Landlord in connection with any collection of Rent or other impositions owed under this Lease, the remedying of any default under this Lease or any termination of this Lease where such collection, remedying or termination results from an Event of Default.

8.7. Remedies Cumulative. Unless otherwise specifically provided in this Lease, no remedy herein shall be exclusive of any other remedy or remedies, and each such remedy shall be cumulative and in addition to every other remedy; and every power and remedy given by this Lease may be exercised from time to time and as often as may deemed expedient by either party. No delay or omission by Landlord to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein. The absence in this Lease of any enumeration of events of default by Landlord or remedies of either party with respect to money damages or

specific performance shall not constitute a waiver by either party of its right to assert any claim or remedy available to it under law or in equity.

## ARTICLE 9
## LEASEHOLD MORTGAGEE'S RIGHTS

9.1. Right to Mortgage. Tenant shall have the right from time to time to encumber its interest in all or a portion of the Development with one or more mortgages or other financing instruments (referred to herein as "Permitted Mortgage(s)" or "Leasehold Mortgage(s)"). Tenant shall furnish Landlord with a certified copy of the mortgage as executed and recorded.

9.2. Leasehold Financings.

(a) If Tenant and/or Tenant's permitted successors and assigns (including any sublessee of Tenant, but only with Tenant's prior consent) shall mortgage this leasehold, or any part or parts thereof, and if Tenant or the holder(s) of such mortgage(s) (referred to herein as "Leasehold Mortgagee(s)" or "Permitted Mortgagee(s)") shall, within ninety (90) days of its execution, send to Landlord a true copy thereof, together with written notice specifying the name and address of the Leasehold Mortgagee(s), Landlord agrees that so long as any such Leasehold Mortgage(s) shall remain unsatisfied of record or until written notice of satisfaction is given by the Leasehold Mortgagee(s) to Landlord, the following provisions shall apply:

(i) There shall be no cancellation, surrender or modification of this Lease by joint action of Landlord and Tenant without the prior consent in writing of the Leasehold Mortgagee(s);

(ii) Landlord shall, upon serving Tenant with any notice of default, simultaneously serve a copy of such notice upon the Leasehold Mortgagee(s); the Leasehold Mortgagee(s) shall thereupon have the same period, after service of such notice upon it, to remedy or cause to be remedied the defaults complained of, and Landlord shall accept such performance by or at the instigation of such Leasehold Mortgagee(s) as if the same had been done by Tenant;

(iii) Anything herein contained to the contrary notwithstanding, while such Leasehold Mortgage(s) remains unsatisfied of record, or until written notice of satisfaction is given by the Leasehold Mortgagee(s) to Landlord, if any default shall occur which, pursuant to any provision of this Lease, entitles Landlord to terminate this Lease, and if, before the expiration of twenty (20) days from the date of service of notice of termination upon such Leasehold Mortgagee(s), such Leasehold Mortgagee(s) shall have notified Landlord of its desire to nullify such notice and shall have paid to Landlord all Rent and other payments herein provided for, and then in default, and shall have complied, or shall commence the work of complying, with all of the other requirements of this Lease, if any are then in default, and shall prosecute the same to completion with reasonable diligence, then in such event Landlord shall not be entitled to terminate this Lease and any notice of termination theretofore given shall be void and of no effect;

(iv) If Landlord shall elect to terminate this Lease by reason of any default of Tenant, the Leasehold Mortgagee(s) shall not only have the right to nullify any notice of termination by curing such default, as aforesaid, but shall also have the right to postpone and extend the specified date for the termination of this Lease as fixed by Landlord in its notice of termination, for a period of not more than six (6) months, provided that such Leasehold Mortgagee(s) shall cure or cause to be cured any then existing money defaults and meanwhile pay the Rent and other sums due pursuant to this Lease, and comply with and perform all of the other terms, conditions and provisions of this Lease on Tenant's part to be complied with and performed, other than past non-monetary defaults, and provided further that the Leasehold Mortgagee(s) shall forthwith take steps to acquire or sell Tenant's interest in this Lease by foreclosure of the Leasehold Mortgage(s) or otherwise and shall prosecute the same to completion with all due diligence. If at the end of said six (6) month period the Leasehold Mortgagee(s) shall be actively engaged in steps to acquire or sell Tenant's interest herein, the time of said Leasehold Mortgagee to comply with the provisions of this Section shall be extended for such period as shall be reasonably necessary to complete such steps with reasonable diligence and continuity;

(v) Landlord agrees that the name of the Leasehold Mortgagee(s) may be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Tenant hereunder;

(vi) Landlord agrees that in the event of termination of this Lease by reason of any default by Tenant other than for nonpayment of Rent or other payments herein provided for and/or the termination or rejection of this Lease in a bankruptcy proceeding of Tenant, Landlord will enter into a new lease of the Premises with the Leasehold Mortgagee(s) or its nominee(s) for the remainder of the Term, effective as of the date of such termination, at the Rent and upon the terms, provisions, covenants and agreements as herein contained and subject only to the same conditions of title as this Lease is subject to on the date of the execution hereof, and to the rights, if any, of any parties then in possession of any part of the Premises;

(vii) Landlord agrees promptly after submission to execute, acknowledge and deliver any agreements modifying this Lease reasonably requested by any Leasehold Mortgagee(s), provided that such modification does not decrease Tenant's obligations, increase Landlord's obligations or decrease Landlord's rights pursuant to this Lease; Landlord shall promptly execute such other estoppel or subordination and nondisturbance agreements and the Leasehold Mortgagee(s) may request;

(ix) Landlord shall, upon request, execute, acknowledge and deliver to each Leasehold Mortgagee(s), an agreement prepared at the sole cost and expense of Tenant, in form satisfactory to such Leasehold Mortgagee(s), between Landlord, Tenant and Leasehold Mortgagee(s), agreeing to all of the provisions of this Section. The term "Mortgage" or "mortgage", whenever used herein, shall include whatever security instruments are used in the locale of the Premises, such as deeds of trust, security deeds and conditional deeds, as well as financing statements, security agreements and other documentation required pursuant to the Uniform Commercial Code. The term "Mortgage" or "mortgage", whenever used herein, shall also include any instruments required in connection with a bond or other financing transaction.

(b) Notwithstanding anything herein contained to the contrary, (i) the Leasehold Mortgagee shall not become liable for Tenant's covenants and obligations of this Lease unless and until it shall become the owner of the legal or equitable title to the leasehold estate granted hereby, and (ii) in the event such Leasehold Mortgagee fails to perform any obligation or covenant of Tenant under this Lease and as a consequence of such default Landlord recovers a money judgment against such Leasehold Mortgagee, such judgment shall be satisfied only out of the proceeds of sale received upon execution of such judgment and levy thereon against the right, title and interest of such Leasehold Mortgagee in this Lease out of rents or other income from such property receivable by such Leasehold Mortgagee, and no such Leasehold Mortgagee shall have any personal liability for any deficiency or money judgment.

(c) Landlord agrees that at any time and from time to time during the term of this Lease, the subtenants of any freestanding building may assign, pledge or encumber such subtenant's interest in the subleasehold estate created under their respective subleases by way of a subleasehold mortgage. If any subtenant of any freestanding building encumbers its subleasehold estate by way of a subleasehold mortgage and gives Landlord a true and correct copy of the subleasehold mortgage, then such sublease shall not be terminated or canceled on account of any default by the Tenant in the performance of the terms, covenants or conditions hereof until Landlord shall have complied with the provisions of this section as to the subleasehold mortgagee's rights to cure and attorn to the Landlord and in the event any such sublease is thereafter terminated because of default by the subtenant of any freestanding building thereunder, Landlord (or the tenant under a new lease) shall grant to any subleasehold mortgagee of the terminated subleasehold estate a new lease or sublease substantially in accordance with the rights and obligations provided with respect to the Leasehold Mortgagee under this section.

(d) Landlord shall, upon request by Tenant, execute an estoppel letter in form substantially similar to that described in Exhibit B, adjusted as the Leasehold Mortgagee may request in accordance with customary practice at the time such estoppel is requested. Failure by Landlord to execute an estoppel letter within 30 days of request therefor shall be deemed to be an execution of the form presented, and the instruction to Tenant, as its attorney in fact (which appointment is a power coupled with an interest) to execute such estoppel on Landlord's behalf.

## ARTICLE 10
## MISCELLANEOUS

10.1. Construction. Landlord and Tenant agree that all the provisions hereof are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate section thereof.

10.2. No Waiver. Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time, either express or implied, of any breach of any other provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of

the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on the cause of any subsequent occasion. Any and all rights and remedies which either party may have under this Lease or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other and no one of them whether exercised by said party or not, shall be deemed to be in exclusion of any other; and two or more or all of such rights and remedies may be exercised at the same time.

10.3. Headings. The headings used for the various articles and sections of this Lease are used only as a matter of convenience for reference, and are not to be construed as part of this Lease or to be used in determining the intent of the parties of this Lease.

10.4. Partial Invalidity. If any term, covenant, provision or condition of this Lease or the application thereof to any person or circumstances shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, the remaining terms, covenants, provisions and conditions of this Lease and their application to persons or circumstances shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the parties, and in the place of such invalid or unenforceable provision there shall be substituted a like, but valid and enforceable, provision which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the parties.

10.5. Bind and Inure. Unless contrary to the context, the words "Landlord" and "Tenant" shall be construed to mean the original parties, their respective successors and assigns and those claiming through or under them respectively. The agreements and conditions in this Lease contained on the part of Tenant to be performed and observed shall be binding upon Tenant and its successors and assigns and shall inure to the benefit of Landlord and its successors and assigns, and the agreements and conditions in this Lease contained on the part of the Landlord to be performed and observed shall be binding upon Landlord and its successors and assigns and shall inure to the benefit of Tenant and its successors and assigns.

10.6. Estoppel Certificate. Each party agrees from time to time, upon no less than fifteen (15) days' prior notice from the other, to execute, acknowledge and deliver to the other a statement certifying that (i) this Lease is unmodified and in full force and effect (or, if there have been any modifications, that the same is in full force and effect as modified and stating the modifications), (ii) the dates to which the Rent has been paid, and that no other payments are due under this Lease (or if other payments are due, the nature and amount of the same), and (iii) whether there exists any uncured default by the other party, or any defense, offset, or counterclaim against the other party, and, if so, the nature of such default, defense, offset or counterclaim. Any such statement delivered pursuant to this Section 10.6 may be relied upon by any prospective purchaser or holder of a mortgage of the leasehold interest hereunder or any prospective holder of a sublease from Tenant or any prospective assignee of any such holder of a mortgage or sublease.

10.7. Recordable Form of Lease. Simultaneously with the delivery of this Lease the parties have delivered a counterpart original of this Lease or notice or short form of this Lease which Tenant shall record in the public office in which required to put third parties on notice. If

this Lease is terminated before the Term expires, the parties shall execute, deliver and record an instrument acknowledging such fact and the date of termination of this Lease.

10.8. Notice. Any notice or other communication given or made pursuant to this Agreement shall be in writing and shall be deemed given if (i) delivered personally or by courier, or (ii) sent by overnight express delivery, to a party at its respective address set forth below (or at such other address as shall be specified by the party by like notice given to the other party):

If to Landlord: MIAMI-DADE EMPOWERMENT TRUST, INC
3050 Biscayne Blvd., Suite 504
Miami, Florida 33137
Fax: 305-372-7629

with a copy to: Miami-Dade County
111 NW 1st Street, 29th Floor
Miami, Florida 33128
Attention: County Manager

If to Tenant: POINCIANA PARTNERS LLLP
780 Fisherman Street
Opa-locka, Florida 33054

with a copy to: Akerman Senterfitt
One Southeast Third Avenue, 28th Floor
Miami Florida 33131-1714

All such notices and other communications shall be deemed given on the date of personal or local courier delivery, or delivery to overnight courier or express delivery service, and shall be deemed to have been received upon receipt or refusal thereof. For the sake of convenience and rapidity of transmission, copies of notices may be sent by facsimile transmission, but such transmission alone shall not be deemed to satisfy the notice requirements of this Agreement absent actual receipt or the giving of notice by one of the other means stated above.

10.9. Entire Agreement and Amendments. This instrument contains all the agreements made between the parties hereto with respect to the subject matter hereof and shall not be modified in any manner without the written consent of the parties hereto.

10.10. Force Majeure. If either party's performance of any obligation under this Lease is delayed or prevented by Force Majeure, the period of such delay or prevention shall be deemed added to the time provided for by this Lease for such performance, provided that such party shall have given notice to the other party of such Force Majeure.

10.11. No Merger. The leasehold interest, estate, and rights of Tenant under this Lease shall be deemed to be separate and distinct from Landlord's interest, estate, and rights in or to the Premises, notwithstanding that any such interests, estates, or rights shall at any time or times be held by or vested in the same person or entity. In no event shall the leasehold interest, estate, or

rights of Tenant under this Lease merge with any interest, estate, or rights of Landlord in or to the Premises.

10.12. Brokerage Indemnity. Each party warrants and represents to the other that no real estate brokers, agents, salesmen, or finders are involved in this transaction. If a claim for brokerage or similar fees in connection with this transaction is made by any other broker, agent, salesman, or finder claiming to have dealt through or on behalf of one of the parties to this Lease, then such party shall indemnify, defend, and hold harmless the other party from all liabilities, damages, claims, costs, fees, and expenses (including reasonable attorneys' fees and court costs, including those for appellate matters) with respect to such claim for brokerage.

10.13. Authority. Each party represents to the other that it has full legal right, power, and authority to enter into, execute, and perform this Lease.

10.14. Attorneys' Fees. In the event of litigation arising out of this Lease, the prevailing party (as to the matters on which it prevails) shall be entitled to reasonable attorneys' fees, including fees for the services of paralegals and similar persons, and all such expenses and costs incurred by the prevailing party through all appellate levels, and collection of judgments, including but not limited to matters in arbitration, bankruptcy, probate and administrative hearings.

10.15. Sections References. All references to Exhibits or Sections are to Exhibits or Sections of this Lease, unless the reference expressly identifies another document.

10.16. Gender and Case. Whenever the context of any provision of this Lease so requires, pronouns of any gender shall include the other genders, words in the singular shall include the plural, and words in the plural shall include the singular. The word "including" shall be deemed to mean "including but not limited to".

10.17. Counterparts. This Lease may be executed and delivered in two or more counterparts, each of which shall be deemed to be an original and all of which, taken together, shall be deemed to be one agreement.

10.18. Further Actions and Documents. The parties shall take all such actions and execute all such documents as may be necessary to carry out the purposes of this Lease, whether or not specifically provided for in this Lease.

10.19. Governing Law. This Lease shall be construed and governed in accordance with the laws of the State of Florida without application of conflict of law principles.

10.20. Negotiated Agreement. All of the parties to this Lease have participated fully in its negotiation and preparation. Accordingly, this Lease shall not be more strictly construed against any one of the parties.

10.21. Entire Agreement. This Lease contains the sole and entire agreement, and supersedes all other prior written or oral agreements, between the parties with respect to the subject matter of this Lease.

10.22. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it 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 your county public health unit.

10.23. Limitation on Liability. It is expressly agreed and understood by and between the parties hereto that anything herein to the contrary notwithstanding, in the event of a default hereunder by Landlord, Landlord shall have no personal liability for damages unless lawfully authorized, and except for such authorization Tenant shall satisfy itself solely by means of proceedings against Landlord's interest in the Premises.

10.24. Waiver of Jury Trial. The parties hereby waive trial by jury in any action, preceding or claim brought by either of the parties hereto against the other for any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises and Building, and/or claim of injuries or damage.

EXECUTED as a sealed instrument on the day and year first above written.

**Witnesses:**

Print Name: Rodney Carey

Print Name: Justina Millan Clegg

**Landlord:**

Miami Dade Empowerment Trust, Inc.,
a Florida non-profit corporation

By:

Name: Bryan Finnie

Title: President & CEO

**Tenant:**

Poinciana Partners, LLLP, a Florida limited liability limited partnership

Print Name: Gladys Fernandez

Print Name: Julie A S Williamson

By: Poinciana Park, LLC as general partner

By:
Dennis Stackhouse
Its: Manager



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This Lease is joined in by Miami-Dade County, the fee owner of the Premises prior to conveyance to Landlord, to evidence that if it should in the future become the fee owner of the Premises, or otherwise superior in title to the interests of Tenant, it will recognize Tenant as tenant under this Lease, shall assume the obligations of Landlord hereunder, and shall not disturb Tenant's right of possession and peaceable enjoyment under this Lease, as it may be modified from time to time, so long as Tenant is not in material default hereunder, which default is not cured as described herein or prior to the dispossession of Tenant. The joinder by the County in this Lease is its consent to the exercise of the Right of First Refusal or Option to Purchase by Tenant anticipated in this Lease.

**MIAMI-DADE COUNTY**

**By:** _____

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"EXHIBIT A"

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|---|---|
| Folio#<br>Property Address<br>Legal Description | 30-3110-074-0020<br>2358 NW 77th Terrace<br>TRACT B, POINCIANA INDUSTRIAL CENTER EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 159, PAGE 24 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
| Folio#<br>Property Address<br>Legal Description | 30-3110-074-0030<br>7527 NW 24th Avenue<br>TRACT C, POINCIANA INDUSTRIAL CENTER EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 159, PAGE 24 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
| Folio#<br>Property Address<br>Legal Description | 30-3110-074-0010<br>7610 NW 23rd Avenue<br>TRACT A, POINCIANA INDUSTRIAL CENTER EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 159, PAGE 24 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
| Folio#<br>Property Address<br>Legal Description | 30-3110-074-0040<br><br>TRACT D, POINCIANA INDUSTRIAL CENTER EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 159, PAGE 24 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
| Folio#<br>Property Address<br>Legal Description | 30-3110-074-0050<br><br>TRACT E, POINCIANA INDUSTRIAL CENTER EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 159, PAGE 24 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
| Folio#<br>Property Address<br>Legal Description | 30-3110-074-0060<br><br>TRACT F, POINCIANA INDUSTRIAL CENTER EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 159, PAGE 24 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
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| Folio#<br>Property Address<br>Legal Description | 30-3110-057-1990<br>2280 NW 79th Street<br>THE WEST 250.80 FEET OF TRACT 25, REVISED PLAT OF WEST LITTLE RIVER, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 19 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
| Folio#<br>Property Address<br>Legal Description | 30-3110-057-1970<br>2228 NW 79th Street<br>THE WEST 145.00 FEET OF THE EAST 345.00 FEET OF TRACT 25, REVISED PLAT OF WEST LITTLE RIVER, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 19 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
| Folio#<br>Property Address<br>Legal Description | 30-3110-057-1940<br>2390 NW 79th Street<br>TRACT 24, LESS THE EAST 185.40 FEET, LESS THE WEST 25.00 FEET OF THE EAST 210.40 FEET OF THE SOUTH 70.00 FEET AND LESS THE EAST 50.00 FEET OF THE WEST 360.56 FEET OF THE SOUTH 70.00 FEET, REVISED PLAT OF WEST LITTLE RIVER, ACCORDING TO THE PLAT THEREOF, PLAT BOOK 34, PAGE 19 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
| Folio#<br>Property Address<br>Legal Description | 30-3110-057-1950<br><br>West 25.00 feet of the East 210.40 feet of the South 70.00 feet and the East 50.00 feet of the West 360.56 feet of the South 70.00 feet of Tract 24, REVISED PLAT OF WEST LITTLE RIVER, according to the Plat thereof, as recorded in Plat Book 34, Page 19, Public Records Miami-Dade County, Florida.<br><br>TOGETHER WITH:<br><br>Lot 40, and an Unnumbered Lot between Lots 38 and 40, Block 24, WEST LITTLE RIVER, according to the Plat thereof, as recorded in Plat Book 14, Page 75, Public Records Miami-Dade County, Florida. |
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| Folio # | 30-3110-074-0070 |
| Property Address | Vacant |
| Legal Description | TRACT G, POINCIANA INDUSTRIAL CENTER EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 159, PAGE 24 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
| Folio # | 30-3110-058-0081 |
| Property Address | |
| Legal Description | THE NORTH 104.00 FEET OF LOT 8, DAVE MAR PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 59, PAGE 1 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
| Folio # | 30-3110-053-1150 |
| Property Address | 2398 NW 78TH Street |
| Legal Description | THE WEST 30 FEET OF LOT 15, BLOCK 30, WEST LITTLE RIVER, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 14, PAGE 75 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |
| Folio # | 30-3110-053-1160 |
| Property Address | |
| Legal Description | THE WEST 30 FEET OF LOT 16, BLOCK 30, WEST LITTLE RIVER, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 14, PAGE 75 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. |

Note: a portion of this property has been replatted; Tenant may cause the property to be surveyed and such replatted parcels noted, in which event this Exhibit "A" shall be modified to incorporate the revised legal description.

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Note: Tenant's title underwriter and surveyor have identified a possible technical disparity between platted boundary lines and actual, measured boundaries. Landlord will join in any instruments necessary to clarify the boundary lines as they are currently in use.

"EXHIBIT B"
GROUND LESSOR'S
ESTOPPEL CERTIFICATE
AND ACKNOWLEDGEMENT

TO: _____
_____
_____
_____

RE: _____, Miami Dade County, Florida

This estoppel certificate and acknowledgment (the "Certificate") is being provided in connection with the contemplated loan (the "Loan") between _____ (the "Lender") and _____ (the "Lessee") which will be secured by that certain Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated on or about _____, 200_ (the "Mortgage").

The undersigned, as lessor (the "Lessor") of the parcels described on Exhibit A attached hereto (the "Premises") under that certain Lease dated _____, 2005 (the "Lease") made with the Lessee hereby certifies as follows:

That the Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way other than as described herein and represents the entire agreement between the parties as to said leasing.

That the expiration date of the initial term of the Lease is _____, _____. The Lessee has the following rights to renew or extend the term of the Lease: _____.

That to the best of the Lessor's knowledge (i) there are no defaults by either the Lessee or the Lessor under the Lease, and (ii) no event has occurred or situation exists which would, with notice or the passage of time, constitute a default under the Lease.

That fixed annual rent in the amount of $_____ is payable during the first 5 years of the Lease Term, and such annual rent is subject to adjustment as provided in Article 3 of the Lease. All rent payable by the Lessee pursuant to the Lease has been paid through _____, 200_.

That as of the date hereof there are no actions, whether voluntary or otherwise, pending against the Lessor as a debtor under the bankruptcy or insolvency laws of the United States or any state thereof.

That as of the date hereof there are no mortgages, liens, security interests or encumbrances against the Premises or the interest of the Lessor in the Lease. In the event any mortgages, liens, security interests or encumbrances are placed against the Premises or the interest of Lessor in the Lease, the instruments evidencing such mortgages, liens, security

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interests or encumbrances shall provide that so long as Lessee (or its successors and assigns) is not in default beyond any applicable notice and cure periods under the Lease, then Lessee's possession and use of the Premises shall not be disturbed.

That upon the recording of the Mortgage, the Lessor hereby recognizes the Lender as a "Leasehold Mortgagee" for all purposes under Article 9 and elsewhere under the Lease and the Mortgage as a "Mortgage" pursuant to Article 9 of the Lease, and agrees that the Lender shall have all the rights under, and the Landlord shall be bound by and act in accordance with the provisions of, Article 9 of the Lease. Lessor hereby confirms that the Lender and any successor and assigns of the Lender, including, but not limited to a trustee in a securitization of the Loan or any other secondary mortgage market transaction (an "Assignee") will be recognized as a "Leasehold Mortgagee" for all purposes under the Lease. If the Lender or any Assignee, becomes the lessee under the Lease pursuant to a foreclosure, deed-in-lieu of foreclosure or otherwise, upon the request of the Lender or such Assignee, the Lessor will enter into a new ground lease, on substantially similar terms to those of the Lease, with the Lender or such Assignee.

That in connection with a total or partial casualty loss affecting any improvements on the Premises, the Lender shall be entitled to hold, supervise and control the receipt and disbursement of the insurance proceeds in accordance with the applicable provisions of the Mortgage.

That the Lessor agrees that no notice to the Lessee shall be valid unless the Lessor gives copies of such notice to the Lender and grants to the Lender an opportunity to cure such default, as provided in Article 9 of the Lease. The Lessor shall not exercise any remedy under the Lease prior to providing notice of the expiration of any applicable cure period to the Lender. Notwithstanding the foregoing, acceptance of the Lender's performance shall not waive the Lender's right to sue for a party's breach. All such notices shall be delivered to the Lender at the following address:

_____
_____
_____
_____

with a copy to: _____
_____
_____
_____

That the Lessor shall not seek to enforce any rights it may have against the Lender for breach of the terms and provisions set forth in the Lease unless such rights result from the Lender's acts as (x) a mortgagee in possession or (y) the lessee under a new ground lease following a foreclosure proceeding, deed-in-lieu of foreclosure or other proceeding whereby the Lender succeeds to the Lessee's interest under the Lease.

That the Mortgage is not, and shall not become, subject or subordinate to any security instrument encumbering the fee estate of the Premises.

That if the Lessor transfers its interest in the Premises to another person or entity, any such successor to the Lessor shall be bound by the terms of the Lease and this Certificate.

That the Lessee is permitted to make the assignment of the Lessee's interest in the Lease to the Lender as security for the Loan and that the Lender and the Lessee shall be further permitted to assign such interest in the Lease to a trustee in any securitization or any other secondary mortgage market transaction.

That the Lender will make the Loan to Lessee in reliance upon, among other things, this Certificate; that this Certificate may be relied upon by the Lender and any Assignee; and that this Certificate will bind the Lessor and its successors in favor of the Lender and any such Assignee.

This Estoppel Certificate and Acknowledgment is executed this _____ day of _____, 200_.

WITNESS/ATTEST:

LESSOR:

_____

Name: _____

By: _____
Name:
Title:

_____

Name: _____

(ALL SIGNATURES MUST BE ACKNOWLEDGED)
(ALL SIGNATURES MUST BE WITNESSED BY TWO WITNESSES, AND THE NAMES MUST BE PRINTED BENEATH THE SIGNATURE)

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

The foregoing instrument was acknowledged [or sworn to and subscribed for an affidavit] before me this ____ day of _____, 200_, by _____, as _____ of _____, a _____, on behalf of such entity; said individual is personally known to me or has produced a driver's license as identification.

_____
NOTARY PUBLIC, STATE OF FLORIDA

_____
(Print, Type or Stamp Commission)

**"Exhibit D"**

**COPY OF LEASE AGREEMENT (SUBLEASE) BETWEEN POINCIANA PARTNERS, LLLP AND PBP BUILDING No. 5, LLC**

**LEASE AGREEMENT**
**(Poinciana Biopharmaceutical Park)**

**DATE OF LEASE EXECUTION:**
As of April 1, 2006

ARTICLE 1

REFERENCE DATA

1.1 SUBJECTS REFERRED TO: Each reference in this Lease to any of the following terms shall incorporate the data stated for that subject in this Section 1.1.

1.1.1 LANDLORD: Poinciana Partners LLLP

1.1.2 MANAGING AGENT: Initially, none; to be designated by Landlord from time to time.

1.1.3 LANDLORD'S REPRESENTATIVE: Dennis C. Stackhouse, or such person as may be designated by him in writing

1.1.4 TENANT: PBP Building No.5, LLC

1.1.5 TENANT'S ADDRESS (FOR NOTICE & BILLING): The Premises or, prior to Tenant occupying the Premises, 780 Fisherman Street, Opa-locka, FL 33054

1.1.6 TENANT'S REPRESENTATIVE: _____ or other person designated in writing by Tenant .

1.1.7 BUILDING: Building No. 5, Poinciana Biopharmaceutical Research Park, to be located approximately as shown on Exhibit A to this Lease

1.1.8 LOT: The parcel of land on which the Building is to be located, approximately as shown on Exhibit A to this Lease; the description and exact location of the Lot shall be revised and approved by Landlord upon completion of the Building, as the Lot configuration shall conform with the footprint of the Building.

1.1.9 TENANT SPACE: Space within the Building which may (pursuant to Landlord's consent and other provisions of this Lease) be leased to subtenant(s).

1.1.10 TENANT'S PROPORTIONATE SHARE: To be calculated upon the determination of square feet in the Lot (the numerator) and square feet in the rest of the lots leased or to be leased to other lessees in Poinciana Biopharmaceutical Research Park(the "Park") (the denominator), or applicable portion thereof as determined by Landlord; the Tenant's Proportionate Share shall vary from time to time based upon the property then included in the

Park or, in Landlord's determination, the portion of the Park then properly included in such calculation. The method of calculating Tenant's Proportionate Share may be adjusted from time to time, so long as Tenant shall not have a greater proprotionate share than it would have under the formula given in this paragraph.

1.1.11 EFFECTIVE DATE: The date of lease execution set forth on the first page hereof.

1.1.12 TERM COMMENCEMENT DATE: April 1, 2006

1.1.13 TERM EXPIRATION DATE: December 30, 2080.

1.1.14 TERM: The time between the Term Commencement Date and the Term Expiration Date, as extended or shortened pursuant to the provisions of this Lease.

1.1.15 ANNUAL AND MONTHLY BASE RENT INSTALLMENTS: _____

1.1.16 SECURITY DEPOSIT: $ None

1.1.17 PERMITTED USE: Parking lot, general and medical office use and dry and/or wet bench laboratory research use limited to those uses meeting the National Institutes of Health and Centers for Disease Control and Prevention standards for bio-safety levels ("BLs") BL-1 and BL-2, but in no event for any use or research involving infectious diseases other than permitted in BL-1 and BL-2; residential, educational, retail and related and other uses as permitted, in writing, by Landlord from time to time.

1.1.18 BROKERS: None

1.1.19 GROUND LEASE: That certain Ground Lease for the Park from Miami-Dade Empowerment Trust, Inc. ("Ground Lessor") to Landlord (together with its successors and assigns, "Ground Lessee"), dated May 4, 2005.

1.2 EXHIBITS AND SCHEDULES: The exhibits and schedules listed below in this Section are incorporated in this Lease by reference and are to be construed as part of this Lease.

EXHIBIT A: Lot area on which building is located, together with approximate building footprint

EXHIBIT B: Permitted subletting

EXHIBIT C: Construction Terms

## ARTICLE 2

## PREMISES AND TERM

2.1 PREMISES: Subject to and with the benefit of the provisions of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Lot, located in the Park. The Lot and the Building, subject to the exclusions and provisions in this Lease, are sometimes referred to in this instrument as the **"Property"or the "Premises"**.

2.1.1 Tenant shall have, as appurtenant to the Premises, the right to use in common with others entitled thereto, subject to reasonable rules of general applicability to tenants of the Park from time to time made by Landlord, of which Tenant is given notice, common facilities included in the Park, including use of parking or streets or walkways, as set forth below or subsequently designated by Landlord in an instrument common to the Park or in the Rules and Regulations, if and to the extent from time to time designated by Landlord.

2.1.2 Tenant shall have use of the parking facilities provided for the common use of all lessees in the Park and their guests, subject to Rules and Regulations which may be promulgated by Landlord from time to time.

2.1.3 Landlord may promulgate, and Tenant shall join in, a recordable document describing and prescribing the cross easements and accessways throughout the Park for the benefit of tenants in the Park and for the regulation of use by the public.

2.1.4 Landlord reserves the right from time to time, without unreasonable interference with Tenant's use, (a) to install, repair, remove, use, maintain and relocate for service to the Premises and to other parts of the Park or either of them, service and landscape and similar equipment wherever located in the Park and (b) to alter or relocate any common facility, including a parking facility, if any, provided that substitutions are substantially equivalent or better.

2.2 TERM: To have and to hold for the term beginning on the Commencement Date and ending on the Expiration Date (the **"Term"**), unless sooner terminated as provided in Section 7.1 or in Article 9; in no event shall the Term extend beyond one day before the end of the Term under the Ground Lease. See Section 4.1 below relative to the Rent Commencement Date.

## ARTICLE 3

## CONSTRUCTION

3.1 DELIVERY OF PREMISES: Landlord is delivering and Tenant accepts, the Land and any and all appurtenances thereto, in "as is" condition. Tenant shall promptly construct and maintain a parking garage and related facilities on the Land, in size and design substantially as described on Exhibit C, or as otherwise as agreed in writing by Landlord. The plans, specifications, and design of the Building are subject to the consent of Landlord, which may be withheld or conditioned in Landlord's sole discretion; the parties agree and acknowledge that the

Building is integral to the construction and development of the Park, and must complement the entire Park development, which is subject to the guidance and development and determination of Landlord. If the Building is not substantially completed, with a certificate of occupancy, by 2008, then Landlord shall have the right to terminate this Lease. The construction of the Building shall be governed by and subject to the provisions of the Ground Lease, this Lease including but not limited to Section 3.5, and Rules and Regulations of the Park as may be promulgated from time to time.

3.2 ACCESS: Tenant shall indemnify and save Landlord harmless from and against any and all loss, liability, damage, cost and expense, including without limitation attorneys' fees and costs, claimed for or actually arising from, growing out of or related to any act, negligence or failure to act of Tenant or anyone entering the Premises or Building with Tenant's permission. The provisions of this Section shall survive the termination of this Lease.

3.3 GENERAL PROVISIONS APPLICABLE TO CONSTRUCTION: All construction work on the Lot required or permitted by this Lease, whether by Landlord or by Tenant, shall be done in a good and workmanlike manner and in compliance with all applicable laws and all lawful ordinances, regulations and orders of governmental authority and insurers of the Premises. Either party may inspect the work of the other at reasonable times and shall promptly give notice of observed defects. Landlord shall have no further obligation to fund or complete construction work once the Landlord's obligations contained in Section 3.1 have been fulfilled.

3.4 REPRESENTATIVES: Each party authorizes the other to rely in connection with their respective rights and obligations under this Article 3 upon approval and other actions on the party's behalf by Landlord's Representative in the case of Landlord or Tenant's Representative in the case of Tenant or by any person designated in substitution or addition by notice in writing to the relying party.

3.5 TENANT ALTERATIONS: Tenant shall not make any changes or alterations to the Premises without Landlord's prior written consent; and shall not in any event make unauthorized structural changes or additions to the Building or Premises or changes or additions to the heating, ventilating and air conditioning or other systems of the Building, consent to which may be withheld by Landlord in its sole discretion. Landlord may require Tenant to provide demolition and/or lien and completion bonds in form and amount satisfactory to Landlord. All Tenant alterations shall be accomplished in a good and workmanlike manner at Tenant's sole expense, in conformity will all Applicable Laws, by a licensed and bonded contractor approved in advance by Landlord, such approval not to be unreasonably withheld or delayed. Upon completion of any such work, Tenant shall provide Landlord with "as built" plans, copies of all construction contracts, and proof of payment for all labor and materials. Any Tenant alterations to the Premises made by or installed by either party hereto will remain upon and be surrendered with the Premises and become the property of Landlord upon the expiration or earlier termination of this Lease without credit to Tenant; provided, however, Landlord, at its option, may require Tenant to remove any additions and/or repair any alterations to restore the Premises to the condition existing at the time Tenant took possession, with all costs of removal or alterations to

be borne by Tenant. This clause will not apply to moveable equipment, furniture or moveable trade fixtures owned by Tenant if (a) such equipment, furniture and trade fixtures are not then subject to any other rights, liens and interests of Landlord, or (b) Tenant is not then in default.

3.6 NO LIENS: Tenant shall pay promptly, when due, the entire cost of any work done on the Premises by Tenant, its agent, employees or independent contractors. Tenant shall have no authority or power, express or implied, to create or cause any construction lien or mechanics' or materialmen's lien or claim of any kind against the Premises, the Property or any portion thereof or any interest of Landlord. Tenant will promptly cause any such liens or claims to be released by payment, bonding or otherwise within thirty (30) days after request by Landlord, and will indemnify Landlord against losses arising out of any such claim including, without limitation, legal fees and court costs. NOTICE IS HEREBY GIVEN THAT LANDLORD WILL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIAL FURNISHED OR TO BE FURNISHED TO TENANT, OR TO ANYONE HOLDING THE PREMISES THROUGH OR UNDER TENANT, AND THAT NO MECHANICS OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS WILL ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN THE PREMISES. TENANT WILL DISCLOSE THE FOREGOING PROVISIONS TO ANY CONTRACTOR ENGAGED BY TENANT PROVIDING LABOR, SERVICES OR MATERIAL TO THE PREMISES. Landlord has the right, but not the obligation, to discharge any such lien. Any amount paid by Landlord for such purpose and Landlord's reasonable attorneys' fees shall be paid by Tenant to Landlord upon demand and shall accrue interest from the date paid by Landlord until Landlord is reimbursed therefor at the lesser of 15% per annum or the maximum legal rate. At Landlord's request Tenant shall execute a memorandum of lease containing these provisions in order to protect Landlord's estate against such liens.

## ARTICLE 4

## RENT

4.1 RENT: Tenant agrees to pay, without any offset or reduction whatever (except as made in accordance with the express provisions of this Lease), to Landlord fixed rent equal to one twelfth (1/12) of the annual installments of Base Rent in equal installments in advance on the first day of each calendar month of the Term, beginning on the first day of the first (1st) full calendar month of the Term. The Base Rent shall be applicable for the Term commencing on the Commencement Date (the **"Rent Commencement Date"**). Base Rent for a first or last partial month shall be prorated and the first or last Lease Year shall, if so applicable, be greater than 12 months. Tenant shall pay, with each payment of Rent, all sales and other applicable taxes which may be due or payable thereon.

4.2 OPERATING COSTS AND TAXES:

4.2.1 As used in this Section, these words and terms shall have the following meanings:

(a) **"Operating Costs"** shall mean all costs incurred and expenditures made by Landlord in the operation and management of the Park, including management and maintenance of any parking facility, exclusive of financing expenses, as determined in accordance with generally accepted accounting principles. Operating Costs include, without limitation, cost of cleaning, security, janitorial service (including costs of materials and equipment); maintenance and repairs to the Premises and Park (including snow removal, landscaping, repair or replacement of any common area facilities, lighting, utilities, parking, accessways, and other Park areas and components); payments under all service contracts relating to the operation and maintenance of the Park; management fees; wages, salaries; benefits, payroll taxes and unemployment compensation insurance for employees of Landlord or any contractor of Landlord engaged in the cleaning, operation, maintenance or security of the Park; insurance relating to the Park; legal fees related to the management of tenants and operations of the Park; auditing expenses; any capital expenditure made by Landlord following the Commencement Date for the purpose of reducing other operating expenses or complying with any governmental requirement so long as such expenditure is amortized in accord with generally accepted accounting principles, provided however, that no other capital expenditure shall be deemed an Operating Cost for purposes hereof; payments other than Taxes (as hereinafter defined) (including, but not limited to, water and sewer charges, special assessments and other user fees), supplies and all other expenses incurred in connection with the operation of the Park

(b) **"Taxes"** shall mean all payments, all taxes, assessments and betterments levied, assessed or imposed by any governmental or regulatory authority upon or against the Park or payments in lieu therefore. If, at any time during the Term, any tax or excise on rents or other taxes, however described, are levied or assessed against Landlord with respect to the rent reserved hereunder, either wholly or partially in substitution for real estate taxes assessed or levied on the Property, or payments in lieu thereof, such tax or excise on rents shall be included in Taxes; however, Taxes shall not include franchise, estate, inheritance, succession, capital levy, transfer, income or excess profits taxes assessed on Landlord.

(c) **"Operating Cost Statement"** shall mean statements in writing signed by Landlord setting forth the amounts payable by Tenant for a specified calendar year or other computation period pursuant to this Section.

(d) **"Tax Statements"** shall mean statements in writing signed by Landlord setting forth the amounts payable by Tenant for a specified calendar year or other computation period pursuant to this Section.

(e) **"Tenant's Proportionate Share"** is agreed to be that shown in Article I. Tenant's Proportionate Share shall be subject to change from time to time as and if the gross rentable square footage of either the Lot or the Park changes.

4.2.2 Tenant shall pay to Landlord an amount equal to Tenant's Proportionate Share of the Taxes. Such amount or amounts shall be estimated by Landlord and due in monthly installments, together with Tenant's payments of Base Rent. At the end of each calendar year, Landlord shall compute the actual Taxes, and shall inform Tenant of the amount in the Tax

Statement. Tenant shall be given a credit against its payment of future Taxes for any overpayment of Taxes that shall have been paid up to the time of such statement. If Tenant has underpaid, then Tenant shall pay the balance due to Landlord within thirty (30) days of the date of the Tax Statement, unless the statement is rendered at the end of the Term, in which case any underpayment due Landlord will be paid by check at the time Tenant delivers the Premises to Landlord, and any overpayment due Tenant will be promptly refunded by Landlord. If this Lease shall commence or terminate in the middle of a calendar year, Tenant shall be liable for only that portion of the Taxes in respect of such calendar year represented by a fraction, the numerator of which is the number of days of the Term which fall within the calendar year and the denominator of which is three hundred sixty-five (365).

4.2.3 Tenant shall pay to Landlord an amount equal to Tenant's Proportionate Share of Operating Costs. Such amount or amounts shall be estimated by Landlord and due monthly, together with Tenant's payments of Base Rent. At the end of each calendar year, Landlord shall compute the actual Operating Costs, and shall inform Tenant of the amount in the Operating Cost Statement. Tenant shall be given a credit against its payment of future Operating Costs for any overpayment of Operating Costs that shall have been paid up to the time of such statement. If Tenant has underpaid, then Tenant shall pay the balance due to Landlord within thirty (30) days of the date of the Operating Cost Statement, unless the statement is rendered at the end of the Term, in which case any underpayment due Landlord will be paid by check at the time Tenant delivers the Premises to Landlord, and any overpayment due Tenant will be promptly refunded by Landlord. If this Lease shall commence or terminate in the middle of a calendar year, Tenant shall be liable for only that portion of the Operating Costs in respect of such calendar year represented by a fraction, the numerator of which is the number of days of the Term which fall within the calendar year and the denominator of which is three hundred sixty-five (365).

4.2.4 If, after Tenant shall have made any payment of Taxes to Landlord pursuant to this Section, Landlord shall receive a refund of any portion of Taxes paid by Tenant during the Term hereof as a result of abatement of such Taxes by legal proceedings, settlement or otherwise, Landlord shall pay or credit to Tenant the Tenant's share of the refund (less the proportional, pro rata expenses, including attorney's fees and appraiser's fees, incurred in connection with obtaining any such refund), as related to Taxes paid by Tenant to Landlord with respect to any portion of the Term for which a refund is obtained. Tenant shall have no right to seek or to control any abatement, dispute, or other proceedings with any governmental agency or entity.

4.2.5 Any disputes arising with respect to the amount of any payment due under this Section shall, upon request by either party, be finally determined by a court of competent jurisdiction in Miami-Dade County, Florida. Tenant shall pay all of its costs and expenses of litigation, and if said litigation determines that the amount stated in the Tax Statement or Operating Cost Statement is not more than ten percent (10%) above the Taxes or the Operating Costs, respectively, as billed to Tenant, Tenant shall also pay all of Landlord's costs and expenses of litigation, including, without limitation, the fees of experts and reasonable attorneys' fees. Any obligation of Tenant under this Section which shall not have been paid at the expiration of the Term shall survive such expiration and shall be paid when and as the amount of same shall be

determined together with interest thereon at the prime rate of interest then currently charged by Bank of America (or, if applicable, its successors) plus 2% from the date the sum was first due to Landlord.

4.2.6 The additional rent required to be paid by Tenant under this Section, together with the Base Rent and any other sums due Landlord under this Lease, is hereinafter collectively called the "Rent".

4.3 PAYMENTS: All payments of Rent shall be made to Managing Agent, or to such other person as Landlord may from time to time designate.

4.4 LATE CHARGES: If any Base Rent or other payment due under this Lease is not received by Landlord within ten (10) days of the due date of such payment, Tenant shall pay in addition to such payment a late charge equal to the greater of 5% of the payment which is past due or Two Hundred Fifty Dollars and No/100 ($250.00). If any payment due from Tenant shall remain overdue for more than ten (10) days, interest shall accrue daily on the past due amount from the date such amount was due until paid or judgment is entered at a rate equivalent to the lesser of eighteen percent (18%) per annum or the highest rate permitted by law. Interest on the past due amount shall be in addition to and not in lieu of the five percent (5%) or $250.00 late charge or any other remedy available to Landlord.

4.5 ELECTRICITY: Tenant shall pay for all electricity consumed in the Building and on the Lot. The consumption shall be measured by an independent meter installed specifically for the Building. The meter shall be in the name of Tenant, who shall have sole responsibility for paying this expense directly to the utility company. The consumption of electricity for undeveloped and common elements of the Park will be paid for by Landlord, and included in Operating Costs.

## ARTICLE 5

## LANDLORD'S WORK

5.1 LANDLORD'S WORK DURING THE TERM: Landlord shall mainatin the common areas of the Park. Tenant shall be responsible for all maintenance of the Land and the Building.

5.2 QUIET ENJOYMENT: Landlord has the right to make this Lease and Tenant, on paying the rent and performing its obligations hereunder, shall peacefully and quietly have, hold and enjoy the Premises throughout the Term without any manner of hindrance or molestation from Landlord or anyone claiming under Landlord, subject, however, to all the terms and provisions hereof. Landlord shall not be liable to Tenant, which shall have no recourse against Landlord, by reason of interference with quiet enjoyment caused by other tenants.

5.3 INTERRUPTIONS:

5.3.1 Landlord shall not be liable to Tenant for any compensation or reduction of Rent by reason of inconvenience or annoyance or for loss of business arising from power losses or shortages or from the necessity of Landlord's entering the Premises for any of the purposes authorized in this Lease, or for repairing the Premises or any portion of the Property. In case Landlord is prevented or delayed from making any repairs, alterations or improvements, or furnishing any service or performing any other covenant or duty to be performed on Landlord's part, if any, by reason of any cause reasonably beyond Landlord's control, Landlord shall not be liable to Tenant therefore, nor shall Tenant be entitled to any abatement or reduction of rent by reason thereof, nor shall the same give rise to a claim in Tenant's favor that such failure constitutes actual or constructive, total or partial, eviction from the Premises.

5.3.2 Landlord reserves the right to stop any service or utility system, whether in the Park or the Premises, when necessary by reason of accident or emergency or until necessary repairs have been completed. Except in case of emergency repairs, Landlord will give Tenant reasonable advance notice of any contemplated stoppage and will use reasonable efforts to avoid unnecessary inconvenience to Tenant by reason thereof.

## ARTICLE 6

## TENANT'S COVENANTS

6.1 TENANT'S COVENANTS DURING THE TERM: Tenant covenants during the Term and such further time as Tenant occupies any part of the Premises, to do and perform the following matters.

6.1.1 Tenant's Payments: Tenant shall pay, when due, (a) all Base Rent and additional rent, (b) all taxes which may be imposed on the Building or on Tenant's personal property in the Premises (including, without limitation, Tenant's (or anyone holding under Tenant) fixtures and equipment) regardless to whomever assessed, (c) all charges for telephone, electricity and other utility services (including service inspections therefore) rendered to the Premises and separately metered or billed to Tenant, and (d) as additional rent, all charges of Landlord rendered pursuant to Section 4.2 hereof and any other sums due Landlord pursuant to this Lease.

6.1.2 Repairs and Yielding Up: Tenant shall construct the Building as agreed with Landlord, and shall keep the Premises in good order, repair and condition, reasonable wear only excepted; at the expiration or termination of this Lease, Tenant shall peaceably yield up the Premises, including the Building, and all changes and additions therein in such order, repair and condition. Subject to the provisions of Section 3.5, Tenant shall remove all personal property of Tenant or those holding under Tenant, and any items required to be removed by Landlord pursuant to Section 3.5 or otherwise, repairing all damage caused by such removal and restoring the Premises and leaving them clean and neat. Any property remaining on the Premises may, at Landlord's discretion, be removed, destroyed, sold, stored or otherwise disposed of at Tenant's cost.

6.1.3 Occupancy and Use: Tenant shall, continuously from the Commencement Date, use and occupy the Premises only for the Permitted Use, and shall not injure or deface the Premises or Property, and shall not permit in the Premises any auction, sale, nuisance or the emission from the Premises of any objectionable noise or odor, nor any use which is improper, offensive, contrary to law or ordinances, or liable to invalidate or increase the premiums for any insurance on the Building or its contents or liable to render necessary any alteration or addition to the Building, nor cause the violation of any laws, ordinances, building codes, rules or regulations, any order or judgment, permit or license, of any federal, state or local governmental or regulatory entity having jurisdiction over or application to the Property, including but not limited to the Board of Fire Underwriters (including compliance with the National Fire Code Bulletins, NFPA 30 (the Flammable and Combustible Liquids Code) and NFPA 45 (the standard for Fire Protection in Laboratories using Chemicals)) and the Americans with Disabilities Act and all regulations and orders promulgated to such act (collectively, **"Applicable Laws"**); Tenant warrants that all improvements or alterations of the Premises made by Tenant or Tenant's employees, agents or contractors, either prior to Tenant's occupancy of the Premises or at any time during the term of this Lease, will comply with all Applicable Laws. Tenant will procure at its own expense, and maintain in full force and effect during the Term hereof, all permits and licenses required for the transaction of its business in the Premises.

6.1.4 Hazardous Materials: Throughout the Term, Tenant shall prevent the presence, use, generation, release, discharge, storage, disposal, or transportation of any Hazardous Materials (as hereinafter defined) on, under, in, above, to, or from the Premises other than in strict compliance with Applicable Laws. For purposes of this provision, the term **"Hazardous Materials"** will mean and refer to any wastes, materials, or other substances of any kind or character that are or become regulated as hazardous or toxic waste or substances, or which require special handling or treatment, under any Applicable Laws. If Tenant's activities at the Premises or Tenant's use of the Premises (a) results in a release of Hazardous Materials that is not in compliance with Applicable Laws or permits issued thereunder; (b) gives rise to any claim or requires a response under common law or Applicable Laws or permits issued thereunder; (c) causes a significant public health effect; or (d) creates a nuisance, then Tenant shall, at its sole cost and expense: (i) immediately provide verbal notice thereof to Landlord as well as notice to Landlord in the manner required by this Lease, which notice shall identify the Hazardous Materials involved and the emergency procedures taken or to be taken; and (ii) promptly take all action in response to such situation required by Applicable Laws, provided that Tenant shall first obtain Landlord's approval of the remediation plan to be undertaken.

6.1.5 Rules and Regulations: Tenant shall comply with the Rules and Regulations set forth in Exhibit B and all other reasonable Rules and Regulations hereafter made by Landlord, of which Tenant shall have been notified, for the care and use of the Property.

6.1.6 Safety Appliances: Tenant shall keep the Premises equipped with all safety appliances required by law or ordinance or any other regulation of any public authority because of any use made by Tenant and to procure all licenses and permits so required and, if requested by Landlord, shall do any work so required because of such use, it being understood that the foregoing provisions shall not be construed to broaden in any way Tenant's Permitted Use.

6.1.7 Assignment and Subletting: Tenant shall not, without the prior written consent of Landlord, assign this lease, make any sublease or permit occupancy of the Premises or any part thereof by anyone other than Tenant, voluntarily or by operation of law (it being understood that Landlord shall not unreasonably withhold or delay its consent herein required) other than as described on Exhibit B. Tenant shall reimburse Landlord promptly for reasonable legal and other expenses incurred by Landlord in connection with any request by Tenant for consent to assignment or subletting. No consent by Landlord shall affect the continuing liability of Tenant (which, following assignment, shall be joint and several with the assignee or subtenant), and no consent to any of the foregoing in a specific instance shall operate as a waiver in any subsequent instance. Any permitted assignee, subtenant or other occupant must deliver a written instrument to Landlord, in form and substance reasonably satisfactory to Landlord, by which such assignee, subtenant or other occupant agrees to be bound by and assume all obligations of Tenant under this Lease relating to the portion of the Premises acquired by such assignee, subtenant or other occupant. Any attempted assignment, subleasing or other occupancy not approved by Landlord as required by this Subsection 6.1.7 shall be void and a default under this Lease; any net income (after commercially reasonable brokerage fees and out of pocket costs of leasing) which is payable to Tenant in connection with such subleasing or assignment or occupancy, in excess of the sums due Landlord by Tenant under this Lease, shall be payable one-half to Landlord, and one-half may be retained by Tenant. All subleases shall comply with and be subject to this Lease and the Ground Lease, and all sublessees shall, by executing the subject subleases, assume all obligations under the Ground Lease, as they apply to the Premises.

6.1.8 Tenant Leases: Tenant Leases shall be substantially in a form approved by Landlord, which shall not unreasonably withhold or delay its approval of such forms. Modifications of such forms shall be subject to approval by Landlord, and shall be in compliance with the Ground Lease and the Rules and Regulations for the Park.

6.1.9 Landlord's Costs: In case Landlord shall, without any fault on its part, be made party to any litigation commenced by or against Tenant or by or against any parties in possession of the Premises or any part thereof claiming under Tenant, Tenant shall pay, as additional rent, all costs including, without implied limitation, reasonable attorneys' fees incurred by or imposed upon Landlord in connection with such litigation and, as additional rent, shall also pay all such costs and fees incurred by Landlord for any obligations of Tenant under this Lease.

6.1.10 Tenant's Property: The Building and all the furnishings, fixtures, equipment, effects and property of every kind, nature and description of Tenant and of all persons claiming by, through or under Tenant which, during the continuance of this Lease or any occupancy of the Premises by Tenant or anyone claiming under Tenant, may be on the Premises or elsewhere in the Property shall be at the sole risk and hazard of Tenant, and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by leakage or bursting of water pipes, steam pipes, or other pipes, by theft or from any other cause, no part of said loss or damage is to be charged to or to be borne by Landlord unless located off the Premises and due to the willful act or gross negligence of Landlord.

6.1.11 Holdover: Tenant shall pay to Landlord twice the total of the Base Rent and additional rent then applicable for each month or portion thereof, in the event that Tenant shall retain possession of the Premises or any part thereof after the termination of this Lease, whether by lapse of time or otherwise, and shall also pay all damages sustained by Landlord on account thereof. The provisions of this Subsection shall not operate as a waiver by Landlord of any right of re-entry provided in this Lease, at the option of Landlord exercised by written notice given to Tenant while such holding over continues. Such holding over shall, at Landlord's option, exercised by written notice at any time during the holding over, constitute an extension of this Lease for a period of one (1) year.

## ARTICLE 7

## CASUALTY AND TAKING

7.1 CASUALTY AND TAKING: In case during the Term all or any substantial part of the Premises, are damaged materially by fire or any other cause, then Landlord may, at its option, terminate this Lease. In case during the Term all or any substantial part of the Premises shall be taken by eminent domain, then Landlord may terminate this Lease by notice in writing to Tenant, effective as of the date of actual physical taking of possession under such taking. If in any such case the Premises are rendered unfit for use and occupation and the Lease is not so terminated, Landlord shall use due diligence to put the Premises, or, in the case of taking, what may remain thereof (excluding any items installed or paid for by Tenant, which Tenant may be required or permitted to remove), into proper condition for use and occupation (as originally delivered to Tenant, without the Tenant buildouts that may have been furnished by Tenant) to the extent permitted by the net award of insurance or damages and applicable laws then in effect and a just proportion of the Base Rent and additional rent according to the nature and extent of the injury shall be abated until the Premises or such remainder shall have been substantially completed by Landlord in such condition, and in case of a taking which permanently reduces the area of the Premises, a just proportion of the Base Rent and additional rent shall be abated for the remainder of the Term and an appropriate adjustment shall be made to the annual estimated Operating Costs.

7.2 RESERVATION OF AWARD: Landlord reserves to itself any and all rights to receive awards made for damages to the Premises and the leasehold hereby created, or any one or more of them, accruing by reason of exercise of eminent domain or by reason of anything lawfully done in pursuance of public or other authority. Tenant hereby releases and assigns to Landlord all Tenant's rights to such awards, and covenants to deliver such further assignments and assurances thereof as Landlord may from time to time request, hereby irrevocably designating and appointing Landlord as its attorney-in-fact to execute and deliver in Tenant's name, it being agreed and understood, however, that Landlord does not reserve to itself and Tenant does not assign to Landlord any damages payable for (i) movable trade fixtures installed by Tenant or anybody claiming under Tenant, at its own expense, or (ii) relocation expenses recoverable by Tenant from such authority in a separate action.

## ARTICLE 8

## RIGHTS OF MORTGAGEE

8.1 PRIORITY OF LEASE: Landlord or any mortgagee of Landlord, from time to time, shall have the option to subordinate this Lease to any mortgage or deed of trust (a **"Mortgage"**) of the Premises or Park or both (the **"Mortgaged Premises"**), provided that the holder thereof (**"Mortgagee"**) agrees in writing to recognize the rights of Tenant under this Lease and to accept Tenant as a tenant of the Premises (so long as it is not in default) under the terms and conditions of this Lease in the event of acquisition of title by such holder through foreclosure proceedings or otherwise; Tenant agrees to recognize Mortgagee as Landlord in such event. The provisions of this Section 8.1 shall bind and inure to the benefit of the successors and assigns of Tenant and of Mortgagee and upon anyone purchasing the Mortgaged Premises at any foreclosure sale or otherwise. Any such Mortgage to which this Lease shall be subordinated may contain such terms, provisions and conditions as the Mortgagee deems usual or customary.

8.2 LIMITATION ON MORTGAGEE'S LIABILITY: Upon entry and taking possession of the Mortgaged Premises for any purpose other than foreclosure, Mortgagee shall have all rights of Landlord and, during the period of such possession, the duty to perform all Landlord's obligations hereunder. Except during such period of possession, no such holder shall be liable, either as mortgagee or as holder of a collateral assignment of this Lease, to perform or be liable in damages for failure to perform, any of the obligations of Landlord, unless and until such holder shall enter and take possession of the Mortgaged Premises for the purpose of foreclosing a Mortgage. Upon entry for the purpose of foreclosing a Mortgage, such holder shall be liable to perform all of the obligations of Landlord, subject to the provisions of Section 3.3, provided that a discontinuance of any foreclosure proceeding shall be deemed a conveyance under the provisions of Section 10.3 to the owner of the equity of the mortgaged premises. In no event, however, shall the holder of a mortgage on the Lot and/or the Building have any duty to perform or liability with respect to Landlord's obligations under this Lease unless and until such holder acquires title to the Lot and/or Building through foreclosure or otherwise, and if such holder does so acquire title, in no event shall such holder have any duty to perform or any liability with respect to Landlord's obligations or any fact, circumstance or condition existing, arising or accruing before such acquisition of title.

8.3 MORTGAGEE'S ELECTION: Notwithstanding any other provisions to the contrary contained in this Lease, if prior to substantial completion of Landlord's obligations under Article 3, any holder of a first mortgage on the mortgaged premises enters and takes possession thereof for the purpose of foreclosing the Mortgage, such holder may elect, by written notice given to Tenant and Landlord at any time within ninety (90) days after such entry and taking of possession, not to perform Landlord's obligations under Article 3, and in such event such holder and all persons claiming under it shall be relieved of all obligations to perform and all liability for failure to perform said Landlord's obligations under Article 3, in which event Tenant may terminate this Lease and all its obligations hereunder by written notice to Landlord and such holder given within thirty (30) days after the day on which such holder shall have given its notice as aforesaid.

8.4 NO PREPAYMENT OR MODIFICATION: No Base Rent, additional rent, or any other charge shall be paid more than thirty (30) days prior to the due dates thereof, and payments made in violation of this provision shall (except to the extent that such payments are actually received by a mortgagee in possession or in the process of foreclosing its mortgage) be a nullity as against such mortgagee, and Tenant shall be liable for the amount of such payments to such mortgagee. No assignment of this Lease and no agreement to make or accept any surrender, termination or cancellation of this Lease and no agreement to modify so as to reduce the rent, change the Term or otherwise materially change the rights of Landlord or holder of a mortgage affecting the Premises under this Lease, or to relieve Tenant of any obligations or liability under this Lease, shall be valid, unless consented to in writing by Landlord's mortgagees of record, if any.

8.5 NO RELEASE OR TERMINATION: No act or failure to act on the part of Landlord which would entitle Tenant under the terms of this Lease, or by law, to be relieved of Tenant's obligations hereunder or to terminate this Lease, shall result in a release or termination of such obligations or a termination of this Lease unless (i) Tenant shall have first given written notice of Landlord's act or failure to act to Landlord's Mortgagees of record, if any, specifying the act or failure to act on the part of Landlord which could or would give basis to Tenant's rights, and (ii) such Mortgagees, after receipt of such notice, shall have failed or refused to correct or cure the condition complained of within a reasonable time thereafter, but nothing contained in this Section 8.5 shall be deemed to impose any obligation on any such Mortgagee to correct or cure any such condition. "Reasonable time" as used above means and includes a reasonable time to obtain possession of the Mortgaged Premises if the Mortgagee elects to do so and a reasonable time to correct or cure the condition if such condition is determined to exist.

8.6 CONTINUING OFFER: The covenants and agreements contained in this Lease with respect to the rights, powers and benefits of a mortgagee (particularly, without limitation thereby, the covenants and agreements contained in this Article 8) constitute a continuing offer to any person, corporation or other entity, which by accepting or requiring an assignment of this Lease or by entry or foreclosure assumes the obligations herein set forth with respect to such Mortgagee, subject to the provisions of Section 8.3, such Mortgagee being hereby constituted a party to this Lease as an obligee hereunder subject to the provisions of Section 8.3 to the same extent as though its name was written hereon as such, and such Mortgagee shall be entitled to enforce such provisions in its own name. Tenant agrees on request of Landlord to execute and deliver from time to time any agreement which may reasonably be deemed necessary to implement the provisions of this Article 8.

8.7 MORTGAGEE'S APPROVAL: Landlord's obligation to perform its covenants and agreements hereunder is subject to the condition precedent that this Lease be approved by the holder of any mortgage of which the Premises are a part and by the user of any commitment to make a Mortgage loan which is in effect on the date hereof. Unless Landlord gives Tenant written notice within fifteen (15) business days after the Effective Date that such holder or issuer, or both, disapproves or has not approved this Lease, then this condition shall be deemed to have

been satisfied or waived and the provisions of this Section 8.7 shall be of no further force or effect.

8.8 SUCCESSORS OF MORTGAGEE: All of the rights and privileges of the holders of mortgages on the Lot and/or Building set forth in this Article 8 shall inure to the benefit of any such holders and their respective successors and assigns, including without limitation where applicable any purchases at foreclosure and other parties claiming title by, through or under any such holders. Where reference is made herein to foreclosure, the same rights and privileges for any such holder shall arise and the same results shall obtain if such holder instead acquires title through deed in lieu of foreclosure or otherwise.

## ARTICLE 9

## DEFAULT

9.1 EVENTS OF DEFAULT: The occurrence of any of the following shall be deemed to be an event of default under this Lease: if any default by Tenant continues after notice, in the case of Base Rent or any additional rent, for more than ten (10) days, or in any other case for more than thirty (30) days and such additional time, if any, as is reasonably necessary to cure the default (if the default is of such a nature that it is curable but cannot reasonably be cured in thirty (30) days, Tenant has the obligation to commence to cure the default within thirty (30) days, and thereafter diligently and continuously to prosecute such cure to completion), or if Tenant or any Guarantor makes any assignment for the benefit of creditors, commits any act of bankruptcy or files a petition under any bankruptcy or insolvency law, or if such a petition is filed against Tenant or any Guarantor and is not dismissed within forty-five (45) days, or if a receiver or similar officer becomes entitled to Tenant's leasehold hereunder and it is not returned to Tenant within forty-five (45) days, or if such leasehold is taken on execution or other process of law in any action against Tenant. In the event of any default under this Lease by Tenant, then without prejudice to any other rights which it has pursuant to this Lease or at law or in equity, Landlord shall have the following rights and remedies, which are cumulative and not alternative.

9.1.1 Landlord may cancel this Lease by notice to Tenant and retake possession of the Premises for Landlord's account, or Landlord may terminate Tenant's right of possession of the Premises. Tenant shall then quit and surrender the Premises to Landlord. Tenant's liability under all of the provisions of this Lease shall continue notwithstanding any expiration and surrender, or any re-entry, repossession, or disposition hereunder, including to the extent legally permissible, payment of all Rent and other charges until the date this Lease would have expired had such cancellation or termination not occurred. If Landlord so elects, Rent shall be accelerated and Tenant shall pay Landlord damages in the amount of any and all sums which would have been due for the remainder of the Term, subject to the provisions of Section 9.1.5 below.

9.1.2 Landlord may enter the Premises as agent of Tenant to take possession of any property of Tenant on the Premises, to store such property at the expense and risk of Tenant or to sell or otherwise dispose of such property in such manner as Landlord may see fit without notice to, and at the expense and risk of, Tenant. Re-entry and removal may be effectuated by

summary dispossess proceedings, by any suitable action or proceeding, or otherwise. Landlord shall not be liable in any way in connection with its actions pursuant to this section, to the extent that its actions are in accordance with Applicable Laws.

9.1.3 Landlord may relet all or any part of the Premises for all or any part of the unexpired portion of the Term of this Lease or for any longer period, and may accept any rent then attainable, grant any concessions of rent, and agree to paint or make any special repairs, alterations, and decorations for any new Tenant as it may deem advisable in its sole and absolute discretion. Landlord shall be under no obligation to relet or to attempt to relet the Premises.

9.1.4 Landlord may remedy or attempt to remedy any default of Tenant under this Lease for the account of Tenant and may enter upon the Premises for such purposes. No notice of Landlord's intention to perform such covenants need be given to Tenant unless expressly required by this Lease. Landlord shall not be liable to Tenant for any loss or damage caused by acts of Landlord in remedying or attempting to remedy such default and Tenant shall pay to Landlord all expenses incurred by Landlord in connection with remedying or attempting to remedy such default. Any expenses incurred by Landlord shall accrue interest at the highest rate permitted by law from the date of payment by Landlord until repaid by Tenant.

9.1.5 In calculating the amounts to be paid by Tenant to Landlord pursuant to this Section 9, Tenant shall be credited with the net proceeds of any rents obtained by Landlord by reletting the Premises, after deducting all Landlord's expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage commissions, and fees for legal services. It is agreed by Tenant that Landlord may (i) relet the Premises or any part or part thereof of a term or terms which may, at Landlord's option, be equal to or less than or greater than the period which would otherwise have constituted the balance of the Term and may grant such concessions and free rent as Landlord, in its sole judgment, considers advisable or necessary to relet the same, and (ii) make such alterations, repairs and decorations in the Premises as Landlord, in its sole judgment, considers advisable or necessary to relet the same, and no action of Landlord in accordance with the foregoing or failure to relet or to collect rent under reletting shall operate or be construed to release or reduce Tenant's liability as aforesaid.

9.1.6 So long as at least twelve (12) months of the Term remain unexpired at the time of such termination of this Lease or of Tenant's right of possession, in lieu of any other damages or indemnity and in lieu of full recovery by Landlord of all sums payable under all the foregoing provisions of this Section 9.1, Landlord may by written notice to Tenant, at any time after this Lease is terminated under any of the provisions contained in this Section 9.1 or as otherwise terminated for breach of any obligation of Tenant and before such full recovery, elect to recover and Tenant shall thereupon pay, as liquidated damages an amount equal to the aggregate of the Base Rent and additional rent accrued in the twelve (12) months ended next prior to such termination, plus the amount of Base Rent and additional rent of any kind accrued and unpaid at the time of termination and less the amount of any recovery by Landlord under the foregoing provisions of this Section 9.1 up to the time of payment of such liquidated damages.

9.1.7 Nothing contained in this Lease shall, however, limit or prejudice the right of Landlord to prove and obtain in proceedings for bankruptcy or insolvency by reason of the termination of this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to or less than the amount of the loss or damages referred to above.

9.2 COSTS: Tenant shall pay to Landlord on demand all costs incurred by Landlord, including attorneys' fees and costs at all tribunal levels, incurred by Landlord in enforcing any of the obligations of Tenant under this Lease. In addition, upon any default by Tenant, Tenant shall also be liable to Landlord for the expenses to which Landlord may be put in re-entering the Premises, reletting the Premises (including attorneys' fees and disbursements, marshal's fees, and brokerage fees, in so doing), and any other expenses reasonably incurred by Landlord.

9.3 WAIVER: No delay or omission by Landlord in exercising a right or remedy shall exhaust or impair the same or constitute a waiver of, or acquiescence to, a default.

## ARTICLE 10

## MISCELLANEOUS

10.1 INTERPRETATION: The titles of the Articles and Sections are for convenience and are not to be considered in construing this Lease. Whenever required by the context of this Lease, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other. In any provision relating to the conduct, acts or omissions of Tenant the term "Tenant" shall include Tenant's agents, employees, contractors, invitees, successors or others using the Premises, Building or Property with Tenant's expressed or implied permission.

10.2 NOTICE: Any notice, approval, consent, request, or election required or permitted to be given or made pursuant to this Lease shall be addressed, if to Landlord, at Landlord's address or at such other address as may have been specified by prior notice to Tenant, and if to Tenant, at the Premises or Tenant's address or at such other place as may have been specified by prior notice to Landlord. Any communication so addressed shall be deemed duly served if personally delivered or sent by nationally recognized overnight delivery service.

10.3 LANDLORD'S LIABILITY; CERTAIN DUTIES: The obligations of this Lease shall run with the land, and this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assignees, except that the Landlord named herein and each successive owner of the Premises shall be liable only for the obligations accruing during the period of its ownership. Neither the Landlord named herein nor any successive owner of the Premises, whether an individual, trust, a corporation or otherwise shall have any personal liability related to this Lease beyond their equity interest in the Premises, and Tenant agrees that it shall look solely to such equity interest then-owned by Landlord for collection of any judgment or any other judicial process requiring the payment of money. Whenever the Premises are owned by a

trustee or trustees, the obligations of Landlord shall be binding upon Landlord's trust estate, but not upon any trustee, beneficiary or shareholder of the trust individually. Any Landlord who transfers its title or interest is relieved of all liability with respect to the obligations of Landlord under this Lease to be performed on or after the date of transfer, provided that such transfer is not for the primary purpose of avoiding such obligations. However, each Landlord shall deliver to its transferee all funds previously paid by Tenant if such funds have not yet been applied under the terms of this Lease. Landlord shall not be in default under this Lease unless Landlord (or such ground lessor, mortgagee or beneficiary) fails to cure or diligently pursue a cure of any nonperformance within thirty (30) days after receipt of Tenant's written notice or such longer time as is reasonably necessary, provided that such cure is commenced within such thirty (30) day period and thereafter pursued with reasonable diligence.

10.4 NO SURRENDER: The delivery of keys to any employee of Landlord or to Landlord's agent or any employee thereof shall not operate as a termination of this Lease or a surrender of the Premises.

10.5 NO WAIVER: The failure of Landlord or of Tenant to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Lease shall not be deemed a waiver of such violation nor prevent a subsequent act which would have originally constituted a violation, from having all the force and effect of an original violation, nor shall the failure of Landlord to enforce any Rules and Regulations against Tenant or any other tenant in the Building be deemed a waiver of any such Rules and Regulations. The receipt by Landlord of Base Rent or additional rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach by Landlord, unless such waiver be in writing signed by Landlord. No consent or waiver, express or implied, by Landlord or Tenant to or of any breach of any agreement or duty shall be construed as a waiver or consent to or of any other breach of the same or any other agreement or duty.

10.6 NO ACCORD AND SATISFACTION: No acceptance by Landlord of a lesser sum than the Base Rent and additional rent then due shall be deemed to be other than on account of the earlier installment of such rent due, nor shall any endorsement or statement on any check or letter accompanying any check or payment as rent be deemed as accord and satisfaction and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy in this Lease provided. All waivers must be in writing and signed by the waiving party. Landlord's failure to enforce any provision of this Lease or its acceptance of Rent shall not be a waiver and shall not prevent Landlord from enforcing that provision or any other provision of this Lease in the future.

10.7 CUMULATIVE REMEDIES: The specific remedies to which Landlord may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may be lawfully entitled in case of any breach or threatened breach by Tenant of any provisions of this Lease. In addition to the other remedies provided in this Lease, Landlord shall be entitled to the restraint by injunction of the violation or attempted or threatened violation of any of the covenants, conditions or provisions of this Lease or to a decree compelling specific performance of any such covenant, conditions or provisions.

10.8 PARTIAL INVALIDITY: If any term of this Lease, or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Lease shall be valid and enforceable to the fullest extent permitted by law.

10.9 LANDLORD'S RIGHT TO CURE: If Tenant shall at any time default in the performance of any obligation under this Lease, Landlord shall have the right, but not the obligation, to enter upon the Premises and to perform such obligation, notwithstanding the fact that no specific provision for such substituted performance by Landlord is made in this Lease with respect to such default. In performing such obligation, Landlord may make any payment of money or perform any other act. All sums so paid by Landlord (together with interest at the rate of 4% per annum in excess of the then prime rate of interest then currently charged by Bank of america (or, if applicable, its successors) and all necessary incidental costs and expenses in connection with the performance of any such act by Landlord, shall be deemed to be additional rent under this Lease and shall be payable to Landlord immediately upon demand. Landlord may exercise the foregoing rights without waiving any other of its rights or releasing Tenant from any of its obligations under this Lease.

10.10 ESTOPPEL CERTIFICATE: Tenant agrees on the Commencement Date, and from time to time thereafter upon not less than fifteen (15) days prior written request by Landlord, to execute, acknowledge and deliver to Landlord a written statement in form requested by Landlord, certifying that this Lease is unmodified and in full force and effect; that Tenant has no defenses, offsets our counterclaims against its obligations to pay the Base Rent and additional rent and to perform its other covenants under this Lease; that there are no uncured defaults of Landlord or Tenant under this Lease (or, if there have been any modifications, that this Lease is in full force and effect as modified and stating the modifications and, if there are any defenses, offsets, counterclaims or defaults, setting them forth in reasonable detail), and the dates to which the Base Rent, additional rent and other charges have been paid. Any such statement delivered pursuant to this Section 10.10 may be relied upon by any prospective purchaser or mortgagee of the Property or any prospective assignee of any such mortgagee.

10.11 FORCE MAJEURE: In any case where either party hereto is required to do any act (other than the payment of rent or other monies hereunder), delays caused by or resulting from war, civil commotion, fire, flood, other casualty, labor difficulties, shortages or other unavailability of labor, materials, equipment, energy or utility services, governmental regulations, unusually severe weather, Act of God or other causes beyond such party's reasonable control (but not the inability to pay money), shall not be counted in determining the time during which such act must be completed, and such time shall be deemed extended by such delay. In no event, however, shall the foregoing excuse the late payment of rent or any other monies due hereunder nor extend the time therefore.

10.12 WAIVER OF TRIAL BY JURY AND COUNTERCLAIMS; MEDIATION: LANDLORD AND TENANT EACH HEREBY WAIVE TRIAL BY JURY IN ANY ACTION,

PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE. TENANT FURTHER AGREES THAT IT SHALL NOT INTERPOSE ANY COUNTERCLAIM OR COUNTERCLAIMS (EXCEPT COMPULSORY COUNTERCLAIMS) IN ANY SUMMARY PROCEEDING OR IN ANY ACTION BASED UPON NONPAYMENT OF RENT OR ANY OTHER PAYMENT REQUIRED BY TENANT UNDER THIS LEASE. UPON LANDLORD'S REQUEST, TENANT SHALL PARTICIPATE IN MEDIATION OF A DISPUTE BETWEEN LANDLORD AND TENANT; THE COST OF A MEDIATOR SHALL BE BORNE EQUALLY BY LANDLORD AND TENANT.

10.13 RADON GAS NOTICE: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it 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 your county public health unit.

10.14 ATTORNEYS' FEES: Wherever provision is made in this Lease for attorneys' fees, such term shall be deemed to include accountants' and attorneys' (including paralegals' and similar persons) fees and costs, whether or not litigation is commenced, including those for appellate, bankruptcy, probate, arbitration, mediation and collections proceedings.

10.15 LANDLORD'S ACCESS: Landlord shall be entitled at all reasonable times and upon reasonable notice (but no notice is required in emergencies) to enter the Premises to examine them and to make such repairs, alterations, or improvements thereto as Landlord considers necessary or reasonably desirable. Tenant shall not unduly obstruct any pipes, conduits, or mechanical or other electrical equipment so as to prevent reasonable access thereto. Landlord shall exercise its rights under this section, to the extent possible in the circumstances, in such manner so as to minimize interference with Tenant's use and enjoyment of the Premises. Landlord and its agents have the right to enter the Premises at all reasonable times and upon reasonable notice to show them to prospective purchasers, lenders, or anyone having a prospective interest in the Building, and, during the last six months of the Term or any renewal thereof, to show them to prospective tenants. Landlord may place customary "For Sale" or "For Lease" signs on the Premises, Building or Property as Landlord deems necessary.

10.16 LANDLORD'S LIEN: Landlord shall have, and Tenant grants to Landlord, a security interest in any furnishings, equipment, fixtures, inventory, accounts receivable, licenses and other personal property of any kind belonging to Tenant, or the equity of Tenant in such items, on the Premises or elsewhere. Such security interest is granted for the purposes of securing the payment of Rent and other charges, assessments, penalties, and damages required under this Lease to be paid by Tenant, and of securing the performance of all other obligations of Tenant under this Lease. The provision for a landlord's lien as described in this Section shall be in addition to, and not in substitution for, any landlord's lien and similar remedies otherwise provided by statutory or common law. Upon Tenant's default or breach of any terms and conditions of this Lease, Landlord shall have all remedies available under applicable law, including, without

limitation, the right to take possession of any or all of Tenant's property and dispose of them by public or private sale in a commercially reasonable manner, or if determined by Landlord in its discretion, to store or to dispose of them without sale.

10.16.1 Landlord shall also have the right to relinquish possession of all or any portion of such furniture, fixtures, equipment and other property of Tenant to any person ("Claimant") claiming to be entitled to possession thereof who presents to Landlord a copy of any instruments represented to Landlord by Claimant to have been executed by Tenant (or any predecessor of Tenant) granting Claimant the right under various circumstances to take possession of such furniture, fixtures, equipment or other property, without the necessity on the part of Landlord to inquire into the authenticity of said instrument's copy of Tenant's or Tenant's predecessor's signature thereon and without the necessity of Landlord making any nature of investigation or inquiry as to the validity of the factual or legal basis upon which Claimant purports to act; and Tenant agrees to indemnify and hold Landlord harmless from all cost, expense, loss, damage and liability incident to Landlord's relinquishment of possession of all or any portion of such furniture, fixtures, equipment or other property to Claimant.

10.16.2 To the extent, if any, that this Lease grants Landlord any lien or lien rights greater than provided by the laws of the State of Florida pertaining to landlord's liens, this Lease is intended as and constitutes a security agreement within the meaning of the Uniform Commercial Code as enacted in Florida (the "Uniform Commercial Code"). Landlord, in addition to the rights prescribed in this Lease, shall have a Security Interest, as that term is defined under the Uniform Commercial Code, in the items referred to in this Section 10.16 to secure the payment to Landlord of the various amounts provided for in this Lease. Tenant agrees to and shall execute and deliver to Landlord such financing statements and such further assurances as Landlord may, from time to time, consider necessary to create, perfect, and preserve the lien described and all additions, substitutions, replacements, and accessions thereto, and all proceeds of its or their sale or other disposition (under the Uniform Commercial Code, other statutory provisions, or otherwise). Landlord, at the expense of Tenant, may cause such financing statements and assurances to be recorded and re-recorded, filed and re-filed, and renewed or continued, at such times and places as may be required or permitted by law to create, perfect, and preserve such liens. In the event Tenant fails to promptly execute and return to Landlord such financing statements and other instruments as Landlord may require to create, preserve, and perfect its lien, Tenant shall and does hereby designate Landlord to act as Tenant's agent for the sole and limited purpose of executing such financing statements and other instruments and any such execution by Landlord pursuant to this Lease shall be effective and binding upon Tenant as though executed originally by Tenant. Tenant's designation of Landlord as agent hereunder shall not be subject to revocation until this Lease is terminated.

10.17 SECURITY DEPOSIT. Upon the execution of this Lease, Tenant shall deposit with Landlord a cash Security Deposit in the amount, if any, shown in Article I. The Security Deposit represents security for the faithful performance and observance by Tenant of each and every term and covenant of this Lease. Landlord may apply all or part of the Security Deposit to any unpaid rent or other charges due from Tenant or to cure any other default of Tenant. The Security Deposit shall not constitute liquidated damages. If Landlord uses any part of the Security

Deposit, Tenant shall restore the Security Deposit to its full amount within ten (10) days after Landlord's written request. Tenant's failure to do so shall be a default under this Lease. No interest shall be paid on the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts and no trust relationship is created with respect to the Security Deposit. Any portion of the Security Deposit which shall not have been applied as provided in this Lease, or shall not be required to repair the Premises after Tenant vacates the Lease, shall be returned to Tenant after the final calculation and payment of the Tax Excess and the Operating Cost Excess for the last calendar year of the Term. If no Security Deposit is required of the original lessee at time of execution of this Lease, then a Security Deposit may be required at time of assignment or subletting hereof, or upon the occurrence of a Default by Tenant.

10.18 INCORPORATION OF PRIOR AGREEMENTS; MODIFICATIONS: This Lease is the only agreement between the parties pertaining to this Lease of the Premises and no other agreements either oral or otherwise are effective unless embodied herein. All amendments to this Lease shall be in writing and signed by all parties. Any other attempted amendment shall be void.

10.19 JOINT AND SEVERAL LIABILITY: All parties signing this Lease as Tenant shall be jointly and severally liable for all obligations of Tenant.

10.20 EXECUTION OF LEASE: Submission or preparation of this Lease by Landlord shall not constitute an offer by Landlord or option for the Premises, and this Lease shall constitute an offer, acceptance or contract only as expressly specified by the terms of this Section 10.20 In the event that Tenant executes this Lease first, such action shall constitute an offer to Landlord, which may be accepted by Landlord by executing this Lease, and once this Lease is so executed by Landlord, such offer may not be revoked by Tenant and this Lease shall become a binding contract. In the event that Landlord executes this Lease first, such action shall constitute an offer to Tenant, which may be accepted by Tenant only by delivery to Landlord of a fully executed copy of this Lease, together with a fully executed copy of any and all guaranty agreements and addendums and moneys to be delivered at time of execution, provided that in the event that any party other than Landlord makes any material or minor alteration of any nature whatsoever to any of said documents, then such action shall merely constitute a counteroffer, which Landlord, may, at Landlord's election, accept or reject. Notwithstanding that the Commencement Date may occur and the Term may commence after the date of execution of this Lease, upon delivery and acceptance of this Lease in accordance with the terms of this Lease, this Lease shall be fully effective, and in full force and effect and valid and binding against the parties in accordance with, but on and subject to, the terms and conditions of this Lease.

10.21 AUTHORITY: As a material inducement to Landlord to enter into this Lease, Tenant (and, individually, each party executing this Lease on behalf of Tenant), intending that Landlord rely thereon, represents and warrants to Landlord that:

10.21.1 Tenant and the party executing on behalf of Tenant are fully and properly authorized to execute and enter into this Lease on behalf of Tenant and to deliver this Lease to Landlord;

10.21.2 This Lease constitutes a valid and binding obligation of Tenant, enforceable against Tenant in accordance with the terms of this Lease;

10.21.3 Tenant is duly organized, validly existing and in good standing under the laws of the state of Tenant's organization and has full power and authority to enter into this Lease, to perform Tenant's obligations under this Lease in accordance with the terms of this Lease, and to transact business in the state in which the Premises are located; and

10.21.4 The execution of this Lease by the individual or individuals executing this Lease on behalf of Tenant, and the performance by Tenant of Tenant's obligation under this Lease, have been duly authorized and approved by all necessary corporate or partnership action, as the case may be, and the execution, delivery and performance of this Lease by Tenant is not in conflict with Tenant's bylaws or articles of incorporation (if a corporation), agreement of partnership (if a partnership), operating agreement (if a limited liability company) and other charters, agreements, rules or regulations governing Tenant's business as any of the foregoing may have been supplemented or amended in any manner.

10.22 FLORIDA LAW: This Lease shall be governed by the laws of the State of Florida.

10.23 COUNTERPART: This Lease may be executed in more than one copy, each counterpart of which shall be deemed an original and any of which shall be deemed to be complete of itself and may be introduced into evidence or used for any purpose without the production of the other counterpart or counterparts.

10.24 TIME IS OF THE ESSENCE: Time is of the essence of this Lease and all provisions contained herein.

10.25 APPROVAL OF PLANS AND SPECIFICATIONS: Neither review nor approval by or on behalf of Landlord of any Tenant's plans nor any plans and specifications for any Tenant alterations or any other work shall constitute a representation or warranty by Landlord, any of Landlord's beneficiaries, the managing agent of the Premises or any of their respective agents, partners or employees that such plans and specifications either (i) are complete or suitable for their intended purpose, or (ii) comply with Applicable Laws, it being expressly agreed by Tenant that neither Landlord, nor any of Landlord's beneficiaries, nor the managing agent of the Building or Property nor any of their respective agents, partners or employees assume any responsibility or liability whatsoever to Tenant or to any other person or entity for such completeness, suitability or compliance.

10.26 RELATIONSHIP: Landlord and Tenant disclaim any intention to create a joint venture, partnership or agency relationship.

10.27 BROKER'S FEE: Tenant covenants, represents and warrants that Tenant had no dealings or negotiations with any broker, or Agent other than the broker(s) designated in Article I, in connection with the consummation of this Lease. Landlord agrees to pay any commissions due Broker as set forth separately between Broker and Landlord. Tenant and Landlord covenant and agree to hold harmless and indemnify each other from and against any and all costs, expenses (including reasonable attorneys' fees before trial, at trial, on appeal and in bankruptcy) or liability for any compensation, commissions, or charges claimed by any broker or agent claiming by or through the indemnitor with respect to this Lease or the negotiation thereof.

10.28 RIDERS AND EXHIBITS: All Riders and Exhibits attached to this Lease and all Addendums attached to this Lease and executed by both Landlord and Tenant shall be deemed to be a part of and are hereby incorporated in this instrument.

10.29 SURVIVAL: Tenant's ongoing or unfulfilled obligations shall survive the termination of this Lease, including but not limited to payment of additional rent adjustments which may be calculated and billed after the termination of the Lease.

## ARTICLE 11

## INSURANCE AND INDEMNITY

11.1 TENANT'S INSURANCE: Tenant shall throughout the term (and any other period when Tenant is in possession of the Premises) carry and maintain, at its sole cost and expense, the following types of insurance, which shall provide coverage on an occurrence basis, with respect to the Premises, in the amounts specified and in the form hereinafter provided for. Because this is a long-term lease, the insurance requirements hereunder may be modified by Landlord from time to time, in accordance with commercially reasonable standards for similar properties, during the course of the Term. In any event, the insurance required of Tenant hereunder shall never be less than that required under the Ground Lease.

11.1.1 Commercial General Liability Insurance. Commercial general liability insurance with a combined single limit of not less than $2,000,000.00 per occurrence (General Aggregate - $2,000,000; Products Aggregate - $2,000,000) for bodily injury and property damage insuring against legal liability of the insured with respect to said Premises or arising out of the maintenance, use or occupancy thereof. Said insurance shall include, but not be limited to, independent contractor liability, products and completed operations coverage, and the Broad Form Commercial General Liability Endorsement, including personal injury and advertising liability, contractual liability and premises medical payments.

11.1.2 Automobile Liability Insurance. Comprehensive automobile liability insurance with a limit of not less than $1,000,000.00 per occurrence for bodily injury, $500,000.00 per person and $100,000.00 property damage for both owned and non-owned vehicles.

11.1.3 Umbrella Liability Insurance. Tenant shall also carry and maintain commercial umbrella liability insurance with a limit of not less that $5,000,000.00 per occurrence.

11.1.4 Property Insurance. "Special Risk" property insurance including plate glass coverage on a replacement cost basis, with coverage equal to not less than one hundred percent (100%) of the full replacement value of all personal property, decorations, trade fixtures, furnishings, equipment, alterations, leasehold improvements and betterments made by Tenant, and all other contents located or placed therein.

11.1.5 Workers' Compensation and Employees' Liability Insurance. Workers' Compensation Insurance covering all employees of Tenant, as required by the laws of the State where the Premises are located and Employees' Liability coverage subject to a limit of no less than $100,000 each employee, $100,000 each accident, and $1,000,000 policy limit.

11.1.6 Policy Form. All policies referred to above shall: (i) be taken out with underwriters licensed to do business in Florida and a "Best Rating" of "A" or "A+" (ii) name Landlord and the property manager, or their successors, as additional insured; (iii) be non-contributing with, and shall apply only as primary and not as excess to any other insurance available to Landlord or any mortgagee of Landlord; (iv) contain an undertaking by the insurers to notify Landlord and any other additional insured by certified mail not less than thirty (30) days prior to any material change, cancellation, or termination; and (v) provide that a defense against the primary insured shall not be a defense against payment to the additional insureds. Binding certificates of insurance with endorsements attached or, if required by a mortgagee, copies of such insurance policies certified by an authorized officer of Tenant's insurer as being complete and current, shall be delivered to Landlord promptly upon request. If a) Tenant fails to take out or to keep in force any insurance referred to in this Section 11, or should any such insurance not be approved by either Landlord or any mortgagee, and b) Tenant does not commence and continue to diligently cure such default within forty-eight (48) hours after written notice by Landlord to Tenant specifying the nature of such default, then Landlord has the right without assuming any obligation in connection therewith, to effect such insurance at the sole cost of Tenant and all outlays by Landlord shall be paid by Tenant to Landlord without prejudice to any other rights or remedies of Landlord under this Lease. Tenant shall not keep or use in the Premises any article which may be prohibited by any fire or casualty insurance policy in force from time to time covering the Premises or the Building.

11.2 INDEMNIFICATION OF THE PARTIES: Tenant hereby agrees to indemnify, defend and hold harmless Landlord from and against any and all liability for any loss, injury or damage, including, without limitation, all costs, expenses, court costs and reasonable attorneys' fees, imposed on Landlord by any person whomsoever, that occurs (i) in the Premises, or (ii) in the Park and that is caused by or results from the negligence or willful misconduct of Tenant, its employees, agents or contractors. The commercial liability insurance that Tenant is required to carry pursuant to Section 11.1 of this Lease shall include coverage of the foregoing contractual indemnity. Landlord hereby indemnifies Tenant from, and agrees to hold Tenant harmless against, any and all liability for any loss, injury or damage, including, without limitation, all costs, expenses, court costs and reasonable attorneys' fees, imposed on Tenant by any person

Witness:

TENANT: PBP Building # 5 LLC, a Florida limited liability company

By:

Name: D STACKHOUSE

Its: Managing Member

whomsoever, that occurs in the Building or anywhere on the Premises and that is caused by or results from the gross negligence or willful misconduct of Landlord or its employees or agents. The provisions of this paragraph shall survive the expiration or any termination of this Lease.

11.3 RELEASE AND WAIVER OF SUBROGATION RIGHTS: The parties hereto, for themselves and anyone claiming through or under them, hereby release and waive any and all rights of recovery, claim, action or cause of action, against each other, their respective agents, directors, officers and employees, for any loss or damage that may occur to the Premises or the Building, and to all property, whether real, personal or mixed, located in the Premises or the Building, by reason of any cause against which the releasing party is actually insured or, regardless of the releasing party's actual insurance coverage, against which the releasing party is required to be insured pursuant to the provisions of this Lease. This release and waiver shall apply regardless of the cause or origin of the loss or damage, including negligence of the parties hereto, their respective agents and employees. Each party agrees to provide the other with reasonable evidence of its insurance carrier's consent to such waiver of subrogation. This Section 11.3 supersedes any provision to the contrary which may be contained in this Lease.

## ARTICLE 12

## GROUND LEASE

12.1 LEASE SUBJECT TO GROUND LEASE. Landlord has leased the Lot pursuant to the Ground Lease. Tenant's rights hereunder are subject to Landlord's rights under the Ground Lease. Landlord agrees that it will use its best efforts to maintain the Ground Lease in full force and effect during the Term hereof and will use commercially reasonable efforts to enforce its rights under the Ground Lease. Tenant agrees that it will not do or cause to be done, or suffer or permit to be done, any act that would cause Landlord's rights under the Ground Lease to be impaired, terminated, forfeited or cancelled, or that would cause Landlord to be in default thereunder. If the Ground Lease is terminated for any reason, Tenant's rights under this Lease shall terminate contemporaneously therewith.

EXECUTED as a sealed instrument as of the day and year first above written.

Witnesses:

LANDLORD: POINCIANA PARTNERS LLLP, a Florida limited liability limited partnership

By: Poinciana Park, LLC, a Florida limited liability company,
by: _____
Name: D Shackhouse
Its: President
[corporate seal]

## EXHIBIT A

## PARK AREA ON WHICH BUILDING IS LOCATED, TOGETHER WITH APPROXIMATE BUILDING FOOTPRINT AND LOT LOCATION

## EXHIBIT B

## PERMITTED SUBLETTING

# EXHIBIT C

## CONSTRUCTION TERMS

(to be agreed by Tenant and Landlord)

**"Exhibit E"**

**DESCRIPTION OF THE LAND**

"Exhibit E"

**DESCRIPTION OF THE LAND**

LEGAL DESCRIPTION

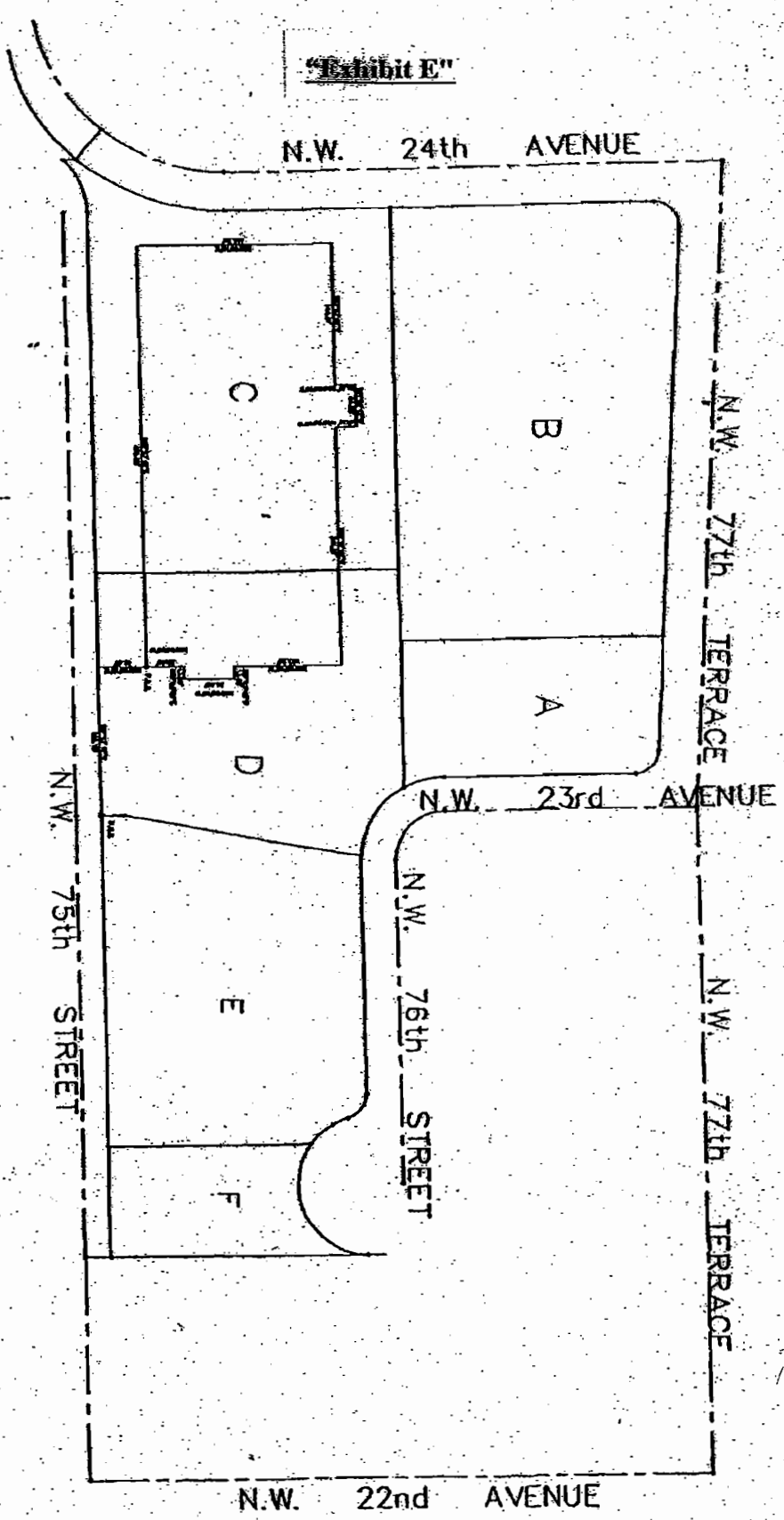
(PAD) PARCEL 5 Garage

PORTIONS OF TRACTS C AND D, POINCIANA INDUSTRIAL CENTER EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 159, PAGE 24, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. DESCRIBED AS FOLLOW:

COMMENCE AT THE SOUTHEAST CORNER OF TRACT D OF SAID PLAT BOOK 159, PAGE 54; THENCE ALONG THE SOUTH LINE OF SAID TRACT S87°53' 42W 152.15 FEET; THENCE N02°06'18"W 49.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N02°06'18"W 37.96 FEET; THENCE N87°53'42"E 13.00 FEET; THENCE N02°06'18"W 51.00 FEET; THENCE S87°53'42"W 13.00 FEET; THENCE N02°06'18"W 107.29 FEET; THENCE S87°53'42"W 241.21 FEET; THENCE N02°06'18"W 21.21 FEET; THENCE S87°53'42"W 44.58 FEET; THENCE S02°06'18"E 21.21 FEET; THENCE S87°53'42"W 144.21 FEET; THENCE S02°06'18"E 195.25 FEET; THENCE N87°53'42"E 430.00 FEET TO THE POINT OF BEGINNING.

"Exhibit E"

"Exhibit E"


N.W. 24th AVENUE
N.W. 77th TERRACE
N.W. 23rd AVENUE
N.W. 76th STREET
N.W. 75th STREET
N.W. 77th TERRACE
N.W. 22nd AVENUE
A
B
C
D
E
F

**"Exhibit F"**

**PLANS AND SPECIFICATIONS FOR THE GARAGE**

"Exhibit F"

PLANS AND SPECIFICATIONS FOR THE GARAGE
(Included by reference)

PLANS

POINCIANA BIOPHARMACEUTICAL RESEARCH PARK PARKING GARAGE 1
FINFROCK DESIGN INC.
ISSUED FOR - BUILDING PERMIT 9-1-05

| | |
|---|---|
| SHEET NUMBERS: | A001 –A002 |
| | A100 – A106 |
| | A301 – A303 |
| | A401 – A402 |
| | A501 – A505 |
| | A601 |
| | A701 |
| | A801 |
| | A901 – A906 |
| | S101 |
| | S201 – S205 |
| | S301 – S304 |
| | S401 – S403 |
| | S501 – S502 |
| | E101 – E103 |
| | E301 |
| | E501 – E503 |
| | FP-1 OF 3 – FP-3 OF 3 |
| | P101 – 107 |

SPECIFICATIONS

FINFROCK
PROJECT MANUEL
PARKING GARAGE FOR POINCIANA BIOPHAMACEUTICAL RESEARCH PARK
MIAMI-DADE COUNTY, FLORIDA
DATE: SEPTEMBER 1, 2005
FINFROCK PROJECT #0523

| | |
|---|---|
| PAGES: | 01110-1 TO 01110-4, SUMMARY OF WORK |
| | 01120-1 TO 01120-2, MULTIPLE CONTRACT SUMMARY |
| | 01250-1 TO 01250-5, CONTRACT MODIFICATIONS PROCEDURES |
| | 01310-1 TO 01310-3, PROJECT MEETINGS |
| | 01330-1 TO 01330-6, SUBMITTAL PROCEDURES |
| | 01410-1 TO 01410-2, REGULATORY REQUIREMENTS |
| | 01450-1 TO 01450-2, QUALITY CONTROL |
| | 01451-1 TO 01450-3, TESTING LABORATORY SERVICES |

01500-1 TO 01500-6, TEMPORARY FACILITIES AND CONTROLS
01600-1 TO 01600-4, PRODUCT REQUIREMENTS
01730-1 TO 01730-3, CUTTING AND PATCHING
01741-1 TO 01741-1, CONSTRUCTION CLEANING
01742-1 TO 01742-3, FINAL CLEANING
01770-1 TO 01770-4, CLOSEOUT PROCEDURES
01780-1 TO 01780-2, WARRANTIES AND BONDS
02220-1 TO 02220-2, SITE DEMOLITION
02230-1 TO 02230-2, SITE PREPARATION
02315-1 TO 02315-3, EXCAVATION, BACKFILL & COMPACTION
02360-1 TO 02360-3, TERMITE CONTROL
02760-1 TO 02760-4, PAVEMENT MARKINGS
02770-1 TO 02770-2, CONCRETE CURBS, GUTTERS& SIDEWALKS
02890-1 TO 02890-3, TRAFFIC SIGNS AND SIGNALS
03300-1 TO 03300-33, CAST-IN PLACE CONCRETE
03400-1 TO 03400-16, STRUCTURAL PRECAST CONCRETE
05500-1 TO 05500-4, METAL FABRICATIONS
05520-1 TO 05520-3, STEEL HANDRAILS AND RAILINGS
05710-1 TO 05710-2, ALUMINUM GRILLES
06100-1 TO 06100-2, ROUGH CARPENTRY
07160-1 TO 07160-3, IRON OXIDE WATERPROOFING
07170-1 TO 07170-3, BENTONITE WATERPROOFING
07180-1 TO 07180-4, WATERPROOFING MEMBRANE
07710-1 TO 07710-3, MANUFACTURED ROOF SPECIALTIES
07840-1 TO 07840-3, FIRE STOPPING
07920-1 TO 07920-4, JOINT SEALANTS
08110-1 TO 08110-5, STEEL DOORS AND FRAMES
08710-1 TO 08710-5, DOOR HARDWARE
09900-1 TO 09900-4, PAINTING
09980-1 TO 09980-4, ACRYLIC TEXTURED COATING
10200-1 TO 10200-3, LOUVERS AND DAMPERS
10440-1 TO 10440-4, SIGNAGE
10520-1 TO 10520-3, FIRE EXTINGUISHERS AND CABINETS
10602-1 TO 10602-3, CHAIN LINK FENCE AND GATES
10720-1 TO 10720-3, ARCHITECTURAL LOUVERS
13900-1 TO 13900-5, FIRE SUPPRESSION
14240-1 TO 14240-6, HYDRAULIC ELEVATORS
14240-1 TO 14240-5, ELECTRIC ELEVATORS
15400-1 TO 15400-4, PLUMBING
16000-1 TO 16000-4, ELECTRICAL

**"Exhibit G"**

**ACCEPTANCE AGREEMENT**

**EXHIBIT G**

**ACCEPTANCE AGREEMENT**

**POINCIANA GARAGE PROJECT**

This Acceptance Agreement, dated as of _____, 200___, made between PBP BUILDING No. 5, LLC, a Florida limited liability company (hereinafter referred to as "Seller"), and MIAMI-DADE COUNTY, a political subdivision of the State of Florida (hereinafter referred to as "Buyer");

**WITNESSETH:**

WHEREAS, Seller and Buyer entered into an Agreement of Purchase and Sale dated _____, 200__ for the purchase of a 1,583 space parking garage in the Poinciana Industrial Center (aka Poinciana Biopharmaceutical Park) in the Liberty City section of Miami-Dade County, Florida _____; and

WHEREAS, Seller and Buyer agreed to execute this Acceptance Agreement to confirm the actual work performed in the construction of the parking garage, and the existence of any needed work or repairs, and for other purposes.

NOW, THEREFORE, pursuant to the provisions of the Agreement of Purchase and Sale, Seller and Buyer mutually agree as follows:

1. The 1,583 space parking garage received its Certificate of Occupancy on _____, 200 ____.

2. The parking garage is in need of the following work and/or repairs:

_____

_____

_____

_____

_____ (additional pages may be attached if necessary).

3. Buyer shall not take possession of the parking garage unless and until all of the above-mentioned work and/or repairs are completed on a timely basis in accordance with the Agreement of Purchase and Sale.

4. Seller acknowledges that all of the work and/or repairs that are to be performed by Seller in or about the parking garage, shall be satisfactorily completed within the time limit afforded by the Agreement of Purchase and Sale.

5. Buyer further certifies that all other conditions of the parking garage, from its inspection, are complete and properly performed as required of Seller as of this date.

6. Seller and Buyer acknowledge pursuant to the terms and conditions of the Agreement of Purchase and Sale that the items described in paragraph 2 above, and, if necessary, as may be attached hereto, remain to be completed or corrected, which items Seller agrees to accomplish within the required time prior to the Closing Date (if no such items, so state).

7. All of the above recitals are true and correct and incorporated herein by reference.

[SIGNATURE APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed and sealed this Agreement as of the date and year first above stated.

Signed, Sealed and Delivered in the Presence of:

_____

Print Name: _____

_____

Print Name: _____

**SELLER:**

PBP BUILDING, No. 5, LLC,
a Florida limited liability company

By: _____
Dennis C. Stackhouse

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this day, before me, a duly authorized representative in the State aforesaid and in the County aforesaid executed the foregoing instrument, and it was acknowledged before me by Dennis C. Stackhouse, as Managing Member of PBP Building No. 5, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or has produced _____ _____ as identification.

WITNESS my hand and official seal in the County and Sate last aforesaid this ___ day of ___, 200___.

By: _____
Notary Public

Print Name: _____

My Commission Expires: _____

_____

_____
Witness

_____
Witness

**ATTEST:**

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

**BUYER:**

MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida by its Board of County Commissioners

By:_____
_____, County Manager

Date signed by Buyer: _____

**"Exhibit H"**

**POINCIANA DEVELOPMENT GARAGE BUDGET**

Exhibit H

## POINCIANA DEVELOPMENT GARAGE BUDGET

| Parking Garage Direct Costs | | 2006 Current Increases |
|---|---|---|
| Finfrock Contract | | $ 13,206,322.00 |
| Site Work - 1 | | $ 860,622.75 |
| Contaminated Soils | | $ 1,875,000.00 |
| Permits/Fees | | $ 300,000.00 |
| Construction Bond | | $ 100,000.00 |
| Legal/Accounting | | $ 64,598.50 |
| Site Engineering | | $ 45,000.00 |
| Landscape Design | | $ 58,250.00 |
| Landscaping | | $ 100,000.00 |
| Utility Relocation | | $ 100,000.00 |
| Fencing | | $ 25,000.00 |
| Police Details | | $ 25,000.00 |
| Dev. Overhead | | $ 140,000.00 |
| Loan Fees | | $ 316,000.00 |
| Loan Interest | | $ 700,000.00 |
| Construction Management - 2 | | $ 300,000.00 |
| Project Development | | $ 20,708.00 |
| Lender's Inspections | | $ 12,000.00 |
| Garage Control Gates | | $ 30,000.00 |
| Garage Security System | | $ 150,000.00 |
| Geotechnical Reports | | $ 75,000.00 |
| Subtotal | | $ 18,503,501 |
| Attributable Costs* | 17% | $ 1,420,153 |
| Hard Cost Contingency | 5% | $ 925,175 |
| Land Release | | $ 1,000,000 |
| Extension Loan Maximum Interest** | | $ 1,693,284.33 |
| Grand Total | | $ [illegible] |

* The Attributable Costs of the parking garage is the percentage of the total Phase I Construction Costs that can be attributed to the construction of the garage. The Attributable Costs are a percentage of the Total Phase I Costs, and are calculated by dividing the subtotal garage costs by the estimated total Phase I Construction Costs. ** The Extension Loan Interest is calculated for the period of 1 year at 7.75% interest, the maximum amount that will be included in the County's Purchase Price.. This amount will be recalculated at the time of Closing to reflect the actual interest paid.

| Phase I Construction Cost Breakdown | % of Total Project | |
|---|---|---|
| GARAGE (BLD#5) | 18% | $ 18,503,501.25 |
| BUILDING #2 | 11% | $ 12,000,000 |
| BUILDING #6A | 57% | $ 60,000,000 |
| BUILDING 6B | 14% | $ 15,000,000 |
| Total Phase I Building Costs | 100% | $ 105,503,501 |

| Attributable Phase One Project Costs | | |
|---|---|---|
| Land Acquisition | | $ 68,000.00 |
| Demolition | | $ 60,000.00 |
| Telephone Impact | | $ 30,000.00 |
| Site Engineering | | $ 250,000 |
| Site Work | | $ 2,200,000 |
| Landscape Design | | $ 89,000 |
| Landscaping | | $ 350,000 |
| Project Management | | $ 650,000 |
| Dev Overhead | | $ 700,000 |
| Site Security | | $ 200,000 |
| Community Relations | | $ 180,000 |
| Environmental testing | | $ 54,500 |
| Legal | | $ 350,000 |
| Insurance | | $ 100,000 |
| Appraisal | | $ 15,000 |
| Accounting | | $ 25,000 |
| Utility Fees | | $ 50,000 |
| Permit Expeditor | | $ 350,000 |
| Development Fee | | $ 2,500,000 |
| Traffic Study | | $ 15,000 |
| Zoning Fees | | $ 37,340 |
| Zoning Legal | | $ 80,000 |
| Total | | $ 8,353,840 |
| Costs Attributed to Garage | 17% | $ 1,420,153 |



EXHIBIT H

**"Exhibit I"**

**PERSONAL GUARANTEES FROM DENNIS STACKHOUSE**

## PERSONAL GUARANTY

**FOR VALUE RECEIVED** and in consideration for and as an inducement to **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida (hereinafter "County") to enter into the Agreement of Purchase and Sale with **POINCIANA PARTNERS, LLLP, PBP No. 5, LLC, PBP No. 6, LLC**, and **MIAMI-DADE EMPOWERMENT TRUST, INC.**, dated _____, 200___, the undersigned, Dennis C. Stackhouse, an individual (hereinafter "Guarantor"), does hereby unconditionally and irrevocably guaranty to the County the punctual construction of two (2) buildings in the Poinciana Industrial Center, also known as the Poinciana Biopharmaceutical Park (hereinafter "Park"), in accordance with the plans and specifications of Phase I of the Park, and the observance of all of terms, covenants, conditions and agreements that the undersigned is to comply with as provided in the above-mentioned Agreement of Purchase and Sale (hereinafter "Agreement"), which is incorporated herein by reference, for which the Guarantor shall be jointly and severally liable with Poinciana Partners, LLLP, and PBP No. 6, LLC, Poinciana Partners, LLLP, and PBP No. 6, LLC (together such entities shall hereinafter be described as "Developer"). If any default or failure on the part of the PBP No. 6, LLC and/or Developer to timely construct Building 6A and/or Building 6B in the Phase I portion of the Park shall occur, the undersigned does hereby covenant and agree to assume any and all liability for the timely construction of the two (2) buildings, together with the costs reasonably incurred by the County in connection therewith, including, without limitation, any and all attorneys' fees.

The undersigned does hereby acknowledge and consent that should the PBP No.6, LLC and/or the Developer fail to timely construct both Building 6A and Building 6B, in accordance with the plans and specifications of Phase I, and in accordance with of all of terms, covenants, conditions and agreements as provided for in the Agreement, including that Building 6A shall be completed within thirty (30) months from the effective date of the Agreement, and/or that Building 6B shall be completed within thirty-six (36) months from the effective date of the Agreement, that the undersigned shall be in default under this Personal Guaranty and will be liable for any and all costs associated with the construction and completion of Building 6A and Building 6B to the County, without limitation, and for any and all related sum or sums associated with the County, or its designee, or assignee in constructing, or completing the construction of Building 6A and/or Building 6B. Further, the undersigned hereby agrees to indemnify, defend and hold the County harmless from and against any and all cost, liability and expense, including, but not limited to attorneys' fees for any action, claim, lawsuit brought against the County in relationship to the failure of PBP No. 6, LLC and/or the Developer to timely construct Building 6A and/or Building 6B, as well as for any losses or damages suffered by the County in relationship to the failure of PBP No. 6, LLC and/or the Developer to timely construct Building 6A and/or Building 6B.

The institution or maintenance of any action or proceeding by any third-party to recover any sum or sums that may be or will become due under any contract or other understanding should the Poinciana Partners, LLLP and/or PBP No. 6, LLC fail to timely

construct Building 6A and Building 6B, or to secure the performance of any other terms in such contract or understanding, shall not preclude the County from instituting and maintaining any action or proceeding against the Guarantor under this Personal Guaranty.

The undersigned does hereby consent that the County may avail itself of or exercise any and all of the rights and remedies against the Guarantor provided by law or by the Agreement, and may proceed against the Guarantor without first prosecuting or exhausting any remedy or claim against the PBP No. 6, LLC, Developer or any of its agents or subsidiaries. The undersigned agrees that the County may secure and keep any amount held in escrow from the sale and purchase of a commercial parking garage from PBP No. 5, LLC for the failure of PBP No. 6, LLC to timely construct Building 6A and/or Building 6B, and that the County may still proceed against the undersigned for its failure to ensure the timely completion of Building 6A and/or Building 6B for any cost of construction or other cost or expense, including, but not limited to attorneys' fees, over and above the amount the County obtain from the escrow account.

The undersigned does hereby further consent that any change, modification or amendment in the construction timetable or any other terms or conditions for the completion of Building 6A and/or Building 6B shall have no effect, whatsoever, with regard to this Personal Guaranty, irrespective of whether or not the undersigned is aware of such change, modification or amendment, unless the County agrees to such change, modification or amendment as evidenced in a written instrument signed by the County. The undersigned does consent to any subsequent change, modification or amendment to the construction timetable, as well as to the plans and specifications for the construction of Building 6A and Building 6B, as well as to any change, modification or amendment to the Agreement, all of which may be made without notice to or consent of the undersigned and without in any manner releasing or relieving the undersigned from any liability under this Personal Guaranty.

The undersigned does hereby agree that the bankruptcy, dissolution, winding-up and/or cessation of business of Poinciana Partners, LLLP, and/or PBP No. 6, LLC shall have no effect on the obligations of the undersigned hereunder. The undersigned does hereby further agree that in respect to any payment made by the undersigned to the County hereunder, the undersigned shall not have any rights to Building 6A, Building 6B or the land that the buildings sit upon, or otherwise to stand in the place of the County so as to compete with the County as owner of such buildings or land.

The undersigned hereby waives and agrees not to assert: (a) any right to require the County to proceed against the PBP No. 6, LLC, Developer, or any other guarantor or person or to pursue any other security or remedy before proceeding against the undersigned; (b) any defense based on the validity or enforceability of the Agreement or any other promise or understanding; (c) any right or defense that may arise by reason of the incapacity, lack of authority, death or disability of the PBP No. 6, Developer or any other person or entity; (d) any right or defense arising by reason of the absence, impairment, modification, limitation, destruction or cessation (in bankruptcy, by an election of remedies, or otherwise) of the liability of PBP No. 6, the Developer of the

subrogation rights of the undersigned or of the right of the undersigned to proceed against Poinciana Partners, LLLP and/or PBP No. 6, LLC for reimbursement; (e) any right, statutorily or otherwise, or defense based upon the absence of any or all presentments, demands (including any demand for performance), notices (including notices of any adverse change in the financial status of Poinciana Partners, LLLP and/or PBP No. 6, LLC, notices of any other facts which increase the risk to the undersigned, notices of non-performance made by anyone or entity, and notices of acceptance of this Personal Guaranty) and protests of each and every kind; (f) the defense of any statute of limitations in any action under or related to this Personal Guaranty or the Agreement; and (g) any right or defense based on a lack of diligence or failure or delay by the County in enforcing its rights under this Personal Guaranty or the Agreement. The undersigned hereby waives and agrees not to assert or take advantage of any right to interfere with or impede any right by the County under this Personal Guaranty to secure, take, levy, lien, or garnish any salary, income, asset or investment of the undersigned, in any manner, whatsoever. Without limiting the generality of any of the covenants and agreements of the undersigned set forth in this Personal Guaranty, the undersigned hereby waives any and all benefits or rights that he may have under Florida law, which require or may require the County to afford the undersigned additional rights, or protections not specifically described or waived in this Personal Guaranty.

Neither this Personal Guaranty, nor any of the provisions hereof can be modified, waived or terminated, except by a written instrument signed by the County. The undersigned may not assign this Personal Guaranty. The provisions of this Personal Guaranty shall apply to, bind and inure to the benefit of the undersigned and the County and their respective heirs, legal representatives, successors and assigns. The undersigned, if there be more than one, shall be jointly and severally liable hereunder, and for purposes of such several liability the word "undersigned" and/or "Guarantor" wherever used herein shall be deemed to be interchangeable terms, and shall be construed to refer to each of the undersigned parties separately, all in the same manner and with the same effect as if each of them had signed separate instruments, and this Personal Guaranty shall not be revoked or impaired as to any of such parties by the death of another party or by revocation or release of any obligations hereunder of any other party.

Should the County retain counsel and/or institute any suit against the undersigned to enforce this Personal Guaranty or any covenants or obligations hereunder, then the undersigned shall pay to the County, upon demand, all attorneys' fees, costs and expenses, including, without limitation, court costs, filing fees, recording costs, and all other costs and expenses incurred in connection therewith. This Personal Guaranty shall be governed by and construed in accordance with the laws of the State of Florida, and the undersigned hereby submits to the jurisdiction of the courts of the State of Florida. The undersigned hereby waives any right to a trial by jury. The undersigned agrees to submit to arbitration should the County decide to bring any action under this Personal Guaranty to arbitration.

Any notice or other communication to the County shall be sent in accordance with the notice provisions of the Agreement. Notices to the undersigned shall be sent in

accordance with the notice provisions of the Agreement for Poinciana Partners, LLLP, and to the following address: Akerman Senterfitt, One S.E. Third Avenue, Miami, Florida 33131, Attention Julie A.S. Williamson, Esquire. In the event that the undersigned's notice address as set forth above changes, Guarantor agrees to provide written notice to the County of such change in address.

The undersigned further agrees that this Personal Guaranty shall not be construed or interpreted more strictly against the County for any reason whatsoever.

This Personal Guaranty shall become effective, without re-execution, upon the closing date of the conveyance of the commercial parking garage structure and the land, as described in the Agreement, including the payment by the County of the purchase price as described and anticipated in the Agreement.

**IN WITNESS WHEREOF**, the undersigned has executed this Personal Guaranty, as of the first date written above, with the intent that it be legally binding and enforceable.

GUARANTOR:

DENNIS C. STACKHOUSE

By: _____
Dennis C. Stackhouse

State of Florida
County of Miami Dade

Sworn to and subscribed before me this 15 day of Jan 2007, by Dennis C. Stackhouse, who is personally known to me (or ~~has presented _____ as identification~~).

_____
Notary Public of the State of Florida
[SEAL]
My commission expires:

JULIE A.S. WILLIAMSON
Notary Public - State of Florida
My Commission Expires Sep 20, 2006
Commission # DD149387
Bonded By National Notary Assn.

# Memorandum

MIAMI-DADE COUNTY

**Date:** January 25, 2007

**To:** Honorable Chairman Bruno A. Barreiro
And Members, Board of County Commissioners

**From:** George M. Burgess
County Manager

**Subject:** Purchase of a parking garage located at theoretical NW 24th Avenue and NW 25th and 75th Street, Miami-Dade County, Florida on land owned by the Miami-Dade Empowerment Trust known as Poinciana Industrial Center

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**This supplement is to clarify the wording of two default provisions under the agreement; clarify the wording of the Personal Guaranty; to allow for choosing the escrow agent at a later date; add clarification language regarding projected completion dates of the garage and office buildings provided by the developer; describe the ownership position of the Empowerment Zone Trust in greater detail; provide additional information regarding the cost of building this and other parking garages; and make scrivener error corrections to the Purchase and Sale Agreement and Personal Guaranty.**

A proposed construction schedule (ATTACHMENT C) has been added to clarify the dates by which each building of Phase I of the Biopharmaceutical Park is to be completed. The following wording has been added to the Manager's Memo, "The garage is scheduled for completion [see ATTACHMENT C] in February 2008, Building 6A in November 2007 and Building 6B in November 2008. A 59-unit apartment complex to serve as a housing component for employees and community residents is scheduled to be completed in May 2008. This schedule indicates that the office building containing the JMH clinic and offices, one of the main "public purpose" users for the garage, is scheduled to be completed two to three months prior to the garage."

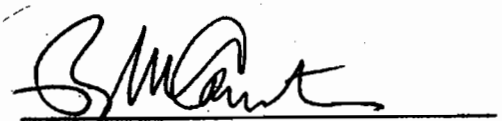
Analysis of garage construction (ATTACHMENT D) and an article from the November 2006 National Parking Association's, PARKING magazine (ATTACHMENT E) have been added to provide more information regarding the current cost of garage construction. The following wording has been added to the Manager's Memo, "County staff has determined by a recent cost analysis of garage construction by the developer of Overtown Transit Village [see ATTACHMENT D] that the general cost (including all hard and soft costs) of constructing comparable, multi-level, pre-cast concrete parking structures is estimated to be approximately $16,000 per space. By way of further comparison, the County recently purchased the 586 spaces of the Overtown I building for approximately $12,000 per space based on a transaction negotiated in 2003. A November 2006 article from the National Parking Association's publication, PARKING [see ATTACHMENT E], cited the annual survey done by the national parking consulting firm, Carl Walker Inc., in March 2006, which put the national median price per parking space at $13,588 per space or $40.71 per square foot (334 sq. ft. per space) not including any soft costs (architect's fees, financing etc.). Engineering News Record, in their latest estimate of construction cost inflation nationally, reports an increase of 2.6% from last year at this time. Multiplying this rate by the National Parking Association median cost indicates a present construction cost of $13,941. It should finally be pointed out that the projected final cost of the Poinciana garage will be somewhere between the maximum of $23,542,114 ($14,872 per space) and $19,973,830 ($12,618 per space) depending on the final date of purchase and the final cost of environmental remediation described below under PURCHASE PRICE."

It was initially believed that the Miami-Dade Empowerment Trust had purchased its 5% interest in the Poinciana Partners LLLP for a $3,000,000 loan to advance the construction of the garage. This has been corrected to indicate that the $3 million loan has no connection to the Trust's interest in Poinciana Partners LLLP. The following wording has been changed in the Manager's Memo, "The Developer must repay in full, based on the terms of its agreement with MDET, the $3 million loan MDET has given to the Developer as an advance for the construction of the garage from the proceeds of the construction loan with Citibank."

The definition of the purchase price has been restated to better describe the variables which could effect to total amount paid by the County for the Garage. The following wording has been added to the Manager's Memo, "The final purchase price, however, will not exceed $23,542,114 which represents the purchase price of $19,973,830 plus the maximum interest which could be paid ($1,693,284 for 24 months at 7.75%) plus the maximum cost to mitigate the Contaminated Soils ($1,875,000) for a maximum total amount of $23,542,114. The final amount will be determined when the County determines the Closing Date and reviews the final Contaminated Soil mitigation charges."

As to the AGREEMENT OF PURCHASE AND SALE:

- On handwritten page 16, article D. ESCROW previously read, "The parties hereby agree that the financial institution providing the construction loan for the garage shall from the time of Closing act as an escrow agent for the parties..." The sentence now reads, "The parties hereby agree that the financial institution **acceptable to both Seller and the County** shall from the time of Closing act as an escrow agent for the parties..."
- On handwritten page 23, article 14. Default (G) previously read, "An event of default under this Agreement shall be considered and event of default under the Lease and under the sublease,..." The sentence now reads, "An event of default under this Agreement shall be considered and event of default under the Lease **of the Land** and under the Sublease **of the Land**,..."
- On handwritten page 24, article 14. Default (H) previously read, "The parties agree, notwithstanding anything else in this Agreement that should construction of the garage not be completed within twenty-four (24) months,..." The sentence now reads, "The parties agree that should construction of the garage not be completed within twenty-four (24) months,..."
- On handwritten page 136 second to last paragraph was changed to satisfy the construction lender. The Personal Guaranty previously read, " The Personal Guaranty shall become effective, without re-execution, upon the closing date of the conveyance of the commercial parking garage structure and the land, as described in the Agreement, including the payment by the County of the purchase price as described and anticipated in the Agreement." The paragraph now reads, "Notwithstanding anything herein or in any other agreement to the contrary, this Personal Guaranty shall be of no force or effect and shall not become effective until the closing of the conveyance of the commercial parking garage structure and the land, as described in the Agreement, including the payment by the County of the purchase price as described and anticipated in this Agreement. Upon such closing, this Personal Guaranty shall become effective automatically, without the need for this Personal Guaranty to be re-executed."



Roger M. Carlton
Assistant County Manager