

MEMORANDUM

Agenda Item No. 5(E)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: March 5, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving the bifurcation of the Brownsville Metrorail Transit Oriented Development Amended and Restated Lease Agreement and Amendment No. 1, and, revising the inventory list of real properties available for affordable housing after a public hearing to include a certain County-owned property identified by Folio No. 30-3121-059-0011 in accordance with section 125.379 of the Florida Statutes; authorizing assignment of the Phase V lease to Brownsville Village V, LTD, and the Amended and Restated Phase V Lease Agreement between Miami-Dade County And Brownsville Village V, LTD., for the lease of County-owned property at the Brownsville Metrorail Station in accordance with section 125.379, Florida Statutes for the purpose of developing affordable housing; and authorizing the County Mayor to execute the agreements, to exercise all rights and provisions contained therein, including termination, and to take all actions to effectuate same, and waiving Implementing Order 8-4 requiring signature on said documents

Resolution No. R-173-24

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Keon Hardemon.



Geri Bonzon-Keenan
County Attorney

GBK/gh

MDC001



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: March 5, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(E)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(E)
3-5-24

RESOLUTION NO. R-173-24

RESOLUTION APPROVING THE BIFURCATION OF THE BROWNSVILLE METRORAIL TRANSIT ORIENTED DEVELOPMENT AMENDED AND RESTATED LEASE AGREEMENT AND AMENDMENT NO. 1, AND, REVISING THE INVENTORY LIST OF REAL PROPERTIES AVAILABLE FOR AFFORDABLE HOUSING AFTER A PUBLIC HEARING TO INCLUDE A CERTAIN COUNTY-OWNED PROPERTY IDENTIFIED BY FOLIO NO. 30-3121-059-0011 IN ACCORDANCE WITH SECTION 125.379 OF THE FLORIDA STATUTES; AUTHORIZING ASSIGNMENT OF THE PHASE V LEASE TO BROWNSVILLE VILLAGE V, LTD, AND THE AMENDED AND RESTATED PHASE V LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND BROWNSVILLE VILLAGE V, LTD., FOR THE LEASE OF COUNTY-OWNED PROPERTY AT THE BROWNSVILLE METRORAIL STATION IN ACCORDANCE WITH SECTION 125.379, FLORIDA STATUTES FOR THE PURPOSE OF DEVELOPING AFFORDABLE HOUSING; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENTS, TO EXERCISE ALL RIGHTS AND PROVISIONS CONTAINED THEREIN, INCLUDING TERMINATION, AND TO TAKE ALL ACTIONS TO EFFECTUATE SAME, AND WAIVING IMPLEMENTING ORDER 8-4 REQUIRING SIGNATURE ON SAID DOCUMENTS

WHEREAS, on or about May 4, 2009, Miami-Dade County entered into a lease agreement with Rainbow Housing Corporation, a Florida not-for-profit (hereinafter "Rainbow"), for the development of a transit-oriented development at the Brownsville Metrorail Station (the "Brownsville Metrorail Transit Oriented Development Amended and Restated Lease Agreement") pursuant to section 125.38, Florida Statutes; and

WHEREAS, on or about November 8, 2012, the Brownsville Metrorail Transit Oriented Development Amended and Restated Lease Agreement was amended by Amendment No. 1 (the “Brownsville Metrorail Transit Oriented Development Amended and Restated Lease Agreement and Amendment No. 1 together the “Master Lease”); and

WHEREAS, the Master Lease contemplated the development of a five phase, approximately 5.2 acre, joint development project; and

WHEREAS, Phases I through IV have been constructed and consist of 401 affordable housing units in four rental buildings, with 100 parking spaces for Metrorail riders; and

WHEREAS, Phase V will include an eight story apartment building comprised of affordable housing units for the entire duration of the lease (the “Affordable Housing Development”); and

WHEREAS, section 125.379, Florida Statutes, authorizes the County to enter into long-term lease agreements for the purpose of developing affordable housing; and

WHEREAS, Rainbow is requesting to bifurcate Phase V of the Master Lease and assign the Phase V Lease rights to Brownsville Village V, LTD., for the purpose of developing affordable housing; and

WHEREAS, on or about February 13, 2024, the Federal Transit Administration granted its concurrence for the bifurcation of the Master Lease and the assignment of the Phase V Lease to Brownsville Village V, LTD.,

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

Section 1. Approves the foregoing recitals and incorporates them into this resolution.

Section 2. After a public hearing and in accordance with section 125.379, Florida Statutes, revises the County's affordable housing inventory list to add the County-owned property identified by Folio No. 30-3121-059-0011 located at the Brownsville Metrorail Station.

Section 3. Waives the signature requirements of Implementing Order 8-4 and approves the bifurcation of the Master Lease and, pursuant to section 125.379, Florida Statutes, the assignment of the Phase V Lease to Brownsville Village V, LTD., and the Amended and Restated Phase V Lease Agreement between Miami-Dade County and Brownsville Village V, LTD., in substantially the form attached hereto and made a part hereof as Composite Exhibit 1, for the lease of County-owned property at the Brownsville Metrorail Station.

Section 4. Waives the signature requirements of Implementing Order 8-4 and authorizes the County Mayor or the County Mayor's designee to execute the Amended and Restated Phase V Lease Agreement between Miami-Dade County and Brownsville Village V, LTD., and the Bifurcation of Amended and Restated Lease Agreement for and on behalf of Miami-Dade County and to exercise all rights and provisions contained therein, including termination, and such other ancillary agreements and documents, as contemplated by Section 4.19 of the bifurcated lease, necessary to complete financing and the construction of the Affordable Housing Development, and to take all actions necessary to effectuate same.

Section 5. Directs the County Mayor or the County Mayor's designee, in accordance with Resolution No. R-791-14, to provide the Miami-Dade County Property Appraiser with a copy of the Amended and Restated Phase V Lease Agreement between Miami-Dade County and Brownsville Village V, LTD., and to assign a monitor for the foregoing transaction.

Section 6. Further directs the County Mayor or the County Mayor's designee, pursuant to Resolution No. R-974-09, to record in the public record the lease or memorandum of the ground lease, and all documents creating or reserving a real property interest in favor of the County and to provide a copy of such recorded documents to the Clerk of the Board within 30 days of execution and final acceptance. This Board directs the Clerk of the Board, pursuant to Resolution No. R-974-09, to attach and permanently store a recorded copy of any instrument provided in accordance herewith together with this resolution.

The Prime Sponsor of the foregoing resolution is Commissioner Keon Hardemon. It was offered by Commissioner **Marleine Bastien**, who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** and upon being put to a vote, the vote was as follows:

	Oliver G. Gilbert, III, Chairman	aye	
	Anthony Rodríguez, Vice Chairman	aye	
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	absent	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	absent	Eileen Higgins	absent
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of March, 2024. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



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

JUAN FERNANDEZ-BARQUIN, CLERK

By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in dark ink, appearing to read "B. Libhaber", is written over a horizontal line.

Bruce Libhaber

This instrument prepared by,
and after recording return to:

Isabel C. Diaz, Esq.
Holland & Knight LLP
701 Brickell Avenue, Suite 3300
Miami, Florida 33131

BIFURCATION OF AMENDED AND RESTATED LEASE AGREEMENT
(Brownsville Phase V)

THIS BIFURCATION OF AMENDED AND RESTATED LEASE AGREEMENT (Brownsville Phase V) (this “Agreement”) is made as of the ____ day of _____, 2024 (the “Effective Date”) by and among (i) MIAMI-DADE COUNTY, a political subdivision of the State of Florida, through the Department of Transportation and Public Works (“Landlord”), (ii) RAINBOW HOUSING CORPORATION, a Florida not-for-profit corporation (“Rainbow”), (iii) BROWNSVILLE VILLAGE V, LTD., a Florida limited partnership (“Phase V Tenant”), and (iv) CDG BROWNSVILLE HOLDINGS, LLC, a Florida limited liability company (“Holdings”). Landlord, Rainbow, Phase V Tenant and Holdings are sometimes referred to herein individually as a “Party” and collectively as the “Parties”.

W I T N E S S E T H:

WHEREAS, Landlord and Rainbow (as successor by merger to St. Agnes Housing Corporation, a Florida not-for-profit corporation) are the current “Landlord” and “Tenant”, respectively, under that certain Brownsville Metrorail Station Transit Oriented Development Amended and Restated Lease Agreement dated as of May 4, 2009, as evidenced by that certain Memorandum of Lease recorded on May 6, 2010 in Official Records Book 27275, at Page 4731, of the Public Records of Miami-Dade County, Florida, and as amended by Amendment No. 1 to Brownsville Metrorail Station Transit Oriented Development Amended and Restated Lease Agreement dated March of 2012 (as heretofore and hereafter assigned, bifurcated and amended from time to time, collectively, the “Master Lease”). Pursuant to the Master Lease, Landlord leased to Rainbow all of the real property legally described on Exhibit A attached hereto and made a part hereof (as affected by any prior assignments, bifurcations or amendments to the Master Lease, the “Master Parcel”); and

WHEREAS, Rainbow and Holdings are the current “Tenant” and “Subtenant”, respectively, under that certain Brownsville Station Metrorail Sublease dated May 4, 2009, as evidenced by that certain Memorandum of Sublease recorded in Official Records Book 27275, Page 4736, of the Public Records of Miami-Dade County, Florida (as assigned and amended from

time to time, collectively, the “Sublease”), pursuant to which Rainbow has subleased to Holdings the Master Parcel for the purposes described in the Sublease. Holdings, as “Tenant” under the Sublease, has entered into various sub-subleases for portions of the Master Parcel; and

WHEREAS, Holdings and Phase V Tenant are the current “Sublessor” and “Sublessee”, respectively, under that certain Brownsville Station Metrorail Sub-Sublease (Phase Five) dated as of October 22, 2013 (as assigned and amended from time to time, the “Phase V Sublease”), pursuant to which Holdings has sub-subleased to Phase V Tenant a portion of the Master Parcel legally described on Exhibit B attached hereto and made a part hereof (the “Phase V Parcel”); and

WHEREAS, pursuant to and in accordance with this Agreement, the Parties have agreed, among other things, to bifurcate the Master Lease to facilitate the direct lease of the Phase V Parcel by Phase V Tenant from Landlord, which will, inter alia, render the Sublease with respect to the Phase V Parcel and the Phase V Sublease unnecessary. To effectuate such bifurcation and direct lease, (i) Landlord, Rainbow and Phase V Tenant have agreed to bifurcate the Master Lease pursuant to this Agreement, (ii) Landlord and Phase V Tenant have agreed to enter into a direct lease for the Phase V Parcel pursuant to that certain Brownsville Metrorail Station Transit Oriented Development Lease Agreement (Phase V) of even date herewith (the “Bifurcated Lease”), which Bifurcated Lease will be evidenced by the Memorandum of Brownsville Metrorail Station Transit Oriented Development Lease Agreement (Phase V) being recorded in the Public Records of Miami-Dade County, Florida, contemporaneously herewith, (iii) Landlord and Rainbow have agreed to terminate the Master Lease solely as to the Phase V Parcel pursuant to this Agreement, (iv) Rainbow and Holdings have agreed to terminate the Sublease with respect to the Phase V Parcel, and (v) Holdings and Phase V Tenant have agreed to terminate the Phase V Sublease for all purposes;

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

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

2. Master Lease Bifurcation. Landlord and Rainbow agree that the Master Lease is hereby bifurcated and partially terminated solely as to the Phase V Parcel. Simultaneously herewith, Landlord and Phase V Tenant agree to enter into, execute and deliver the Bifurcated Lease, a memorandum of which shall be recorded in the Public Records of Miami-Dade County, Florida, as contemplated by the recitals above. Pursuant to the Bifurcated Lease, Landlord leases to Phase V Tenant and Phase V Tenant leases from Landlord the Phase V Parcel on the terms and conditions set forth in this Bifurcated Lease.

3. Master Lease; Release; No Cross Default; Continuing Effect. As a result of the bifurcation and partial termination of the Master Lease set forth above, the Phase V Parcel shall no longer be subject to, and is hereby released from, the terms and provisions of the Master Lease.

Accordingly (and notwithstanding anything contained in the Master Lease), effective as of the Effective Date:

a. Rainbow shall not be obligated to perform any obligation under the Master Lease to the extent such obligation pertains to, or is to be performed on, the Phase V Parcel, and shall be automatically released from any and all such obligations (including, without limitation, any obligation to (x) pay any rent allocated to the Phase V Parcel, including without limitation Minimum Rent, (y) develop, maintain or repair the Phase V Parcel, and (z) maintain insurance for the Phase V Parcel). Landlord represents and warrants that no other consent or approval on the part of Landlord is needed for such release of Rainbow under the Master Lease with respect to the Phase V Parcel to be effective;

b. Landlord, Rainbow and Phase V Tenant acknowledge and agree that (i) Rainbow retains all right, title and interest in and to the Master Lease (and the leasehold estate arising thereunder), except only as it relates to the Phase V Parcel (or any other Phase or portion of the Project that has been released from the Master Lease pursuant to any additional bifurcation), and (ii) Phase V Tenant shall be solely responsible for the Phase V Parcel and bound by all of the terms, covenants, agreements provisions and conditions of the Bifurcated Lease with respect to the Phase V Parcel;

c. Landlord acknowledges and agrees that a default under the Master Lease shall not constitute a default under the Bifurcated Lease, and a default under the Bifurcated Lease shall not constitute a default under the Master Lease; it being the intention of the Parties that the Master Lease and the Bifurcated Lease are two (2) separate and independent leases that are not cross-defaulted. However, nothing set forth herein shall release Rainbow from its obligations under the Master Lease except as expressly provided herein; and

d. The Master Lease shall hereinafter continue to affect the Master Parcel less and except the Phase V Parcel (and any other parcels released from the terms of the Master Lease prior to the date hereof or otherwise in connection with an additional bifurcation), and the Bifurcated Lease shall hereinafter affect the Phase V Parcel. The terms "Land", "Parcel", "Demised Property", "Improvements", "Buildings", and "Project" under the Master Lease are hereby deemed modified so as to exclude the portion of the Land, Demised Property, Improvements, Buildings and Project located on or comprising the Phase V Parcel. All references to "Phase V" or "Phase" (as it relates to the Phase V Parcel) and all provisions relating thereto in the Master Lease are hereby deleted, it being understood and agreed to by the Parties that the Bifurcated Lease shall replace and supersede all such terms and provisions. The term "Lease", as used in the Master Lease, is hereby deemed modified to refer to the Master Lease, as modified by this Agreement.

4. Master Lease. As of the Effective Date hereof, Landlord acknowledges and agrees that (i) a total of 401 residential units have been constructed and completed upon the Project in accordance with the Master Lease and, notwithstanding anything contained in the Master Lease, no other residential units are required to be constructed upon the Project and all Phases of the Project have been completed (as such terms are modified in Section 4(d) above), and (ii) the one hundred (100) required parking spaces have been constructed and allocated to Landlord pursuant

to the Master Lease and no other parking spaces are required to be constructed upon the Project or otherwise allocated to Landlord.

5. Sublease; Partial Termination and Release; Continuing Effect. The Sublease is hereby partially terminated solely as to the Phase V Parcel and the Phase V Parcel shall no longer be subject to, and is hereby released from, the terms and provisions of the Sublease. Accordingly (and notwithstanding anything contained in the Sublease), effective as of the Effective Date:

- a. Holdings shall not be obligated to perform any obligation under the Sublease to the extent such obligation pertains to, or is to be performed on, the Phase V Parcel, and shall be automatically released from any and all such obligations (including, without limitation, any obligation to (x) pay any rent allocated to the Phase V Parcel, including, without limitation, Sublease Rent (as defined in the Sublease), (y) develop, maintain or repair the Phase V Parcel, and (z) maintain insurance for the Phase V Parcel). Rainbow represents and warrants that no other consent or approval on the part of Rainbow is needed for such partial termination of the Sublease or release of Holdings under the Sublease with respect to the Phase V Parcel to be effective.
- b. Rainbow, Holdings and Phase V Tenant acknowledge and agree that Holdings retains all right, title and interest in and to the Sublease (and the subleasehold estate arising thereunder), except only as it relates to the Phase V Parcel (or any other Phase or portion of the Project released from the Sublease in connection with an Additional Bifurcation). Nothing set forth herein shall release Holdings from its obligations under the Sublease except as expressly provided herein; and
- c. The Sublease shall hereinafter continue to affect the Master Parcel less and except the Phase V Parcel (and any other Phase or portion of the Project released from the Sublease in connection with an Additional Bifurcation). The term "Demised Property" under the Sublease is hereby deemed modified so as to exclude the portion of the Demised Property located on or comprising the Phase V Parcel. All references to "Phase V" or "Phase" (as it related to the Phase V Parcel) and all provisions relating thereto in the Sublease are hereby deleted. The terms "Master Lease" and "Sublease", as used in the Sublease, are hereby deemed modified to refer to the Master Lease and Sublease, respectively, as modified by this Agreement.

6. Termination of Phase V Sublease. Holdings and Phase V Tenant hereby acknowledge and agree that the Phase V Sublease shall be canceled, terminated and extinguished and of no further force and effect as of the Effective Date, as if the Effective Date were set forth in the Phase V Sublease as the scheduled expiration date of the term thereof. As of the Effective Date, Holdings and Phase V Tenant shall be deemed released and relieved of their respective obligations under the Phase V Sublease, except those that expressly survive termination of the Phase V Sublease (if any).

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

8. Estoppel. Landlord and Rainbow each represent and warrant that the Master Lease is presently in full force and effect, and has not been modified, amended, supplemented, altered, assigned or transferred (in whole or in part) since the date thereof, except for any amendments identified herein and any partial assignments and/or bifurcation(s) of the Master Lease prior to the Effective Date, and except as contemplated in this Agreement. Rainbow and Holdings each represent and warrant that the Sublease is presently in full force and effect, and has not been modified, amended, supplemented, altered, assigned or transferred (in whole or in part) since the date thereof, except for any amendments identified herein and any partial assignments prior to the Effective Date, and except as contemplated in this Agreement.

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

10. Condition Precedent. This Agreement is conditioned upon and, shall not be effective unless, Landlord and Phase V Tenant enter into the Bifurcated Lease. In the event Landlord and Phase V Tenant fail to execute and deliver the Bifurcated Lease, this Agreement shall be deemed void *ab initio* and no Party hereto shall have any further rights or obligations hereunder. Upon the satisfaction of the condition set forth in this paragraph, (i) this Agreement shall be recorded in the Public Records of Miami-Dade County, Florida, (ii) the Master Lease shall be deemed bifurcated permanently modified to exclude the Phase V Parcel, (iii) the Bifurcated Lease shall be effective as a separate and independent lease between Landlord and Phase V Tenant with respect to the Phase V Parcel, (iv) the Sublease shall be deemed permanently modified to exclude the Phase V Parcel, and (v) the Phase V Sublease shall be deemed terminated and of no

further force and effect. The Parties agree that, upon the recordation of this Agreement in the Public Records as provided above, the recorded memoranda of the Master Lease and Sublease referenced in the Recitals to this Agreement shall be deemed modified by this Agreement.

[Remainder of Page Intentionally Blank]

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

ATTEST:

LANDLORD:

By: _____
_____, Clerk

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

By: _____
Name: _____
Title: County Mayor or County Mayor's
designee

Approved for legal sufficiency:

By: _____
Assistant County Attorney

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me, by means of [] physical presence or [] online notarization, this ____ day of _____, 2024, by _____, as _____ of Miami-Dade County, on behalf of the County. He/she is personally known to me or produced _____ as identification.

Print or Stamp Name: _____
Notary Public, State of _____
Commission No.: _____
My Commission Expires: _____

[Signatures Continue on Following Pages]

EXHIBIT A

Legal Description of the Master Parcel

A PARCEL OF LAND, BEING A PORTION OF TRACT "A", "BROWNSVILLE STATION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 159, PAGE 88, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING AT THE SOUTHWEST CORNER OF SAID TRACT "A"; THENCE ALONG THE WEST LINE OF SAID TRACT "A", NORTH 02°11'49" WEST, A DISTANCE OF 622.50 FEET TO A POINT OF A TANGENT CURVE; THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A DELTA ANGLE OF 89°53'53", AN ARC DISTANCE OF 39.23 FEET, A CHORD DISTANCE OF 35.32 FEET AND A CHORD BEARING OF NORTH 42°45'08" EAST TO A POINT OF TANGENCY AND THE NORTH LINE OF SAID TRACT "A"; THENCE NORTH 87°42'04" EAST ALONG SAID NORTH LINE OF TRACT "A" A DISTANCE OF 345.00 FEET TO A POINT; THENCE SOUTH 02°11'49" EAST A DISTANCE OF 553.00 FEET TO A POINT; THENCE SOUTH 87°41'27" WEST A DISTANCE OF 171.46 FEET TO A POINT; THENCE SOUTH 02°11'49" EAST A DISTANCE OF 94.39 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT "A"; THENCE SOUTH 87°41'27" WEST ALONG THE SOUTH LINE OF SAID TRACT "A" A DISTANCE OF 198.50 FEET TO THE POINT OF BEGINNING. SAID LAND LYING, BEING AND SITUATE IN MIAMI-DADE COUNTY, FLORIDA AND CONTAINING 223,199.69 SQUARE FEET +/-, 5.12 ACRES +/-.

EXHIBIT B

Legal Description of Phase V Parcel

A portion of Tract "A", "BROWNSVILLE STATION", according to the plat thereof, as recorded in Plat Book 159 at Page 88, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Southwest corner of said Tract "A", of the aforementioned plat of "BROWNSVILLE STATION"; thence run North 02 degrees 11 minutes 49 seconds West along the West boundary of said Tract "A", and the East right of way of Northwest 29th Avenue, 151.02 feet; thence North 87 degrees 47 minutes 46 seconds East, a distance of 268.17 feet; thence South 02 degrees 12 minutes 14 seconds East a distance of 56.14 feet; thence South 87 degrees 41 minutes 27 seconds West for distance 69.69 feet; thence South 02 degrees 11 minutes 49 seconds East a distance of 94.39 feet to a point on the South line of said Tract "A"; thence South 87 degrees 41 minutes 27 seconds West along the South line of said Tract "A" a distance of 198.50 feet to the Point of Beginning.

Said land lying, being and situate in Miami-Dade County, Florida. Bearings mentioned are based on an assumed meridian where the West boundary of said Tract "A" bears North 02 degrees 11 minutes 49 seconds West.

The Land contains 33,860 square feet +/-, 0.777 ACRES +/-.

**BROWNSVILLE METRORAIL STATION
TRANSIT ORIENTED DEVELOPMENT
LEASE AGREEMENT (PHASE V)**

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¹ Note to County: To be updated upon completion of the draft lease.

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**BROWNSVILLE METRORAIL STATION
TRANSIT ORIENTED DEVELOPMENT
LEASE AGREEMENT (PHASE V)**

THIS BROWNSVILLE METRORAIL STATION TRANSIT ORIENTED DEVELOPMENT LEASE AGREEMENT (PHASE V) (this “Lease”), dated as of the ____ day of _____, 2024 (“Execution Date”), is made by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, through the Department of Transportation and Public Works, having its principal office and place of business at 701 N.W. 1st Court, Suite 1700, Miami, Florida 33136, Attn: Department of Transportation and Public Works Director (“Landlord” or “DTPW”), and BROWNSVILLE VILLAGE V, LTD., a Florida limited partnership, having its principal office and place of business at c/o Atlantic Pacific Communities, LLC, 161 NW 6th Street, Suite 1020, Miami, Florida 33136, Attn: Chief Operating Officer (“Tenant”).

W I T N E S S E T H:

A. Landlord previously leased the Demised Property (defined in Section 2.14 of this Lease), along with additional real property, to Transport Workers Union of America 291 Community Service Inc. (“CSI”) pursuant to the Brownsville Metrorail Station Lease Agreement, dated June 20, 2006 (the “Original Lease”). CSI assigned its interest in and to the Original Lease to Rainbow Housing Corporation, a Florida not-for-profit corporation (“Rainbow”), as successor by merger to St. Agnes Housing Corporation, a Florida not-for-profit corporation, pursuant to the Assignment and Assumption Agreement, dated January 22, 2009.

B. Landlord and Rainbow are the current “Landlord” and “Tenant”, respectively, under that certain Brownsville Metrorail Station Transit Oriented Development Amended and Restated Lease Agreement dated as of May 4, 2009, as evidenced by that certain Memorandum of Lease recorded on May 6, 2010 in Official Records Book 27275, at Page 4731, of the Public

Records of Miami-Dade County, Florida, and as amended by Amendment No. 1 to Brownsville Metrorail Station Transit Oriented Development Amended and Restated Lease Agreement dated November 8, 2012 (as assigned, bifurcated, and amended from time to time, collectively, the “Master Lease”). Pursuant to the Master Lease, Landlord leased to Rainbow all of the real property legally described on Exhibit A attached hereto and made a part hereof (as affected by any prior assignments, bifurcations or amendments to the Master Lease, the “Master Parcel”).

C. Rainbow and CDG Brownsville Holdings, LLC, a Florida limited liability company (“Holdings”) are the current “Tenant” and “Subtenant”, respectively, under that certain Brownsville Station Metrorail Sublease dated as of May 4, 2009, as evidenced by that certain Memorandum of Sublease recorded in Official Records Book 27275, Page 4736, of the Public Records of Miami-Dade County, Florida (as assigned and amended from time to time, collectively, the “Sublease”), pursuant to which Rainbow has subleased to Holdings the Master Parcel for the purposes described in the Sublease. Holdings, as “Subtenant” under the Sublease, has entered into various sub-subleases for portions of the Master Parcel, including the Phase V Sublease described below (collectively, the “Holdings Subleases”).

D. Holdings and Tenant are the current “Sublessor” and “Sublessee”, respectively, under that certain Brownsville Station Metrorail Sub-Sublease (Phase Five) dated as of October 22, 2013, as evidenced by that certain Memorandum of Sub-Sublease recorded in Official Records Book 27275, Page 4740 of the Public Records of Miami-Dade County, Florida (as heretofore amended, the “Phase V Sublease”), pursuant to which Holdings has sub-subleased to Tenant the portion of the Master Parcel legally described on Exhibit A-1 attached hereto and made a part hereof (the “Land”).

E. Pursuant to the Master Lease, Sublease, and the Holdings Subleases, Tenant's affiliates developed (or caused the development of) a multifamily project consisting of four hundred one (401) residential housing units, including common areas, appurtenant amenities, and structured parking upon Phases I through IV of the Master Parcel, which project, together with the other phase of development to be constructed on the Demised Property, have provided important and needed neighborhood improvements and economic stimulus in the area around the Master Parcel, have served as a positive model for transit-oriented developments generally, and have promoted further economic development in Miami-Dade County generally, all as contemplated by the Master Lease.

F. As of the Execution Date hereof, Landlord, Rainbow, Holdings, and Tenant have entered into that certain Bifurcation of Amended and Restated Lease Agreement (the "Bifurcation Agreement"), pursuant to which (i) Landlord, Rainbow, and Tenant have bifurcated and partially terminated the Master Lease solely as to the Demised Property (which consists of the development area contemplated as Phase V of the Brownsville Transit Village), (ii) Landlord and Tenant have agreed to enter into a direct lease for the Land pursuant to this Lease, (iii) Rainbow and Holdings have terminated the Sublease solely as to the Land, and (iv) Holdings and Tenant have terminated the Phase V Sublease for all purposes.

G. Pursuant to the Master Lease and the Bifurcation Agreement, Landlord and Tenant are entering into this Lease to complete the bifurcation of the Master Lease with respect to the Land and to effectuate the direct lease by Landlord to Tenant (and sublessees, assignees and/or transferees as described herein), and the lease by Tenant from Landlord, of the Land and the Demised Property for the purposes contemplated herein.

H. Landlord, therefore, desires to lease the Demised Property to Tenant pursuant to Section 125.379, Florida Statutes, which permits the long-term lease of county-owned property to private developers for the purpose of developing affordable housing. This Lease will enable the Tenant to develop – and maintain for the duration of the Lease – a minimum of one hundred twenty (120) Affordable Housing Units (including, if necessary, one manager’s unit). Tenant desires to lease the Demised Property from Landlord for such purposes.

I. Landlord has recognized the potential for public and private benefits through a refurbishment of the existing Station (defined in Section 2.47 of this Lease) and an overall unified development with the Demised Property. The benefits sought in this connection are perceived to relate to, and to serve as an intended catalyst for, similar initiatives at and around other parts of the System (defined in Section 2.52 of this Lease). Landlord considers that the Development Concept (defined in Section 2.16 of this Lease) submitted by Tenant reflects the kind of transit-oriented development that Landlord wishes to see implemented, and that Tenant's proposal will, upon implementation, demonstrate and reinforce the link between transit and community, and promote and increase System usage.

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

NOW THEREFORE, in consideration of the promises and the mutual obligations of the parties set forth in this Lease, the parties covenant and agree as follows:

ARTICLE 1

Demised Property and General Terms of Lease

1.1 Lease of Land and Air Rights. In accordance with (a) Chapter 125, Florida Statutes; (b) the powers granted to Landlord pursuant to authority properly delegated by the Florida legislature; (c) the authority to lease real property and air rights over real property belonging to Miami-Dade County; and (d) the Metrorail Joint Use Policy contained in Resolution R-1443A-81, adopted on September 28, 1981; and, for and in consideration of the rents, covenants and agreements specified herein, and the easements reserved unto Landlord, its successors and assigns, Landlord agrees, pursuant to the terms of this Lease, and does hereby lease and demise unto Tenant, its successors and assigns, and Tenant does hereby take and hire, upon and subject to the conditions and limitations herein expressed, the Demised Property, reserving to Landlord the rights described herein; to have and to hold the same unto Tenant, its successors and assigns, for the Term. Tenant shall have and hold, exclusively, the Development Rights pertaining to the Demised Property, subject to the terms, conditions, covenants, and procedures set forth herein.

1.2 Term of Lease.

(a) **Term.** The term of this Lease shall commence on the Execution Date and shall terminate on May 4, 2099 (the “Term”). At the expiration or earlier termination of the Term, the Demised Property shall automatically revert back to Landlord, and all Improvements thereon (except Tenant’s or third-parties’ removable personal property or fixtures) shall become the property of Landlord free and clear of all encroachments and encumbrances, unless as otherwise agreed to in writing by Landlord, and without any type of compensation, payment, and/or obligation to Tenant.

(b) **Possession.** Tenant, as the sub-subtenant of the Land under the Phase V Sublease, has been in possession of the Demised Property since October 22, 2013 and, upon

termination of the Phase V Sublease as set forth in the Bifurcation Agreement, shall remain in possession of the Demised Property pursuant to the terms of this Lease. For the avoidance of doubt, and notwithstanding anything to the contrary to this Lease, Tenant, Holdings and Rainbow shall be jointly and severally liable for any claims with respect to the Demised Property until the execution of this Lease and the Bifurcation Agreement, at which point Tenant will be solely responsible for any claims with respect to the Demised Property. Tenant acknowledges and agrees that a due diligence process has been undertaken to uncover and/or locate any impediments on or about the Demised Property that might be the source of any delay in developing the Demised Property, and Tenant hereby acknowledges and agrees that no conditions were found either physical or legal in nature, including, but not limited to, any environmental condition and/or any liens, encumbrances, covenants, declaration of restrictions, declarations of restrictive covenants, limitations, easements, licenses and/or other similar impediments that would constitute any hindrance to developing the Demised Property.

1.3 Condition Precedent to Effectiveness of Lease.

(a) This Lease shall become effective ten (10) days after the date of its adoption by the Board of County Commissioners, unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by Miami Dade Board of County Commissioners. Additionally, this Lease shall not become effective until approved by the Federal Transit Administration.

(b) Tenant shall obtain all financing for the construction contemplated in this Lease no later than ninety (90) days after the Execution Date.

1.4 Tax Ownership of Improvements. At all times during the Term of this Lease, the Improvements shall be owned in fee by Tenant and Tenant alone shall be entitled to all of the tax

attributes of ownership of the Improvements, including, without limitation, the right to deduct, claim, retain and enjoy any and all rental income, appreciation gain, depreciation, amortization, and tax credits for federal and state tax purposes relating to the Improvements and any and all additions thereto, substitutions therefor, fixtures therein and other property relating thereto. Landlord shall treat Tenant as the owner of the Improvements for federal tax purposes and shall not file any tax returns inconsistent with such treatment. For avoidance of doubt, the Landlord shall own the fee simple interest in the Demised Property and, as set forth in Article 5, the Tenant shall have the obligation to pay all Impositions related to the Demised Property.

1.5 Conditions Precedent to Commencement of Construction.

(a) Before Commencement of Construction (as defined in Section 2.8 below), and in addition to the submission and approval process specified in Article 4 for construction generally, Tenant shall comply with the DTPW submittal and review process by submitting the Plans and Specifications for the Improvements.

(b) Tenant agrees that the Commencement of Construction of the Improvements shall occur no later than one hundred twenty (120) days following the Execution Date.

(c) At least ten (10) days prior to Commencement of Construction, Tenant shall execute, deliver to the County and record in the public records of the County, a payment and performance bond equal to the total cost of construction of the Improvements. Each payment and performance bond shall comply with all applicable laws, including the terms of Section 255.05, Florida Statutes, and shall name the County and Tenant beneficiaries thereof, as joint obligees. Alternatively, Tenant may provide the County with (i) payment and performance bonds complying with the requirements of Section 255.05, Florida Statutes, from each prime contractor hired by Tenant to perform work and/or make improvements related to the Improvements in an amount not

less than 100% of his/her/its respective contract related to the Improvements in a form acceptable to the County to insure that the construction work shall be completed or, on its default, the surety and to secure the completion of the Improvements free from all liens and claims of sub-contractors, mechanics, laborers and materialmen and shall name the County as an additional obligee, and (ii) an alternate form of security permitted under Section 255.05, Florida Statutes, from Tenant in an amount reasonably established by the County, each to remain in place until evidence reasonably satisfactory to the County is submitted to demonstrate all contractors performing work in connection with the Improvements have been paid and final completion has been obtained for same. If Tenant provides the alternative security, Tenant shall also comply with the following obligations: (a) Tenant shall obtain, subject to Tenant's rights to contest in good faith amounts owing to a prime contractor, a conditional release of lien from each of its prime contractor(s) at the time each progress payment is made; and (b) Tenant shall obtain an unconditional release of lien from each of its prime contractor(s) within five (5) business days after final payment is made, subject to Tenant's rights to contest in good faith amounts owing to a prime contractor.

ARTICLE 2

Certain Defined Terms

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

2.1 Affordable Housing Units shall mean for the entire Term of this Lease, housing units affordable to natural persons or families whose total annual household incomes do not exceed on average (consistent with the Florida Housing Finance Corporation's (FHFC) income averaging methodology) sixty percent (60%) of the area median income of Miami-Dade County, as published by the United States Department of Housing and Urban Development (HUD), adjusted for household size in accordance with Landlord's internal housing requirements, including, but not

limited to, the industry guideline that the housing cost shall generally be set at or below thirty percent (30%) of the maximum household income eligible for the unit.

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

2.3 Assignment Fee shall have the meaning ascribed to such term in Section 17.11(a).

2.4 Board shall mean the Board of County Commissioners of Miami-Dade County, Florida.

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

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

2.7 Code shall mean the Code of Miami-Dade County.

2.8 Commencement Date shall mean May 4, 2009, which is the date of the Master Lease.

2.9 Commencement of Construction and **commenced**, when used in connection with construction of any Building or Improvements, as the case may be, shall mean the earlier of the filing of the notice of commencement under Florida Statutes Section 713.13 or the visible start of work on the Land, including on-site utility, excavation or soil stabilization work. In order to meet the definition of “Commencement of Construction” or “commenced”, such filing of notice or visible start of work must occur after Tenant has received a building permit for the Improvements.

2.10 Completion of Construction shall mean the date a Certificate of Occupancy is issued for the Improvements.

2.11 Reserved.

2.12 Construction Plans shall consist of final design plans for the Improvements, the drawings and specifications for which are in a format with sufficient detail as required to obtain building permits for such Improvements and as further described in Section 4.6 and 4.7.

2.13 Intentionally Deleted.

2.14 Demised Property shall mean the Land described on Exhibit A-1, together with the air rights above the Land, and easements, rights-of-way and all appurtenances thereto leased to Tenant pursuant hereto, as follows, all of which are and shall be subject to the remaining provisions of this Lease:

(a) The “Air Rights” portion of the Demised Property, which shall mean the airspace above the Land;

(b) Except to the extent reserved herein to Landlord, the drains, utility lines, or other easements, and improvements of Landlord located in areas within or adjacent to the Demised Property may be used by Tenant in connection with the Improvements;

(c) Such rights of support and rights of use in respect of, if necessary, supports, and foundations for the support of the Demised Property and any Improvements thereon;

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

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

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

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

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

(i) the permanent and perpetual non-exclusive right of ingress, egress and passageway in, over, through and across the Public Areas of the Demised Property which shall be necessary or desirable for entrance, exit and passageway of persons and property, including vehicles, to and from the Station, the System and the parking area(s); provided, however, that all

entrances, exits and passageways to be used in exercising such right shall be as set forth in the Plans and Specifications;

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

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

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

IT BEING UNDERSTOOD between the parties hereto that no portion of the adjacent Station, bus stop(s), the traction power (FP&L) substation, and/or the Kiss and Ride areas are leased or intended to be leased to Tenant.

2.15 Intentionally Deleted.

2.16 Development Concept shall mean and refer to the overall site plan, Building elevations, space plans, configuration of Improvements and program summary , which, in its current version as of the Execution Date is illustrated in Exhibit B, and incorporated herein by reference.

2.17 Development Rights shall mean, for purposes of the Demised Property and this Lease, the rights granted pursuant to this Lease to Tenant to develop the Improvements on the Land.

2.18 Event(s) of Default shall be as defined in Section 19.1 (as to Events of Default by Tenant), and Section 19.7 (as to Events of Default by Landlord).

2.19 Execution Date shall mean that date on which both parties to this Lease have signed the document and entered the date of this Lease in the introductory paragraph of this Lease.

2.20 Fair Market Value shall mean that sum which, considering all of the circumstances, would be arrived at by good faith, fair, arm's-length negotiations between an owner willing to sell and an independent third-party purchaser willing to buy, neither being under any pressure.

2.21 Fair Market Rent Determination shall have the meaning ascribed to such term in Section 11.2(c).

2.22 Financial Closing Date means the date Tenant closes on its financing for the construction of the Improvements, which date shall be no later than ninety (90) days following the Execution Date.

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

2.24 FPL Easement Area shall have the meaning ascribed to such term in Section 8.3 herein.

2.25 Hard Costs means the physical construction costs of all labor, materials, equipment, fixtures and furnishing, and profit and overhead related thereto necessary for the Completion of Construction.

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

2.27 Improvements shall mean the Buildings to be constructed on the Land, and any parking areas (including garages), hardscaping and landscaping, other structures, facilities or amenities, and all related infrastructure, installations, fixtures, equipment, utilities, site-work and other improvements existing or to be developed upon the Land.

2.28 Investor Limited Partner shall mean WF Affordable Housing LLC (successor through conversion of Wells Fargo Affordable Housing Community Development Corporation), and any successor or assign thereof, as the investor limited partner of Tenant.

2.29 Kiss and Ride shall mean the passenger drop-off area near (west of) the Station, which is used to discharge and pick up passengers at the Station. The Kiss and Ride area permits drivers to stop and park temporarily (the driver remaining in the vehicle) to discharge or pick up passengers to and from the Station.

2.30 Land shall mean the real property described in Exhibit A-1.

2.31 Landlord shall have the meaning ascribed to such term in the introductory paragraph of this Lease, and shall mean Miami-Dade County, a political subdivision of the State of Florida, through the Department of Transportation and Public Works.

2.32 Law(s) and Ordinance(s) shall mean all present and future applicable laws, ordinances, rules, regulations, building and zoning codes, authorizations, orders (including, but not limited to, all applicable Miami-Dade County Implementing Orders and County and State of Florida Administrative Orders) and requirements of all federal, state, county and municipal governments, the departments, bureaus or commissions thereof, authorities, boards or officers, any

national or local board of fire underwriters, or any other body or bodies exercising similar functions having or acquiring jurisdiction over all or any part of the Demised Property.

2.33 Lease shall mean this Lease (including all exhibits and schedules) and all amendments, supplements, addenda and any renewals thereof. From time to time, this Lease may also be referred to herein as this “Agreement.”

2.34 Leasehold Mortgage shall mean a mortgage or mortgages or other similar security agreements given to any Leasehold Mortgagee of the leasehold interest of Tenant hereunder, and shall be deemed to include any mortgage or trust indenture under which this Lease shall have been encumbered, as may be modified, amended, restated, renewed and/or consolidated from time to time subject to the terms of this Lease.

2.35 Leasehold Mortgagee shall mean the holder of a Leasehold Mortgage and the successors or assigns of such holder, mortgagee or beneficiary, and shall be deemed to include the trustee under any such indenture and the successors or assigns of such trust.

2.36 Lender shall mean any Leasehold Mortgagee or Subleasehold Mortgagee.

2.37 Minimum Assignment Fee shall have the meaning ascribed to such term in Section 17.11(a).

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

2.39 Mortgage shall mean a Leasehold Mortgage or Sublease Mortgage (or both) as the context dictates.

2.40 Permit shall mean any permit issued or to be issued by the appropriate governmental agency and/or department authorized to issue such permits, including but not limited to applicable permits for construction, demolition, installation, foundation, dredging, filling, the alteration or repair or installation of sanitary plumbing, water supply, gas supply, electrical wiring

or equipment, elevator or hoist, HVAC, sidewalk, curbs, gutters, drainage structures, paving and the like.

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

2.42 Public Areas shall mean those areas of the Demised Property both enclosed and unenclosed, generally available and open to the public during normal business hours, but shall not include common areas in the residential component or other non-public components of the Demised Property.

2.43 Redevelopment shall have the meaning ascribed to such term in Section 11.2(a).

2.44 Rent shall mean Minimum Rent and any other sums due from Tenant to Landlord hereunder.

2.45 Intentionally Deleted.

2.46 Soft Costs shall mean architect's, engineer's, and construction manager's fees, insurance costs and such other costs not otherwise herein defined as Hard Costs.

2.47 Station shall mean the existing Brownsville Metrorail Station portion of the System, including the adjacent bus stop(s), the traction power (FP&L) substation and Kiss and Ride areas.

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

under which any Sublease shall have been encumbered, as may be modified, amended, restated, renewed and/or consolidated from time to time subject to the terms of this Lease.

2.49 Subleasehold Mortgagee shall mean the holder of a Subleasehold Mortgage and the successors or assigns of such holder, mortgagee or beneficiary, and shall be deemed to include the trustee under any such indenture and the successors or assigns of such trust.

2.50 Sublease shall mean any lease pursuant to which all or any portion of the Demised Property is subleased, but expressly excluding the lease of residential apartment units.

2.51 Sublessee shall mean Tenant, lessee, or licensee or their successors or assigns under any Sublease.

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

2.53 System Improvements shall have the meaning ascribed to such term in Section 4.21.

2.54 System Improvement Funds shall have the meaning ascribed to such term in Section 4.21.

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

2.56 Tenant shall have the meaning ascribed to such term in the introductory paragraph of this Lease, and shall mean Brownsville Village V, Ltd., a Florida limited partnership, its successors and assigns.

2.57 Term shall have the meaning ascribed to such term in Section 1.2(a).

2.58 Unavoidable Delays shall mean delays beyond the reasonable control of a party required to perform, such as, but not limited to, delays due to strikes; Acts of God; epidemics, pandemics, and quarantine restrictions (but not including COVID-19 and any of its variants); floods; fires; any act, neglect or failure to perform of or by the Landlord (to the extent that it affects performance by Tenant); enemy action; civil disturbance; sabotage; restraint by court or public authority; litigation or administrative challenges by third parties to the execution or performance of this Lease or the procedures leading to its execution; or moratoriums. The obligated party shall be entitled to an extension of time because of its inability to meet a time frame or deadline specified in this Lease where such inability is caused by an Unavoidable Delay, provided that such party shall, within fifteen (15) days after it has become aware of such Unavoidable Delay, give notice to the other party in writing of the causes thereof and the anticipated time extension necessary to perform. Neither party shall be liable for loss or damage or deemed to be in default hereof due to any such Unavoidable Delay(s), provided that party has notified the other as specified in the preceding sentence and further provided that such Unavoidable Delay did not result from the fault, negligence or failure to act of the party claiming the delay. Failure to notify a party of the existence of Unavoidable Delays within the fifteen (15) days of its discovery by a party shall not void the Unavoidable Delays, but the time period between the expiration of the fifteen (15) day period and the date actual notice of the Unavoidable Delay is given shall not be credited to the obligated party in determining the anticipated time extension.

ARTICLE 3

RENT

3.1 Minimum Rent. The Tenant is required to build a minimum of one hundred twenty (120) Affordable Housing Units on the Land (including, if necessary, one manager's unit). The Minimum Rent to be paid by Tenant to Landlord shall be \$3,370.78 for each unit Tenant constructs

upon the Land during the Term, which shall equal a minimum payment of Minimum Rent in the amount of \$404,493.60. The Minimum Rent shall be due and payable in one lump sum to Landlord on the date that the Tenant closes on its construction financing to build such units on the Demised Property. For avoidance of doubt, if, for whatever reason, the number of residential units in the Demised Property exceeds 120 residential units, then the amount due to the Landlord as Minimum Rent shall include such additional residential units and, as such, shall be calculated based on the aggregate number of additional residential units actually constructed within the Demised Property and shall be due and payable in one lump sum to Landlord on the date that Tenant closes on its construction financing to build such units on the Demised Property. For example, if the Demised Property contains 200 residential units, then the amount of the Minimum Rent shall equal \$674,156.00 or \$3,370.78 multiplied by 200.

3.2 Reserved.

3.3 Outside Date for Completion. In addition to any remedies available at law and equity, if Tenant has not received a Certificate of Occupancy for at least one hundred twenty (120) Affordable Housing Units by the date which is twenty-four (24) months following the Commencement of Construction, subject to Unavoidable Delay, the Demised Property (but expressly excluding (i) portions which a Certificate of Occupancy has been issued for a minimum of one hundred twenty (120) units and (ii) removable personal property and fixtures) shall revert to Landlord, upon Landlord providing notice to Tenant of its desire to exercise its right of reversion prior to the date such Certificate of Occupancy is issued. Notwithstanding the foregoing, Landlord may, after Tenant has commenced construction, consent to the extension of such deadline (which consent shall not be unreasonably withheld, conditioned or delayed) if the Tenant has used and is continuing to use good faith efforts to complete such Affordable Housing Units and Tenant

requests such extension in writing. If Tenant has not obtained the required Certificate of Occupancy for at least one hundred twenty (120) Affordable Housing Units by the deadline specified above, subject to Unavoidable Delay and any approved extension as provided herein, then Landlord may, in its sole discretion, elect to enforce its right of reverter upon written notice to Tenant (prior to the date such Certificate of Occupancy is issued).

3.4 Rent on Commercial or Retail Spaces. In the event Tenant subleases any portion of the Demised Property for a commercial or retail use incidental to the primary use of the Improvements as a residential community (such as a convenience store, a sandwich shop, or another resident-oriented amenity), Tenant shall pay to Landlord, as Rent, an annual amount equal to five percent (5%) of the net rent paid to Tenant by such Sublessee (after netting out (a) the cost of brokerage commissions applied against the gross rent amount over the term of the Sublease, and (b) sales tax remitted to the Department of Revenue on such rentals), payable in annual installments (or any shorter period of time as Landlord may elect from time to time).

3.5 Late Payments. In the event that any payment of Minimum Rent due Landlord shall remain unpaid for a period of twenty (20) days beyond the applicable due date, then the agreed upon amount of five (5%) percent of the outstanding amount due to the Landlord shall represent the amount of liquidated damages to be added to the Minimum Rent, in addition to a late charge of one and one half percent (1.5%) of interest per month on the amount of unpaid Minimum Rent (which shall accrue on a cumulative basis) which shall be added to such delinquent payment. Should Tenant fail to pay Rent after any thirty (30) day period, Tenant shall be in default (an Event of Default) of this Lease. In addition to the rights and remedies provided for herein, Landlord shall also have all rights and remedies afforded by law and equity for enforcement and collection of Rent and any late charges which are not inconsistent with the limitations or remedies contained in

this Lease. All Rent and other payments due Landlord under this Lease shall be paid to Landlord at the address specified herein for notice to Landlord. Nothing in this Section is intended to be punitive, and in no event shall any amount due under this Agreement exceed the maximum rate of interest permitted by applicable law.

3.6 Discontinued Use of Station or System. Landlord covenants and agrees with Tenant that Landlord will not permanently discontinue or cease the operation of the Station or the System during the first thirty (30) years of the Term. In the event Landlord determines to permanently discontinue or cease the operation of the Station or System, despite such covenant and agreement, then, in addition to any other rights Tenant has hereunder, (a) Tenant shall have the right, at its option, to terminate this Lease and its obligations hereunder by giving written termination notice to Landlord within six (6) months after such discontinuance or cessation, and this Lease shall terminate fifteen (15) days following the date of Tenant's notice of termination.

3.7 Approved Restriction Adjustments. Landlord and Tenant acknowledge and agree that Tenant plans to develop the Improvements substantially as described in Article 4 of this Lease, and as illustrated and described in the Development Concept, as found in Exhibit B. Tenant hereby acknowledges and agrees that due diligence has been undertaken to determine whether any Laws and Ordinances would prevent the development of the Improvements substantially as contemplated in this Lease. Tenant further acknowledges and agrees that, to the best of Tenant's knowledge, no such Laws and Ordinances exist.

ARTICLE 4

Development of Land and Construction of Improvements

4.1 Land Uses.

(a) Tenant and Landlord agree, for themselves and their successors and assigns, to devote the Demised Property to the uses specified and contemplated in this Lease (which

includes residential development and incidental retail or commercial), or other or additional uses to which the parties have in good faith agreed in writing to be bound by and that comply with all other provisions and conditions of this Lease.

(b) The parties recognize and acknowledge that the manner in which the Demised Property and Buildings are developed, used and operated are matters of critical importance to Landlord and to the general welfare of the community. Tenant agrees that at all times during the Term, Tenant will use reasonable efforts to create a development on the Demised Property which (i) enhances the ridership and usage of the Station and the System, (ii) creates strong access links between the Demised Property, the Station and the System, and (iii) creates an Affordable Housing and Workforce Housing residential community (which may include incidental commercial or retail use, such as a convenience store or sandwich shop) with a quality of character and operation consistent with the Development Concept. Tenant shall establish such reasonable rules and regulations governing the use and operation by Sublessee of their premises as Tenant shall deem necessary or desirable in order to assure the level or quality and character of operation of the Demised Property required herein; and Tenant will use reasonable efforts to enforce such rules and regulations.

4.2 Development Rights and Construction Phases. Prior to the Execution Date, Tenant formulated the preliminary Development Concept, which, as articulated as of the Execution Date, is illustrated in Exhibit B. As of the Execution Date, Tenant has undertaken economic and feasibility analyses with respect to the Development Concept. Based on the results of such analyses and continuing site plan, feasibility and implementation work to incorporate such results, the Development Concept may be amended in Tenant's discretion, subject to Landlord's reasonable approval. In no event shall those changes or amendments adversely impact the overall intended

benefit to the Landlord. Tenant proposes that it will build or cause to be built no less than one hundred twenty (120) Affordable Housing Units upon the Land (including, if necessary, one manager's unit), with an average area median income of no greater than sixty percent (60%) (using the income averaging methods adopted by FHFC) by the date which is twenty-four (24) months following the Commencement of Construction, subject to Unavoidable Delay and any approved extension as provided in Section 3.3 herein.

4.3 Reserved.

4.4 Construction; Delegation and Landlord Joinders.

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

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

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

(b) Miami-Dade County shall not by virtue of this Lease be obligated to grant Tenant, the Demised Property or the Land or any portions thereof, any approvals of applications for building, zoning, planning or development under present or future Laws and Ordinances of whatever nature applicable to the design, construction and development of the Buildings and other Improvements provided for in this Lease.

4.6 Conformity of Plans. Plans and Specifications and Construction Plans, and all work by Tenant with respect to the Demised Property and Tenant's construction of Buildings and Improvements thereon shall be in conformity with this Lease, applicable building codes, and all other applicable federal, state, county and local laws and regulations including applicable provisions of the Fire Life Safety Criteria found in the Metrorail Compendium of Design Criteria, Volume 1, Chapter 9 (as may be amended or replaced from time to time).

4.7 Design Plans; DTPW Review and Approval Process.

(a) Tenant shall submit Plans and Specifications and Construction Plans to Landlord (DTPW) for review, coordination and approval of the same, as described below. Such submittal shall occur either prior to or simultaneously with any submission to any other governmental department and/or agency, and shall be in addition to any requirement for the Tenant

to secure any other type of governmental department or agency approval and/or Permit. Tenant shall submit eight (8) sets of prints with the date noted on each print.

(b) Tenant shall submit the site plan, floor plans and elevations to DTPW for approval.

(c) DTPW shall review these plans, in good faith and reasonably promptly, to ensure that all previous DTPW comments to which the parties have agreed have been incorporated therein.

(d) Upon its initial receipt of each of the Plans and Specifications, DTPW shall review same, reasonably and in good faith, and shall, within thirty (30) calendar days after receipt thereof, advise Tenant in writing of its approval or disapproval, setting forth in detail its reasons for any disapproval. In the event of disapproval, Tenant shall, within thirty (30) calendar days after the date Tenant receives such disapproval, make those changes necessary to meet DTPW's stated grounds for disapproval. Upon its receipt of revised Plans and Specifications showing the changes requested by DTPW, DTPW shall review same, reasonably and in good faith, and shall, within fifteen (15) calendar days after receipt thereof, advise Tenant in writing of its approval or disapproval, setting forth in detail its reasons for any disapproval.

(e) As an alternative to revising the Plans and Specifications upon receipt of DTPW's disapproval of the initial submission, Tenant may request reconsideration of such comments, by first describing in detail why it reasonably believes that the Plans and Specifications should not be changed or modified, in which case, within thirty (30) calendar days of such request for reconsideration, DTPW shall again advise Tenant in writing of its approval or disapproval, setting forth in detail its reasons for any disapproval. If DTPW continues to disapprove after reconsideration, Tenant shall resubmit revised Plans and Specifications to DTPW within thirty

(30) calendar days after the date Tenant receives such disapproval. Any resubmission shall be subject to review and approval by DTPW, in accordance with the procedure hereinabove provided for an original submission, until the same shall receive final approval by DTPW. DTPW and Tenant shall in good faith attempt to resolve any disputes concerning the Plans and Specifications in an expeditious manner. If DTPW shall have approved any aspect of the Plans and Specifications in an earlier submission, and no portion of the revised Plans and Specifications has affected the earlier-approved aspect, DTPW shall not have the right to disapprove that which it approved earlier, absent a finding that said aspect of the Plans and Specifications unreasonably interferes with the operation of the Station and/or the System, as determined by Landlord, and/or it fails to comply with applicable Law(s) and Ordinance(s).

(f) Following completion of the approval process described above, the DTPW approved Plans and Specifications for the Demised Property shall be the Construction Plans. DTPW's approval shall be in writing and each party shall have a set of Construction Plans signed by all parties as approved. In the event any material change occurs after approval of the Construction Plans, then Tenant must resubmit the changed portion of the Construction Plans for DTPW's reasonable approval (irrespective of whether the change is required by another Miami-Dade County department as part of the permitting process). Subject to Section 8.3 herein, DTPW acknowledges that as of the Execution Date, DTPW has reviewed and approved the Plans and Specifications for the Demised Property.

4.8 Tenant Development Obligations. DTPW's approval of the Plans and Specifications pursuant to this Article 4 shall not relieve Tenant of its obligations under law to file such Plans and Specifications and Construction Plans with any department of Miami-Dade County or any other governmental authority having jurisdiction over the issuance of building, zoning or

other Permits and to take such steps as are necessary to obtain issuance of such Permits. Tenant acknowledges that any approval given by DTPW, as Landlord pursuant to this Article 4, shall not constitute an opinion or agreement by DTPW that the Construction Plans are structurally sufficient or in compliance with any Laws or Ordinances, and no such approval shall impose any liability upon DTPW. Tenant shall use reasonable efforts to include a provision in each partial assignment, assignment and/or Sublease, and each Leasehold Mortgage which will vest DTPW with all right, title and, interest in the Construction Plans and/or Plans and Specifications for Improvements financed by a Lender, subject to the prior rights of the Lender, if (a) an Event of Default occurs, and (b) the affected Lender does not elect to construct and complete the Improvements.

4.9 Subdivision of Demised Property and “As-Built” Plans. In proceeding with the approval of the Development Concept, to the extent legally permissible and without waiving any of Landlord's sovereign rights as set forth in Section 4.5 herein, Landlord agrees to cooperate with Tenant to review and facilitate its application(s) in connection with its waiver of plat efforts or to secure a plat of the Demised Property. Landlord further agrees to reasonably cooperate with Tenant and to execute any documents that may be reasonably requested by Tenant to accomplish such waiver of plat approval or plat approval. Notwithstanding anything to the contrary in this Lease, in the event the waiver of plat is not approved or is otherwise indefinitely deferred, the Landlord consents to the Tenant, at its sole cost and expense, filing and recording a plat to separate the Demised Property from the remaining property owned by the Landlord. Further, upon the completion of the Improvements, Tenant shall provide Landlord with eight (8) sets of As-Built Plans. The provisions of this section shall survive the sale or transfer of the Demised Property.

4.10 Facilities to be Constructed. Landlord shall not be responsible for any costs or expenses for the construction and/or maintenance of the Buildings and Improvements, except as

otherwise provided herein or agreed to by the parties. After Completion of Construction, Tenant shall warrant to Landlord the condition of the Buildings and Improvements on the Demised Property.

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

4.12 Ownership of Improvements. All Buildings and Improvements and all material and equipment provided by Tenant or on its behalf which are incorporated into or become a part of the Demised Property (except that connected to the Station and/or System utilities or facilities) shall, upon being added thereto or incorporated therein (excluding fee simple ownership of the Demised Property, which remains with the Landlord) be and remain the property of Tenant, but

subject to the same (not including personal property and removable fixtures of Tenant or Sublessees) becoming the property of Landlord at the expiration of the Term or termination of this Lease.

4.13 Mutual Covenants of Non-Interference. Tenant's development, construction, use and operation of the Demised Property shall not materially and adversely interfere with Landlord's customary and reasonable operation of the System, unless prior arrangements have been made in writing between Landlord and Tenant. Similarly, Landlord's use of the Station area shall not materially and adversely interfere with Tenant's development and construction of the Improvements and its use and operation of the Demised Property, unless prior arrangements have been made in writing between Landlord and Tenant. If during the process of construction, Landlord reasonably determines that the safety of the Station or the System is or reasonably likely to be in jeopardy, Landlord will inform Tenant of such determination and of the basis for it; whereupon Landlord and Tenant will cooperate in good faith with a view toward abating or effectively managing the source of jeopardy to the Station or System. If despite good faith efforts and cooperation the safety of the Station or System is adversely affected in a manner that is neither abated nor effectively managed, Landlord may, upon reasonable notice to Tenant, slow down or stop construction by Tenant so as to address the source of the jeopardy. Any such slowdown or stoppage shall be deemed to be an Unavoidable Delay and shall entitle Tenant to appropriate extensions of time hereunder, provided that such safety hazard which caused the slowdown or stoppage is not the result of Tenant's negligence or willful act.

4.14 Connection of Buildings to Utilities. Tenant, at its sole cost and expense, shall install or cause to be installed all necessary connections between the Buildings constructed or erected by it on the Demised Property, and the water, sanitary and storm drain mains and

mechanical and electrical conduits and other utilities, whether or not owned by Landlord. Tenant shall pay for the additional cost, if any, of locating and installing new facilities for sewer, water, electrical, and other utilities as needed to service the Demised Property.

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

4.16 Off-Site Improvements. Any off-site improvements required to be performed, paid for or contributed as a result of the development of the System shall be paid or contributed by Landlord. Any off-site improvements required to be paid or contributed as a result of Tenant's development of the Demised Property shall be paid or contributed by Tenant or third-parties to which Tenant delegates such responsibility. Tenant has had the right and opportunity to perform, or has performed, due diligence with respect to off-site improvements required to implement the Improvements and has found no conditions that would impede or delay the development of the Improvements.

4.17 Reserved.

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

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

(a) review and approve documents, Plans and Specifications, applications, lease assignments or subleases, development agreements (as set forth elsewhere in this Lease), land use restriction agreement, requests, estoppels and joinders and consents required or allowed by Tenant to be submitted to Landlord in accordance with the terms of this Lease, and generally take actions on behalf of Landlord to implement the terms hereof;

(b) Consent to actions, events, and undertakings by and/or for Tenant or extension of time periods for which consent is required by Landlord hereunder;

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

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

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

(f) Execute on behalf of Landlord, consistent with Section 23.6 of this Lease, any and all consents, agreements, easements, leasehold easements, plats, applications or other documents, to comply with applicable regulatory procedures and/or to secure financing, permits or other approvals to accomplish the construction of any and all Improvements in and refurbishments of the Demised Property, and

(g) Amend this Lease to (1) correct any typographical or non-material errors, (2) address revisions or supplements hereto of a non-material nature, (3) extend any deadline

hereunder by no more than twelve (12) months from its then existing deadline, and/or (4) carry out any purpose of this Lease.

4.20 Continuing Control. Subject to the terms and provisions of this Lease, Landlord shall retain the continuing control, right and ability hereunder to cause any development of the Demised Property to have the physical and functional relationship to the Station and the System and to be consistent with the transit uses and goals described in Section 4.1(b). Continuing control shall be retained throughout the term and any extensions of the Lease. Further, as provided in Section 14.2 below and in furtherance of Section 125.379, Florida Statutes, Tenant hereby acknowledges and agrees that its agreement to construct and maintain one hundred twenty (120) Affordable Housing Units (including, if necessary, one manager's unit) is an expressed inducement for the Landlord to enter into this Lease. Tenant and its successors and assigns shall cause all residential units built in connection with this Lease to be and remain Affordable Housing Units for the entire Term of this Lease. In connection with the forgoing, on the Execution Date, Landlord agrees to execute a land use restriction agreement to be recorded in the Public Records of Miami-Dade County, Florida, providing that the Affordable Housing Units will remain as affordable housing units for a period of ninety-nine (99) years following the Execution Date.

4.21 Transit Improvements. As a condition, and in consideration, of Landlord's permission to Tenant to lease the Demised Property and construct and own the Improvements thereon, Landlord and Tenant hereby acknowledge and agree that in lieu of Tenant constructing certain improvements to the System adjacent to the Demised Property (the "System Improvements"), Tenant shall pay to Landlord \$750,000.00 ("System Improvement Funds") on the Financial Closing Date as further set forth below. Landlord agrees that \$250,000.00 of such System Improvement Funds shall be applied as a credit towards Tenant's obligations pursuant to

the Miami-Dade Art in Public Places (APP) Ordinance as applicable to this Lease. Landlord and Tenant agree that the Tenant's obligations under the APP Ordinance as applicable to this Lease is equal to a total payment of \$403,463.60. Accordingly, on the Financial Closing Date, Tenant shall pay to Landlord a total of \$903,463.60 to fully satisfy its obligations with respect to the System Improvements and the APP Ordinance as applicable to this Lease. Such funds shall be allocated by the Landlord as follows: (i) \$500,000.00 shall be applied towards Tenant's obligations with respect to the System Improvements; and (ii) \$403,463.60 shall be applied towards Tenant's obligations with respect to the APP Ordinance as applicable to this Lease. Landlord agrees and acknowledges that upon Tenant's payment of the foregoing amount (i.e., \$903,463.60), Tenant's obligations with respect to the System Improvements and Tenant's obligations pursuant to the APP Ordinance as applicable to this Lease shall be deemed fully satisfied. Tenant's failure to make the foregoing payment on the Financial Closing Date shall be an Event of Default, subject to the terms and conditions of Article 19 of this Lease.

ARTICLE 5

Payment of Taxes and Assessments

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

(a) If any Imposition (for which Tenant is liable hereunder) may by law be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), then, at the option of Landlord or Tenant, Tenant may pay the same in installments, including any accrued interest on the unpaid balance of such Imposition, provided that Tenant shall pay those

installments which are to become due and payable after the expiration of the Term of this Lease, but which relate to a fiscal period fully included in the Term of this Lease; and

(b) Any Imposition for which Tenant is liable hereunder relating to a fiscal period, a part of which period is included within the Term of this Lease and a part of which is included in a period of time after the expiration or termination of the Term, shall be adjusted between Landlord and Tenant as of the expiration or termination of the Term so that Tenant shall pay only that portion of such Imposition that is applicable to the period of time prior to expiration or termination of the Term, and Landlord shall pay the remainder thereof if it is otherwise obligated to do so; and

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

5.2 Contesting Impositions.

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

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

(ii) Upon the termination of any such proceedings, Tenant shall pay the amount of such Imposition or part thereof, if any, as finally determined in such proceedings,

together with any costs, fees, including counsel fees, interest, penalties and any other liability in connection therewith.

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

ARTICLE 6

Surrender

6.1 Surrender of Demised Property. On the last day of the Term, or upon any earlier termination of this Lease, Tenant shall surrender and deliver up the Demised Property to the possession and use of Landlord without delay and, subject to the provisions of Articles 16 and 19 herein, with the Buildings and Improvements in their then "as is" condition and subject to reasonable wear and tear, Acts of God, condemnation and casualties.

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

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

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

ARTICLE 7

Insurance and Indemnification

7.1 Insurance. Landlord and Tenant hereby agree that the terms and provisions governing the insurance required pursuant to this Lease are contained in Schedule 7 hereto, which is hereby incorporated herein by reference.

7.2 Indemnification. Subject to the terms and conditions of Section 7.4 below, Landlord and Tenant hereby agree that the Tenant, shall indemnify and hold harmless the Landlord and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which the Landlord or its officers, employees, agents or instrumentalities may incur as a result of any claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Lease by the Tenant or its employees, agents, partners, members, principals, or contractors, except to the extent arising from or relating to the negligence or willful misconduct of Landlord or any of its employees, agents, contractors or instrumentalities. Tenant shall pay all claims and losses in connection with any matter indemnified hereunder and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Landlord,

where applicable, including any and all appellate proceedings, and shall pay all costs, judgments, and reasonable attorneys' fees which may issue thereon. Tenant expressly understands and agrees that any insurance protection required by this Lease or otherwise provided by Tenant, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Landlord or its officers, employees, agents and instrumentalities as herein provided. Further, Tenant hereby agrees that it shall require any of its Sublessees to also indemnify the Landlord to the same extent as Tenant has indemnified Landlord herein above. In each and every Sublease and sub-sublease, Tenant shall require and ensure that there is an appropriate clause or section that duly indemnifies and protects the Landlord just as Tenant has indemnified the Landlord.

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

7.4 Waiver of Subrogation. Tenant waives all rights to recover against Landlord, its employees, agents, officers, contractors or instrumentalities, for any claims, losses or damages arising from any cause covered by property insurance required to be carried by Tenant hereunder. Tenant shall cause its insurer(s) to issue customary waiver of subrogation rights endorsements to all such policies of insurance carried by Tenant with respect to the Demised Property. Landlord waives all rights to recover against Tenant, its employees, agents, officers, partners, members, principals or contractors, for any claims, losses or damages arising from any cause covered by property insurance (irrespective of whether the insurance is carried by Tenant or Landlord). Landlord shall cause its insurer(s) to issue customary waiver of subrogation rights endorsements

in favor of Tenant to all such policies of insurance carried by Landlord in connection with the Demised Property.

ARTICLE 8

Operation

8.1 Control of Demised Property. Landlord agrees that, subject to any express limitations and approvals imposed by the terms of this Lease, Tenant shall be free to perform and exercise its rights under this Lease and shall have exclusive control and authority to develop, direct, operate, manage, lease, renovate and redevelop the Demised Property, including with respect to the rental or sale of the Buildings and Improvements, subject to Article 11. Tenant hereby agrees that any and all utilities with respect to the Demised Property shall be in the name of the Tenant, any Sublessee, or whoever is responsible for such usage. However, under no circumstance, whatsoever, shall the Landlord be responsible for any utilities on the Demised Property, including, but not limited to, the installation, maintenance, initial cost or fee and/or any on-going charges or fees. Tenant hereby agrees to pay any and all such utilities relating to the Demised Property in a timely manner, so as to avoid any lien or encumbrance on the Demised Property. Tenant specifically hereby agrees that prior to any assignment of the Demised Property, in whole or in part, the Tenant shall abide by the provisions of Article 17.

8.2 Non-Interference. Landlord and Tenant hereby mutually agree not to interfere with the free flow of pedestrian or vehicular traffic to and from the Public Areas and to and from the Station. They further agree that, except for those structures reasonably necessary for security and safety purposes, no fence, or any other structure of any kind (except as may be specifically permitted or maintained under the provisions of this Lease, indicated on Construction Plans or otherwise mutually agreed upon in writing) shall be placed, kept, permitted or maintained in such fashion as to materially and adversely interfere with pedestrian or vehicular traffic to and from the

Public Areas and to and from the Station. The foregoing shall not prohibit Tenant from closing the Buildings and denying access to the public at such times and in such manner as deemed necessary by Tenant during the development (or redevelopment) or construction of any portion of the Buildings, the repair and maintenance of the Demised Property or during the operation of the Demised Property, provided such closing does not materially and adversely interfere with (i) the public's reasonable access to the Station, or (ii) Landlord's customary operation of the System, unless Tenant obtains Landlord's prior written consent. Landlord acknowledges that the Development Concept contemplates the implementation of, and Tenant has the right, in its sole discretion, to implement security measures for the Demised Property, including without limitation, locking Buildings with access limited to owners, renters or their permitted invitees.

8.3 Repair and Relocation of Utilities. Tenant hereby acknowledges that part of the building structure encroaches upon a Florida Power & Light (FPL) easement area near a utility duct bank, pursuant to an easement executed by Tenant on or about December 6, 2022, as identified on attached Exhibit C (the "FPL Easement Area"). During the Term of this Lease, Tenant shall be responsible for all costs associated with the repair, replacement, removal, and relocation of utilities caused by Tenant's construction of the Improvements or directly caused by Tenant's encroachment upon the FPL Easement Area (including, but not limited to, instances where FPL deems it necessary to relocate the utilities because FPL is unable to access the utilities due to Tenant's encroachment upon the FPL Easement Area) and, to the extent that such work causes an interruption or shut down of the Station or the System, then such shall entitle Landlord to recover from Tenant all costs of any interruption or shut-down of the Station or the System resulting therefrom, subject to the limitation provided in Section 15.2 herein. Landlord and Tenant agree to maintain and repair, and each party is given the right to replace, relocate and remove, as necessary,

utility facilities within the Demised Property required for the operation of the Demised Property, the Station, the System and all existing and future improvements, provided:

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

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

(c) Each of the utility facilities, the Demised Property and the Station (as applicable) are thereafter restored to their former state and impacts to any improvements of the other party are addressed and corrected, in either event, by the party causing such activity to be undertaken;

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

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

(f) After Tenant's Completion of Construction, Tenant shall no longer be obligated to secure the Landlord's prior written consent to repair or relocate utilities located solely on the Demised Property; provided, however, that Tenant must obtain prior written consent to repair or relocate utilities within the Demised Property and servicing the Station.

8.4 Rights to Erect Signs; Revenues Therefrom.

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

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

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

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

(iii) Signs or advertisements advertising or identifying any product, company, service operator or event operating at, in or from, or associated with, the Demised Property or otherwise related thereto, or otherwise permitted by Laws and Ordinances, including without limitation, signage requested or desired by a Lender or any party providing financing, or

any contractor, subcontractor, supplier or joint venturer or any other party providing services or materials to and/or in connection with the Demised Property (or any part thereof).

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

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

8.5 Landlord's Signs Upon Demised Property. Station and System wide informational graphics shall be allowed to be placed within the Demised Property at the sole expense of Landlord and at locations and in sizes mutually agreed upon by Landlord and Tenant in writing.

ARTICLE 9

Repairs and Maintenance

9.1 Tenant Repairs and Maintenance. Throughout the Term of this Lease, Tenant, at its sole cost and expense, shall keep the Demised Property in good order and condition, and make all necessary repairs thereto. The term "repairs" shall include all replacements, renewals, alterations, additions and betterments deemed necessary by Laws and Ordinances or by Tenant. All repairs made by Tenant shall be at least substantially similar in quality and class to the original work, ordinary wear and tear and loss by fire or other casualty excepted, and except for changes reasonably based on deterioration of local conditions, if any. Any repair required as a result of a fire or other casualty shall be governed by Article 16. Tenant shall keep and maintain all portions

of the Demised Property and all Improvements in reasonable order and operating condition, reasonably free of dirt, rubbish, graffiti, and unlawful obstructions. Landlord, at its option, and after thirty (30) days written notice to Tenant, may perform any maintenance or repairs required of Tenant hereunder which have not been performed by Tenant following the notice described above, and may seek reimbursement for the actual costs and expenses thereof from Tenant.

ARTICLE 10

Compliance with Laws and Ordinances

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

10.2 Contest by Tenant. Tenant shall have the right, after prior written notice to Landlord, to contest the validity or application of any Law or Ordinance by appropriate legal proceedings diligently conducted in good faith, in the name of Tenant without cost or expense to Landlord, except as may be required in Landlord's capacity as a party adverse to Tenant in such contest. If counsel is required, the same shall be selected and paid by Tenant. Landlord hereby agrees to execute and deliver any necessary papers, affidavits, forms or other such documents necessary for Tenant to confirm or acquire status to contest the validity or application of any Law or Ordinance, which instrument shall be subject to the reasonable approval of counsel for

Landlord, which approval shall not be unreasonably withheld or delayed. Landlord shall not be required to join in any such contest unless its joinder is required for a contest to be valid.

10.3 Federal Lease Addendum. The terms and provisions of the HUD Lease Addendum, attached hereto as Schedule 10.3, are hereby incorporated by reference. Contemporaneously with the execution of this Lease, the Landlord and Tenant agree to execute the HUD Lease Addendum.

ARTICLE 11

Changes and Alterations to Buildings by Tenant

11.1 Tenant's Right. Tenant, with Landlord's approval (which approval shall not be unreasonably withheld, conditioned or delayed), shall have the right at any time and from time to time during the Term of this Lease, at its sole cost and expense, to expand, rebuild, alter and/or reconstruct the Buildings and other Improvements, and to raze the Buildings provided any such razing shall be preliminary to and in connection with the rebuilding of a new Building or Buildings, and provided further that, unless waived by Landlord:

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

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

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

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

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

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

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

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

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

11.2 Right to Redevelop.

(a) Tenant's Right to Redevelop. With Landlord's approval, Tenant shall have the right from time to time during the Term of this Lease, at its sole cost and expense, to redevelop the Improvements (which, for purposes of this Section 11.2, shall mean the Improvements to be constructed pursuant to the Development Concept). “Redevelopment” shall be defined as (i) any substantial change in the use of any portion of the Improvements (e.g., a change from a residential use to a commercial use (but which shall not include, for example, the replacement of retail in the ordinary course of business), a change from affordable housing units to market rate units, any change in the unit mix, any changes that results in an increase to the average area median income of sixty percent (60%) as permitted in Section 4.2, etc.), or (ii) any expansion or addition to the Improvements, including in connection with any razing and/or reconstruction of the

Improvements, which increases the square footage of the Improvements by twenty five percent (25%) or more over the square footage of the Improvements to be constructed pursuant to the Development Concept. Any such Redevelopment shall require the express written consent of the Landlord and shall require the payment of rent as provided in this Section 11.2, which payment of rent shall be paid over time based on terms to be reasonably negotiated by the parties at such time, and shall not be due until the issuance of a Certificate of Occupancy for the Improvements to be constructed in accordance with the Redevelopment plans. For the avoidance of doubt, the restoration of the Improvements (including any required razing and reconstruction of the Improvements) after a casualty event to the use and condition that existed prior to such casualty (subject to changes required by applicable law, including the Florida Building Code) shall not be considered Redevelopment.

Landlord shall have the right, in its absolute and sole discretion, to decline to approve such plans, to approve the plans as submitted or to require modifications of the plans. Landlord shall promptly review the plans and advise Tenant of its determination. If Landlord approves the plans for Redevelopment, either as initially submitted or, if applicable, with modifications, it shall issue a written approval and Tenant and Landlord shall proceed to amend this Lease to permit for such Redevelopment and to establish the rent due in connection with such Redevelopment as described in Section 11.2(c) below.

Notwithstanding the foregoing, the term Redevelopment shall not include any normal and periodic maintenance, repairs, retrofits, upgrades, or renovations to the interior spaces of the Improvements that do not materially change the use of the Improvements. The term Redevelopment shall also not include (a) reconstruction or razing required to repair damage to existing structures, including, but not limited to, damage caused by a casualty event, (b)

reconstruction or razing required by Laws and Ordinances (such as Miami-Dade County 40-year recertification or the requirements of the Florida Building Code), or (c) design standards (such as a LEED certification).

(b) Conditions Precedent to Redevelopment. The following provisions shall apply to any Redevelopment of the Improvements:

- i. Tenant shall be current in all obligations under this Lease, including, but not limited to, payment of all Rent due to Landlord;
- ii. The Redevelopment and/or razing shall be in compliance with all applicable provisions of this Lease;
- iii. Tenant shall have obtained any consents required by any sublessees, mortgagees and other entities that have provided financing for the portion of the Improvements to be razed or altered by the Redevelopment;
- iv. Tenant shall have obtained, and caused its general contractors, construction managers, architects, and subcontractors to obtain insurance as required by Landlord and delivered to Landlord certificates evidencing such insurance naming Landlord as an additional insured and loss payee; and
- v. Prior to razing or any Redevelopment, there shall be an adjustment to the Rent, which shall be determined by the method described in Section 11.2(c) below.

(c) Rent Adjustment Upon Redevelopment. The rent to be due to Landlord in connection with any Redevelopment shall be determined as follows:

- i. Upon the date mutually agreed to by Tenant and Landlord, each shall, at its own expense, hire an appraiser. The appraiser shall determine the annual fair market rental value of the Demised Property, as encumbered by the Lease and any affordability restrictions herein

and developed in accordance with the Development Concept, and excluding the value of any Improvements. The appraiser shall also determine as part of its appraisal the annual fair market rental value of the Demised Property, as encumbered by the Lease and any affordability restrictions herein and developed in accordance with the Redevelopment plans approved by Landlord, and excluding the value of any Improvements. The difference between the appraiser's determinations shall be hereinafter referred to as the "Fair Market Rent Determination". Appraisers hired by the parties shall be independent, disinterested, reputable appraisers, with an MAI designation, licensed and certified in the State of Florida and having a minimum of ten (10) years of demonstrated expertise in appraising property in Miami-Dade County which is similar to the Land in its nature and use and in conducting appraisals of a similar nature. Appraisals shall be in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) and Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA). Each appraiser shall complete the above-described appraisals within ninety (90) days.

Within ten (10) days of completion of the appraisals, each party shall concurrently provide a full copy of the appraisal to the other party. If the Fair Market Rent Determinations made by the two (2) appraisals varies by fifteen percent (15%) or less, then the average of the two Fair Market Rent Determinations made by each appraiser shall be established as the rent due in connection with the Redevelopment.

- ii. If the Fair Market Rent Determinations from the two appraisers varies by more than fifteen percent (15%), then the two appraisers shall appoint a third appraiser with the same qualifications and experience as is required for the first two appraisers to perform a third appraisal, the scope of which shall be the same as the two completed appraisals and which

shall be in compliance with the USPAP and UASFLA. The cost of the third appraisal shall be shared equally by the Landlord and Tenant. The third appraisal must be completed within ninety (90) days of the completion of the two initial appraisals. The Fair Market Rent Determination made by the third appraiser shall be averaged with the Fair Market Rent Determination made by the appraiser closest to that of the third appraisal. The average of the two Fair Market Rent Determinations shall be established as the rent due in connection with the Redevelopment.

- iii. If either of the parties disagrees with Fair Market Rent Determination as established by the procedures described in Section 11.2(c)(i) or (ii) above, then the parties shall have a period of sixty (60) days, to mutually agree upon the amount of the rent due in connection with the Redevelopment. If the parties are unable to come to such agreement within the sixty (60) day period, then either party shall have the right to require that the Fair Market Rent Determination be made through binding arbitration conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, or similar successor rules thereto, and applicable Laws and Ordinances. The location of such arbitration shall be Miami-Dade County, Florida. In such event, the parties shall have a period of thirty (30) days to mutually agree upon an arbitrator who shall be an independent, disinterested, reputable appraiser, with an MAI designation, licensed and certified in the State of Florida and having a minimum of fifteen (15) years of demonstrated expertise in appraising property in Miami-Dade County which is similar to the Land in its nature and use and in conducting appraisals of a similar nature and who has not participated or contributed in any manner in any of the appraisals previously conducted in accordance with Sections 11.2(c)(i) and (ii), or who is affiliated in any way with those appraisers or the

companies in which the initial appraisers have an interest in or are employed by. If the parties fail to agree upon an arbitrator within the thirty (30) day period, then the two appraisers who were initially hired by Tenant and Landlord shall select an arbitrator meeting the qualifications described above and such selection shall be final. The parties shall provide to the arbitrator full copies of all appraisals conducted in accordance with Section 11.2(c)(i) and (ii) above, as applicable, and any related documentation that the arbitrator may reasonably request and shall fully cooperate in the production and discovery of requested documents. Landlord and Tenant shall each be entitled to be represented by counsel at the arbitration and to provide evidence and arguments to the arbitrator.

The party requesting arbitration shall pay all costs related to the filing of such arbitration and the arbitration itself, including, but not limited to, all services provided by the arbitrator. Each party shall be responsible for all costs incurred in providing information and documents which it has in its possession and all costs which it incurs on its own behalf in the arbitration process, including but not limited to, attorney's and expert's fees and costs incurred in providing evidence and arguments.

The arbitrator's Fair Market Rent Determination shall be binding upon the parties in the absence of manifest error or fraud and shall not be subject judicial review.

All applicable provisions of this Lease shall apply to all Redevelopment activities.

ARTICLE 12

Discharge of Obligations

12.1 Tenant's Duty. During the Term of this Lease, except for Mortgages or as otherwise allowed under this Lease, Tenant will discharge or cause to be discharged any and all obligations incurred by Tenant which give rise to any liens on the Demised Property, it being

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

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

ARTICLE 13

Prohibitions on Use of Demised Property

13.1 Prohibited Use of Demised Property by Tenant.

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

(b) The Demised Property shall not knowingly be used for the following:

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

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

(c) No covenant, agreement, lease, Sublease, Leasehold Mortgage, Subleasehold Mortgage, conveyance or other instrument shall be effected or executed by Tenant, or any of its successors or assigns, whereby the Demised Property or any portion thereof is restricted by Tenant, or any successor in interest, upon the basis of race, color, religion, sexual orientation, sex or national origin in the sale, lease, use or occupancy thereof. Tenant shall comply with all applicable state and local laws, in effect from time to time, prohibiting discrimination or segregation by reason of race, color, religion, sexual orientation, sex, or national origin in the sale, lease or occupancy of the Demised Property. In furtherance thereof:

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

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

(iii) Civil Rights. The Tenant agrees to abide by Chapter 11A, Article IV, Sections 2 and 28 of the Code of Miami-Dade County, as amended, applicable to non-discrimination in employment and abide by Executive Order 11246 which requires equal employment opportunity.

(iv) Where applicable, the Tenant agrees to abide and be governed by Titles VI and VII, Civil Rights Act of 1964 (42 USC 2000 D&E) and Title VIII of the Civil Rights Act of 1968, as amended, and Executive Order 11063 which provides in part that there will be no discrimination of race, color, sex, religious background, ancestry, or national origin in performance of this Lease, with regard to persons served, or in regard to employees or applicants for

employment or housing; it is expressly understood that upon receipt of evidence of such discrimination, the Landlord shall have the right to terminate said Lease.

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

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

13.2 Dangerous Liquids and Materials. Tenant shall not possess or otherwise maintain flammable or combustible liquids on or about the Demised Property. Tenant shall not knowingly permit its Sublessees or other person or entity in contractual privity with Tenant to carry flammable or combustible liquids into or onto the Demised Property during or following completion of construction except as such substances are used in the ordinary course of business, and shall prohibit the storage or manufacture of any flammable or combustible liquid or dangerous or explosive materials in or on the Demised Property; provided that this restriction shall not apply to prevent (a) the entry and parking of motor vehicles carrying flammable or combustible liquids

solely for the purpose of their own propulsion, (b) the maintaining retail inventories for sale to retail customers of motor oils and similar types of products, (c) the use of normal cleaning and maintenance liquids and substances and/or office and other supplies customarily used, or (d) their use in construction of Buildings and Improvements on the Demised Property.

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

13.4 Designation of Buildings by Name. Tenant shall have the right and privilege of designating name(s) by which the Buildings, Improvements and/or Demised Property shall be known, so long as such name is not obscene (as defined by Florida Statutes). Notwithstanding the

foregoing, upon the expiration or early termination of this Lease, or upon the Landlord re-acquiring the Demised Property, or any portion thereof by reversion, the parties hereby agree that the Landlord is not, and shall not be, bound to any designation or name used in connection with any Building, Improvement or the Demised Property.

ARTICLE 14

Entry by Landlord

14.1 Inspection by Landlord of Demised Property. Landlord and its authorized representatives, upon reasonable notice, and in the presence of a representative of Tenant, shall have the right to enter the Demised Property at reasonable times during normal business hours for the purpose of inspecting the same to insure itself of compliance with the provisions of this Lease.

14.2 Right to Inspect Books and Records of Tenant. Tenant shall always make available to the Landlord for its inspection and/or audit the Tenant's books and records relating to the lease of the Affordable Housing Units on the Demised Property. Further, the Tenant hereby acknowledges and agrees that its agreement to construct and maintain one hundred twenty (120) Affordable Housing Units (including, if necessary, one manager's unit) is an expressed inducement for the Landlord to enter into this Lease. Thereby, any failure by the Tenant to maintain one hundred percent (100%) of such residential rental units owned by the Tenant as Affordable Housing Units within the Demised Property following Tenant securing a Certificate of Occupancy for each Building and thereafter for the remainder of the Term shall be an Event of Default, subject to the terms and conditions of Article 19 of this Lease, in addition to any other remedy found at law. This Section shall survive the expiration and/or termination of this Lease.

14.3 Limitations on Inspection. Landlord, in its exercise of the right of entry granted to it in Section 14.1 herein shall (a) not unreasonably disturb the occupancy of Tenant or Sublessees nor disturb their business activities; and (b) with respect to any residential occupants,

shall comply with all laws, rules and regulations governing or applicable to landlords of residential premises.

ARTICLE 15

Limitations of Liability

15.1 Limitation of Liability of Landlord. Landlord shall not be liable to Tenant for any incidental, consequential, special or punitive loss or damage whatsoever arising from any acts or omissions of Landlord.

15.2 Limitation of Liability of Tenant. Tenant shall not be liable to Landlord for any incidental, consequential, special or punitive loss or damage whatsoever arising from any acts or omissions of Tenant.

ARTICLE 16

Damage and Destruction

16.1 Tenant's Duty to Restore. If, at any time during the Term of this Lease, the Demised Property or any part thereof shall be damaged or destroyed by fire or other casualty covered within the insurance designation of fire and extended coverage as same is customarily written in the State of Florida, Tenant, at its sole cost and expense, if so requested by Landlord or elected by Tenant, and provided that the insurance proceeds related to such casualty are made available to Tenant in a sufficient net amount for use in connection therewith, shall repair, alter, restore, replace or rebuild the same as nearly as reasonably possible to its value, conditions and character which existed immediately prior to such damage or destruction, subject to such changes or alterations as Tenant may elect to make in conformity with the provisions of this Lease and modern construction techniques and methods. Provided Tenant otherwise complies with the terms of this Lease and obtains Landlord's approval, through its Board of County Commissioners, it may construct Buildings and Improvements which are larger, smaller or different in design, function or

use and which represent a use comparable to prior use or compatible with uses of property in the immediate geographical area, to the extent such construction and improvement are allowed by Article 4 of this Lease and by applicable Laws and Ordinances. Such repairs, alterations, restoration, replacements or rebuilding, including such changes and alterations as aforementioned and including temporary repairs for the protection of other property pending the completion of any thereof, are sometimes referred to in this Article 16 as the “Work.” However, in the event insurance proceeds related to such casualty are not made available to Tenant for use in connection therewith, or are deemed insufficient by Tenant in its reasonable discretion, and Tenant elects not to rebuild, Landlord and Tenant shall each have the right to terminate this Lease, and the affected areas of the Demised Property shall be returned to the Landlord in its original condition (free of any Buildings, Improvements, or other); provided, however, that this Lease shall not be terminated pursuant to this Section 16.1 without the prior written consent of the Investor Limited Partner and Lender. Any insurance proceeds available to Tenant (following restoration or otherwise) shall be collected by and paid directly to Tenant, subject to the rights of any Lender as provided in Section 16.4.

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

16.3 Interrelationship of Lease Sections. Except as otherwise provided in this Article 16, the conditions under which any construction, repair and/or maintenance work is to be

performed and the method of proceeding with and performing the same shall be governed by all the provisions of Article 4 and Article 11 herein.

16.4 Loss Payees of Tenant-Maintained Property Insurance. With respect to all policies of property insurance required to be maintained by Tenant in accordance with Schedule 7 attached, (a) Landlord shall be named as an additional insured as its interest may appear, and (b) the loss thereunder shall be payable to Tenant, Landlord and to any Lender under a standard mortgage endorsement. Neither Landlord nor any Lender shall unreasonably withhold its consent to a release of the proceeds of any fire or other casualty insurance for any loss which shall occur during the Term of this Lease for repair or rebuilding; provided that Lenders' agreements relative to insured losses and use of proceeds shall be subject to the terms of their Mortgages. Any proceeds remaining after completion of rebuilding or repair under this Article, shall be paid to Tenant, subject to the rights of any Lender and except as provided in Section 16.7.

16.5 Repairs Affecting Station or Demised Property. Before beginning any repairs or rebuilding, or entering into any contracts in connection therewith, required by any damage to or destruction of the Demised Property which adversely affects the Station entrance, or any damage to or destruction of the Station which adversely affects the entrance to or use of the Demised Property, Tenant or Landlord, as the case may be, shall submit for the approval of the other party (which approval shall not be unreasonably withheld, conditioned or delayed), plans and specifications for such repairs or rebuilding. Any such repairs and rebuilding shall be completed free and clear of liens subject to the provisions of Article 12 herein, other than Mortgages (which shall be permitted liens).

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

16.7 Termination of Lease for Certain Destruction Occurring During Last Five Years of Lease Term. Notwithstanding anything to the contrary contained herein, in the event that the Demised Property or any part thereof shall be damaged or destroyed by fire or other casualty during the last five (5) years of the Term of this Lease, and the estimated cost for repair and restoration exceeds an amount equal to twenty-five percent (25%) of the then-current Fair Market Value of the Demised Property (as determined by a mutually acceptable independent appraiser), then Tenant shall have the right to terminate this Lease and its obligations hereunder (subject to the prior written consent of the Investor Limited Partner) by giving written notice to Landlord within six (6) months after such damage or destruction. In such event, this Lease shall terminate fifteen (15) days following Landlord's receipt of such notice of casualty, and Tenant shall not be entitled to the return of any Rent. In such event, the property insurance proceeds for the damaged Buildings and Improvements, including business interruption proceeds, shall be paid to Landlord and Lenders as their respective interests may appear, subject to the provisions of Section 16.4.

ARTICLE 17

Mortgages, Transfers, Subleases, Transfer of Tenant's Interest,

New Lease and Lease in Reversion

17.1 Right to Transfer Leasehold. During the Term of this Lease, Tenant, upon the prior written consent of the Landlord (meaning either the County Mayor or the Board of County Commissioners as described below), shall be permitted from time to time, to sell, assign or otherwise transfer all or any portion of its rights under this Lease to such other organizations, firms,

corporations, general or limited partnerships, unincorporated associations, joint ventures, estates, trusts, any Federal, State, County or Municipal government bureau, department or agency thereof, or any other entities as Tenant shall select, so long as such organization or entity meets the requirements of Section 125.38 of the Florida Statutes and subject to the following:

(a) Tenant shall not be in default under this Lease at the time of such sale, assignment, or transfer;

(b) Tenant shall obtain written consent of the Landlord, through its County Mayor, or his or her designee, not to be unreasonably withheld, delayed or conditioned, both as to the proposed transfer and the proposed transferee, but only if Tenant desires to retain its obligation and responsibility to complete the Improvements under this Lease;

(c) If in any request to the Landlord the Tenant seeks a sale, transfer or an assignment of this Lease and/or a release from liability, then accompanied by any such request to Landlord, Tenant shall include copies of the proposed assignment or transfer documents, together with the latest financial statement (audited, if available) of the proposed transferee and a summary of the proposed transferee's prior experience in managing and operating real estate developments. In such instance, the Board of County Commissioners shall consider the matter and determine, in its sole discretion, to consent to the Tenant's release from liability hereunder where the proposed transferee has been demonstrated to have financial worth at least equal to the transferring Tenant (or is otherwise financially acceptable to the Landlord), a sound business reputation and a demonstrated managerial and operational capacity for real estate developments, and the transferee complies with all applicable local, county, State, and Federal laws and ordinances. If the Landlord consents to such transferee, Tenant or then applicable assignor shall be released of all obligations under this Lease accruing after the effective date of such transfer, but only as to the portion of the

Demised Property so transferred. Notwithstanding the foregoing provisions of Section 17.1, nothing herein shall obligate the Landlord to approve any sale or assignment, and unless otherwise agreed to in writing by the Landlord, if Tenant transfers its interest in all or any part of the Lease prior to the Completion of Construction, the Tenant (or assignor) who is the transferor shall remain liable under all the terms and provisions of this Lease until Completion of Construction (as evidenced by the issuance of a Certificate of Completion or Certificate of Occupancy).

(d) Any sale, assignment or transfer of all or any part of Tenant's interest in this Lease and the Demised Property shall be made expressly subject to the terms, covenants and conditions of this Lease, and such purchaser, assignee or transferee shall expressly assume all of the obligations of Tenant under this Lease applicable to that portion of the Demised Property being sold, assigned or transferred, and agree to be subject to all conditions and restrictions to which Tenant is subject, but only for matters accruing while such purchaser, assignee or transferee holds, and only related to, the sold, assigned, or transferred interest. However, nothing in this subsection or elsewhere in this Lease shall abrogate (i) Landlord's right to payment of all Rent and other amounts due Landlord which accrued prior to the effective date of such transfer, and Landlord shall always have the right to enforce collection of such Rent or other sums due in accordance with the terms and provisions of this Lease; and (ii) the obligation for the development, use and operation of every part of the Demised Property to be in compliance with the requirements of Section 4.1 herein.

(e) There shall also be delivered to Landlord a notice which shall designate the name and address of the transferee and the post office address of the place to which all notices required by this Lease shall be sent.

(f) Such transferee of Tenant (and all succeeding and successor transferees) shall succeed to all rights and obligations of Tenant under this Lease with respect to the portion of the Demised Property so transferred, and subject to the terms of the document of sale, assignment or transfer, including the right to mortgage, encumber and otherwise assign and sublease subject, however, to all duties and obligations of Tenant, and subject to the terms of the document of assignment or transfer, in and pertaining to the then term of this Lease. As between Tenant and the transferee, the assignment (or other document of transfer) shall allocate such portion, if any, of the Rent and any other payments and obligations under this Lease to be paid or provided to Landlord by the transferee.

(g) Once a sale, assignment or transfer has been made with respect to any portion of the Demised Property, the transferee and Landlord may thereafter modify, amend or change this Lease with respect to such portion of the Demised Property, so long as Tenant has been released from all rights and obligations under this Lease pertaining to the assigned portion of the Demised Property, all subject to the provisions of the sale, assignment or transfer, so long as they do not diminish or abrogate the rights of Tenant (or anyone claiming through Tenant) as to any other part of the Demised Property, and no such modification, amendment or change shall affect any other part of the Demised Property or the lease thereof.

(h) Except as may otherwise be specifically provided in Section 17.1, upon the Landlord's consent to a transfer by any assignor, such transferor shall be released and discharged from all of its duties and obligations hereunder which pertain to the portion of the Demised Property transferred for the then unexpired Term of this Lease, including the payment of Rent and Impositions which are not then due and payable; it being the intention of this Lease that the tenant then in possession shall be liable for the payment of Rent and Impositions becoming due and

payable during the term of its possession of the Demised Property, and that there shall be no obligation on the part of such tenant (or any transferor) for the payment of any Rent or Impositions which shall become due and payable with respect to the portion of the Demised Property transferred subsequent to the termination of its possession of any portion of the Demised Property under the terms of this Lease.

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

(j) For purposes of this Article, the words "sale," "assignment," or "transfer" shall be deemed to have similar meanings, unless the context indicates otherwise. If Tenant is a corporation, limited liability company, unincorporated association, general or limited partnership, or joint venture, the transfer, assignment, or hypothecation of (a) any stock of Tenant in the case Tenant is a corporation, (b) partnership interest in Tenant, in the case Tenant is a general or limited partnership, (c) members interest in Tenant, in the case Tenant is a limited liability company, or (d) interest in Tenant, in the case the Tenant is another type of entity, in which the aggregate is in excess of fifty percent (50%) of the ownership of such corporation, limited or general partnership, limited liability company or another type of entity, shall be deemed an assignment within the meaning and provisions of this Section. "In the aggregate", means the sum of all stock or other interests transferred over the entire period of this Lease. Stock or other interests transferred among the original holders and/or their families of such stock, partnership interests, member interests or

other interests as of the date of execution of this Lease or such later date as the Landlord shall consent to an assignment, sale or transfer pursuant to this Section 17.1. Notwithstanding the foregoing or anything to the contrary herein, Landlord's consent shall not be required for (i) transfers of limited partner interests in Tenant; or (ii) the removal and replacement of any managing, administrative, or other general partner of Tenant by the Investor Limited Partner.

17.2 Right to Mortgage Leasehold

Notwithstanding anything in Section 17.1 to the contrary, Tenant and its Sublessees shall each have the right from time to time, and without the prior consent of Landlord, to mortgage and otherwise encumber its rights under this Lease, or its Sublease, as applicable, and the leasehold or sub-leasehold estate, in whole or in part, by a Mortgage or Mortgages to any Lender, provided it is a recognized lending institution, such as a bank, savings and loan, pension fund, insurance company, savings bank, real estate investment trust, tax credit syndication entity, other real estate investment or lending entity, federal, state, county or municipal governmental agency or bureau, whether such be local, national or international, or the mortgage is a purchase money mortgage given back to the transferor or is a bridge financing provided by an affiliate of the Tenant, or otherwise is reasonably acceptable to Landlord. Except as otherwise reasonably approved by the Landlord, through its Board of County Commissioners, or his designee, such Mortgages or encumbrances shall be expressly subject to the terms, covenants and conditions of this Lease, and at all times shall be inferior and subject to the prior right, title and interest of Landlord herein as security for the performance of the terms and conditions of this Lease. Tenant and/or Sublessee, as applicable, shall provide Landlord with a copy of all such Mortgages. The granting of a Mortgage against all or part of the leasehold or sub-leasehold estate in the Demised Property shall not operate to make the Lender thereunder liable for performance of any of the covenants or

obligations of Tenant or Sublessee under this Lease or a Sublease, as applicable, except in the case of a Lender who owns or is in possession or control of all or a portion of the Demised Property, and then only for the applicable portion of the Demised Property, and its period of ownership or possession, or as otherwise provided under applicable law, but Landlord shall always have the right to enforce this Lease against such portion of the Demised Property, including such obligations accruing prior to such period of ownership or possession, subject to the terms hereof. The amount of any Mortgage may be increased whether by an additional mortgage and agreement consolidating the liens of such Mortgage or by amendment of the existing Mortgage, and may be permanent or temporary, replaced, extended, increased, refinanced, consolidated or renewed without the consent of Landlord. Such Mortgage(s) may contain a provision for an assignment of any rents, revenues, monies or other payments due to Tenant or Sublessee as a landlord (but not from Tenant or Sublessee to Landlord) from Tenant or Sublessee to a Lender, and a provision therein that the Lender in any action to foreclose the same shall be entitled to the appointment of a receiver. Further, Tenant agrees that it shall not encumber, mortgage, or lien any portion of the Master Parcel or any other property (other than the Demised Property) for the construction of the Demised Property. Notwithstanding the foregoing, Tenant may encumber, mortgage and/or lien any portion of the Demised Property in which it has already Commenced Construction or where Completion of Construction has occurred. This Section shall survive the expiration and/or early termination of this Lease.

17.3 Notice to Landlord of Mortgage. A notice of each Leasehold Mortgage and Subleasehold Mortgage shall be delivered to Landlord specifying the name and address of such Leasehold and Subleasehold Mortgagee to which notices shall be sent. Landlord shall be furnished a copy of each such recorded Mortgage. For the benefit of any such Lender who shall have become

entitled to notice as hereinafter provided in this Article 17, Landlord agrees, subject to all the terms of this Lease, not to accept a voluntary surrender, termination or modification of this Lease at any time during any period that such Mortgage shall remain a lien on Tenant's or a Sublessee's leasehold estate (as applicable). Any such Leasehold or Subleasehold Mortgagee(s) will not be bound by any modification of this Lease with respect to the portion of the Demised Property subject to such Leasehold Mortgage(s), Subleasehold Mortgage(s), unless such modification is made with the prior written consent of such Lender, and no sale or transfer of Landlord's fee simple interest in the Demised Property or any portion thereof to Tenant shall terminate this Lease by merger or otherwise so long as the lien of any Mortgage remains undischarged. The foregoing is not meant to prohibit a sale of the fee to Tenant.

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

17.5 Right to Cure Default of Tenant.

(a) In addition to any rights the Leasehold or Subleasehold Mortgagee or Sublessee may, have by virtue of Article 19 herein, if, within ninety (90) days after the mailing of

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

future act by Landlord. Such new Lease(s) shall contain the same clauses subject to which this demise is made, and shall be at the rents and other payments for such portion of the Demised Property due Landlord and upon the terms as are herein contained. Tenant(s) under any such new Lease(s) shall have the same right, title and interest in and to and all obligations accruing thereafter under this Lease with respect to the applicable portion of the Demised Property as Tenant has under this Lease.

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

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

(d) Nothing herein contained shall be deemed to impose any obligation on the part of Landlord to deliver physical possession of the Demised Property to such Leasehold

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

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

(f) Upon the execution and delivery of a new lease(s) pursuant to this Article 17, all Subleases which theretofore may have been assigned to Landlord or have reverted to Landlord upon termination of this Lease shall be assigned and transferred, without recourse against Landlord, by Landlord to the tenant under any such new lease(s). Between the date of termination of this Lease and the date of execution and delivery of the new lease(s), if the Lender or Sublessee shall have requested such new lease(s) as provided for in this Section 17.5, Landlord will not cancel any or Sublease or accept any cancellation, termination or surrender thereof (unless such termination shall be effective as a matter of law on the termination of this Lease) without the consent of the Lender or Sublessee, except:

(i) for default as permitted in such, and

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

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

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

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

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

- (a) the Sublease and any sub-sublease is an arms' length transaction on market terms;
- (b) the Sublessee and any sub-sublessee is not a "related party" to Tenant, provided that affiliates of the Tenant may enter into Subleases for commercial or other uses consistent with this Lease on market terms without being deemed a "related party";
- (c) the Sublessee and any sub-sublessee shall be in compliance with the terms and conditions of its Sublease and any sub-sublease; and
- (d) the Sublessee and any sub-sublessee shall agree to attorn to Landlord.

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

17.8 Estoppel Certificates from Landlord. Upon request of Tenant or any Lender or Sublessee, Landlord agrees to give such requesting party an estoppel certificate in accordance with Section 22.2 herein.

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

17.10 No Subordination or Mortgaging of Landlord’s Fee Title. There shall be no subordination of Landlord’s fee simple interest in the Land to the lien of any Leasehold Mortgage or Subleasehold Mortgage financing nor shall Landlord be required to join in such mortgage financing. No Leasehold Mortgagee or Subleasehold Mortgagee may impose any lien upon the Landlord’s fee simple interest in the Land.

17.11 Payment Where Tenant Sells, Refinances, Assigns or Transfers.

(a) In the event of any sale, refinance, assignment or transfer under this Lease, subject to the provisions of Section 17.1 of this Lease, Tenant shall pay Landlord two percent (2%) of the gross sales amount received by Tenant, less (i) the outstanding indebtedness owed by the Tenant

and secured by the Demised Property, or this Lease, and (ii) the costs of closing, including, but not limited to, sales/leasing commissions, reserves established, documentary stamp taxes, surtaxes and/or other transfer taxes, and other customary closing costs actually paid by Tenant in connection with such sale, refinance, assignment or transfer (the “Assignment Fee”); provided, however, if the Assignment Fee is less than One Hundred Thousand and No/100 Dollars (\$100,000.00) (“Minimum Assignment Fee”), then Tenant shall pay Landlord the Minimum Assignment Fee as the Assignment Fee. All such costs and calculations of net proceeds shall be commercially reasonable and verified by Landlord. Tenant shall pay Landlord the Assignment Fee within thirty (30) days of Tenant’s receipt of the net sales proceeds from the closing of the applicable sale, refinance, assignment or transfer. The payments to Landlord under this section shall be in addition to, and with no offsets for, any other rents or payments to which Landlord is entitled under any other provisions of this Lease.

(b) Notwithstanding the provisions of Section 17.11(a), Landlord shall have no right to receive any payment, proceeds or other monies out of or pertaining to the sale, refinance, assignment, or transfer of any portion of Tenant’s interest in the Lease or the Demised Property, if such sale, refinance, assignment or transfer (i) is to an entity in which Tenant (or its affiliates, shareholders or partners) holds a majority interest, (ii) results from the transfer, assignment or sale of any stock or partnership or other interest in Tenant, which in the aggregate does not exceed fifty percent (50%), (iii) results from the grant of any Leasehold Mortgage or other liens to any Leasehold Mortgagee or any other third party or from any transfer resulting from foreclosure or deed-in-lieu of foreclosure under a Leasehold Mortgage, (iv) results from any mezzanine financing (e.g., the pledge or hypothecation of Tenant’s direct or indirect equity or ownership interests [whether stock, partnership interest, beneficial interest in a trust, membership interest or other

interest of an ownership or equity nature] to secure mezzanine financing) or, in the event of a bona-fide default, the exercise of remedies by a mezzanine financing lender under any security for a mezzanine financing, the exercise of which may result in a change of control, (v) constitutes a Sublease, (vi) was made wholly or partially for the purpose of investing proceeds into the rehabilitation of the Demised Property, but only as to such proceeds actually invested into such rehabilitation, (vii) results from a transfer of limited partner interests in Tenant; or (viii) results from the Investor Limited Partner's removal and replacement of any general partner (including any managing general partner or administrative general partner) or special limited partner of Tenant in accordance with Tenant's Amended and Restated Agreement of Limited Partnership. For the avoidance of doubt, other than as permitted in this Section 17.11(b), neither a change of control as a result of the exercise of mezzanine-style remedies, nor the transfer of ownership from Tenant to an affiliate may be used as a mechanism to avoid the payment of the Assignment Fee to the Landlord. The payments to Landlord under this Section shall be in addition to and with no offsets for any other rents or payments to which Landlord is entitled under any other provisions of this Lease.

ARTICLE 18

Eminent Domain

18.1 Taking of Demised Property. If at any time during the Term of this Lease the power of eminent domain shall be exercised by any federal or state sovereign or their proper delegates, by condemnation proceeding (a "Taking"), to acquire the entire Demised Property, such Taking shall be deemed to have caused this Lease to terminate and expire on the date of such Taking. Tenant's right to recover a portion of the award for a Taking, as hereinafter provided, is limited to the Fair Market Value of the Buildings and other Improvements, plus the value of Tenant's interest in the unexpired Term of the leasehold estate created pursuant to this Lease, and

in no event shall Tenant be entitled to compensation for any fee interest in the Land. Notwithstanding anything herein contained to the contrary, Landlord shall be entitled to receive from the condemning authority not less than the appraised value of the Land, subject to this Lease, and as if vacant and assuming no improvements existed on the Land, at the time of taking. For the purpose of this Article 18, the date of Taking shall be deemed to be either the date on which actual possession of the Demised Property or a portion thereof, as the case may be, is acquired by any lawful power or authority pursuant to the Taking or the date on which title vests therein, whichever is earlier. All Rents and other payments required to be paid by Tenant under this Lease then due and payable shall be paid up to the date of such Taking. Tenant and Landlord shall, in all other respects, keep, observe and perform all the terms of this Lease up to the date of such Taking.

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

18.3 Partial Taking; Termination of Lease. If, in the event of a Taking of less than the entire Demised Property, the remaining portion of the Demised Property not so taken cannot be adequately restored, repaired or reconstructed so as to constitute a complete architectural unit of substantially the same usefulness, design, construction, and commercial feasibility, as immediately before such Taking, then Tenant shall have the right (subject to the prior written consent of the Investor Limited Partner), to be exercised by written notice to Landlord within one hundred twenty (120) days after the date of Taking, to terminate this Lease on a date to be specified in said notice, which date shall not be earlier than the date of such Taking, in which case Tenant shall pay and shall satisfy all Rents and other payments due and accrued hereunder up to the date of such termination and shall perform all of the obligations of Tenant hereunder to such date, and thereupon this Lease and the Term herein demised shall cease and terminate. Upon such termination the Tenant's interest under this Lease in the remainder of the Demised Property not taken shall be sold in accordance with applicable Laws and Ordinances, and the proceeds of the sale shall be combined with the award given for the partial Taking with the entire amount then being distributed as if a total Taking had occurred. Landlord shall have the option to purchase Tenant's interest under this Lease in the remainder of the Demised Property at its Fair Market Value for a period of sixty (60) days after the determination of Fair Market Value, which value shall be determined by a mutually acceptable appraiser (or if no one appraiser is agreed upon by the parties, by an appraiser, chosen by two appraisers, one of which will be appointed by each party, within one hundred and fifty (150) days from the date this Lease was terminated. The Fair Market Value specified in the preceding sentence shall be limited to the fair market value of the Buildings and Improvements, and of Tenant's interest in the unexpired Term of the leasehold estate created pursuant to this Lease, and in no event shall such value include any fee simple interest in

the Land. All appraisal costs shall be split equally between the Landlord and Tenant. If Landlord fails to purchase, the remainder may be sold.

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

18.5 Temporary Taking. If the whole or any part of the Demised Property or of Tenant's interest under this Lease be taken or condemned by any competent authority for its or their temporary use or occupancy not exceeding one year, Tenant may elect to terminate the

remaining Term (subject to the prior written consent of the Investor Limited Partner), failing which this Lease shall not terminate by reason thereof, and Tenant shall continue to pay, in the manner and at the times herein specified, the full amounts of the Rents and all other charges payable by Tenant hereunder and, except only to the extent that Tenant may be prevented from so doing pursuant to the terms of the order of the condemning authority, to perform and observe all of the other terms, covenants, conditions and all obligations hereof upon the part of Tenant to be performed and observed, as though such Taking had not occurred. In the event of any such temporary Taking, Tenant shall be entitled to receive the entire amount of any award made for such temporary Taking (attributable to the period within the Term of this Lease), other than any portion of which was abated by Landlord pursuant to this Lease, which amount Landlord shall be entitled to claim from the Taking Authority, whether paid by way of damages, rent or otherwise. Tenant covenants that, upon the termination of any such period of temporary Taking, prior to the expiration of the term of this Lease, it will, at its sole cost and expense, restore the Demised Property, as nearly as may be reasonably possible, to the condition in which the same were immediately prior to such Taking, provided that the taking authority compensates Tenant for such restoration.

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

Tenant shall be insufficient to fully pay for such restoration, repair or reconstruction, Tenant shall have the option of:

- (a) Repairing at its expense, in which event the provisions of Article 16 herein shall control, or
- (b) Terminating this Lease in which event the provisions of Section 18.3 herein shall control.

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

18.8 Taking by Landlord. Should Landlord condemn the Demised Property or any portion thereof within the first fifteen (15) years of the Term of this Lease, it is expressly agreed by Landlord that full compensation to Tenant shall be:

- (a) Those factors set forth in Section 18.1 above; and
- (b) The pro rata costs expended by Tenant in the development of the condemned portion of the Demised Property other than the hard costs to construct any Buildings located thereon; and
- (c) Any and all penalties (including so-called “tax credit recapture payments”), taxes (including penalties and interest thereon), and other monies payable to or on behalf of the

tax credit limited partners of any Affordable Housing Unit for which tax credits or similar inducements are obtained, if applicable.

The provisions of this Section regarding Tenant's compensation shall not be applicable to any proceeding other than a Taking by the Landlord within the first fifteen (15) years of the Term of this Lease. The costs referred to in clause (b) above include but are not limited to legal fees; architectural, engineering, surveying, planning, and other consulting fees; accounting fees; brokerage fees in connection with leasing and financing; other financing costs; costs of infrastructure such as water, sewer, other utilities and road, drainage and other land improvements; a reasonable and fairly allocable share of Tenant's overhead costs related to the portion of the Demised Property that is taken; and interest from the date such costs were expended to the date of compensation at the prime rate, as announced or published as such in The Wall Street Journal or a similar nationally recognized financial reporting outlet. Landlord agrees that Landlord shall not condemn the Demised Property or any portion thereof except (i) in good faith, (ii) when no other property is reasonably suitable for the public use the Landlord needs, and (iii) for a purpose other than either leasing or selling the condemned property to another person or entity engaging in Tenant's or any Sublessee's business of leasing office, commercial or residential space (or a combination of such uses). If there is a taking by Landlord of a portion of the Demised Property, Landlord shall not use the property it so acquires for any use detrimental to Tenant's remaining property or the remainder of the Master Parcel, which prohibited uses include but are not limited to a trash transfer station, Metrorail turning or switching yard, train repair or storage, bus storage or repair, warehouse having a truck parking area or loading dock visible from the road, jail or other use with the clear likelihood of diminishing the use and enjoyment of the remainder of the Demised Property or Master Parcel. Landlord shall consult with and coordinate design of any improvements

upon the land referred to in this paragraph with Tenant, so as to maintain architectural compatibility with the balance of the Buildings located on the Demised Property, and so as to coordinate traffic.

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

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

ARTICLE 19

Default by Tenant or Landlord

19.1 Events of Default of Tenant. Unless otherwise specified in this Lease, the following provisions of Article 19 shall apply if any one or more of the following "Event(s) of Default" of or by Tenant shall happen:

(a) Default arising from the failure to make due and punctual payment of any Rent(s) or other monies payable to Landlord under this Lease when and as the same shall become

due and payable and such default shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant, with copies thereof to each Lender and Sublessee who shall have notified Landlord of its name, address and interest prior to such notice; or

(b) Default arising from the Tenant's failure to keep, observe and/or perform any of the terms contained in this Lease, excepting the obligation to pay Rent(s), revenues or other monies due Landlord, and such default shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant setting forth with reasonable specificity the nature of the alleged breach, with copies thereof to each Lender and Sublessee who shall have notified Landlord of its name, address and interest prior to such notice; or in the case of such default or contingency which cannot with due diligence and in good faith be cured within thirty (30) days, Tenant fails within said thirty (30) day period to proceed promptly and with due diligence and in good faith to pursue curing said default. Should Landlord fail to notify the Lender and/or Sublessee in accordance with the terms of this Section, it shall not prevent Landlord from taking any action against Tenant, but the rights of any Lender or Sublessee hereunder shall remain unaffected until it receives notice in accordance with this Section.

19.2 Failure to Cure Default by Tenant.

(a) If an Event of Default of Tenant shall occur, Landlord, at any time after the periods set forth in Section 19.1 (a) or (b) and provided Tenant has failed to cure such Event of Default within such applicable period, shall give written notice to Tenant and to any Lender and Sublessee who has notified Landlord in accordance with Sections 17.1(e), 17.3, or 17.7, specifying such Event(s) of Default of Tenant and stating that this Lease and the term hereby demised shall expire and terminate on the date specified in such notice, which shall be at least thirty (30) days after the giving of such notice, during which time Tenant and/or the Lender(s) and Sublessee(s)

shall have the right to cure such default, and upon the date specified in such notice if the Event of Default has not been cured, then, subject, however, to the provisions of Sections 17.5 and 19.3 herein, this Lease and the term hereby demised and all rights of Tenant under this Lease, shall expire and terminate.

(b) If an Event of Default of Tenant shall occur and the rights of Leasehold Mortgagees, Sublessees, and Subleasehold Mortgagees shall not have been exercised as provided within this Lease, then Landlord, at any time after the periods for exercise of rights as set forth under Sections 17.5, 19.1, 19.2 and 19.3 herein, shall have the following rights and remedies which are cumulative:

(i) in addition to any and all other remedies in law or in equity that Landlord may have against Tenant, Landlord shall be entitled to sue Tenant for all damages (as limited by Section 15.2), costs and expenses arising from Tenant's committing an Event of Default hereunder and to recover all such damages, costs and expenses, including reasonable attorneys' fees at both trial and appellate levels;

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

(iii) to terminate any and all obligations that Landlord may have under this Lease, in which event Landlord shall be released and relieved from any and all liability under this Lease.

19.3 Rights of Lender and Sublessees and Investor Limited Partner.

(a) If Landlord shall have given notice to any Lender or Sublessee, as required by Sections 17.4, 19.1 and 19.2(a) herein, such Lender or Sublessee shall have, and be subrogated

to, any and all rights of Tenant with respect to the curing of any such Event of Default, and shall also have the right to extend the period of time for curing of any such Event of Default for an additional period of sixty (60) days after the expiration of the relevant cure period hereunder to cure any Event of Default pursuant to Sections 19.1 and 19.2 herein, or in the case of an Event of Default which cannot be cured within said sixty (60) day period, for such additional period as, with due diligence and in good faith, is necessary to cure the Event of Default.

(b) Irrespective of any other right a Lender may have to maintain this Lease free from default and in the meantime to foreclose its Mortgage, such Lender, as to any Event of Default of Tenant that may not be cured by the payment of money and which is not susceptible to curing without possession of or title to the Demised Property, or is of the type that cannot reasonably be cured by a Lender (e.g. Tenant bankruptcy), shall have the right to further extend the period of time within which to cure such Event of Default of Tenant for such additional period as, with reasonable due diligence and in good faith will enable such Lender to institute foreclosure proceedings, apply for the appointment of a receiver for the purpose, among other things, of curing such Event of Default, if such is susceptible to curing, and to acquire by foreclosure Tenant's or Sublessee's interest in this Lease, to effect a removal of Tenant or Sublessee from the Demised Property and, in the meantime and at the earliest opportunity, to cure such Event of Default if such is susceptible to curing. In the event the leasehold estate created by this Lease or by a Sublease hereunder shall have been duly acquired by such Lender or any purchaser at a foreclosure sale (hereinafter referred to as "Foreclosure Purchaser"), and such Event of Default of Tenant shall have been duly cured, then the notice of termination of this Lease based upon Tenant's or Sublessee's failure to timely cure such Event of Default of Tenant shall be deemed withdrawn, terminated and of no further force or effect. In the event, however, that such Lender or any

Foreclosure Purchaser, after acquiring the leasehold estate created by this Lease or subleasehold estate under a Sublease, fails to promptly commence curing such Event of Default or prosecute same to completion in good faith and with reasonable diligence, Landlord reserves the right to (and must do so to effect a termination) give such Lender or any Foreclosure Purchaser, by a nationally recognized overnight delivery (courier) service, or by registered or certified mail, return receipt requested, thirty (30) days' written notice of termination of this Lease due to such failure by the Lender or any Foreclosure Purchaser to cure such prior Event of Default by Tenant. After the giving of such notice of termination to such Lender or any Foreclosure Purchaser and upon the expiration of said thirty (30) days, during which time such Lender or Foreclosure Purchaser shall have failed to cure such default, this Lease and the term thereof shall end and expire as fully and completely as if the date of expiration of such thirty (30) day period were the day herein definitely fixed for the end and expiration of this Lease or Sublease and the term thereof. If Tenant, Sublessee, such Lender or any Foreclosure Purchaser is in possession either personally or by a receiver, Tenant, Sublessee, such Lender or any Foreclosure Purchaser or such receiver as the case may be, shall then quit and peacefully surrender the Demised Property to Landlord. Notwithstanding anything contained herein to the contrary, such Lender shall not be required to institute foreclosure proceedings if it is able to acquire and does acquire Tenant's or Sublessee's interest in the leasehold estate by any other means so long as such Lender fulfills all other requirements of this Article 19 and of Section 17.5.

(c) For the avoidance of doubt, notwithstanding the provisions of this Lease to the contrary, no Event of Default by Tenant will be deemed to exist as to a Lender or Sublessee (and Landlord shall not be permitted to terminate this Lease due to an Event of Default of Tenant) as long as such Lender or Sublessee, in good faith, promptly commences to cure such Event of

Default and prosecute the same to completion when it is able to do so in accordance with Section 19.3(a) or (b) above.

(d) Any penalties, interest and late payment fees or charges due to Landlord pursuant to this Lease as a result of any Event of Default by Tenant shall not commence to accrue and be due from any Lender or Sublessee who has commenced and is proceeding to cure any such Events of Defaults (other than any defaults not susceptible of being cured by such Lender or Sublessee) until the expiration of the applicable cure, grace or other periods provided to the Lender or Sublessee to cure such Events of Default in this Article and Article 17.

(e) Landlord shall provide a copy of any notice provided to Tenant hereunder to the Investor Limited Partner at the following address (which may be changed by written notice to Landlord): WF Affordable Housing LLC, 550 S. Tryon Street, 23rd Floor, D1086-239, Charlotte, NC 28202-4200, Attn: Director of Tax Credit Asset Management. The Investor Limited Partner shall have the right, but not the obligation, to cure any default of Tenant hereunder, which shall be accepted as if tendered by Tenant, and shall also have the right to extend the time for curing any such Event of Default for an additional period of sixty (60) days after the expiration of the relevant cure period hereunder, or in the case of an Event of Default which cannot be cured within said sixty (60) day period, for such additional period as, with reasonable due diligence and in good faith, is necessary to cure the Event of Default; provided, however, that such cure period shall be further extended for the period necessary to allow the Investor Limited Partner to with reasonable diligence remove and replace any other partner of Tenant, provided that, after the completion of such removal and replacement, Tenant or the Investor Limited Partner promptly begins curing the Event of Default and diligently prosecutes such cure to completion. The Investor

Limited Partner shall be deemed a third party beneficiary of this Lease with respect to its rights pursuant to this Section 19.3, and any other rights granted to it hereunder.

19.4 Surrender of Demised Property. Upon any expiration or termination of the Term in accordance with, the terms and conditions of this Lease, Tenant and all Sublessees shall quit and peacefully surrender the Demised Property to Landlord, except as provided under any non-disturbance agreement provided by Landlord to any Sublessee, and Landlord shall act reasonably and promptly to accept the surrender of the Demised Property, subject to the terms hereof regarding the condition thereof at the time of surrender. Should Tenant and/or Sublessee fail to properly and/or timely surrender the Demised Property to Landlord, then Tenant and/or Sublessee shall be liable to Landlord for the Fair Market Value of the Rent for the Demised Property. Fair Market Value shall be determined by an appraisal, which is secured by the Landlord within six (6) months of the failure by Tenant and/or Sublessee to properly or timely quit and vacate the Demised Property.

19.5 Rights of Landlord after Termination. Subject to Section 17.5, after such termination of this Lease, Tenant and/or Sublessee shall be liable to Landlord for the Fair Market Value of the Rent. Fair Market Value shall be determined by an appraisal, which is secured by the Landlord within six (6) months of the date this Lease is terminated by Landlord. Landlord may relet the Demised Property or any part thereof, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term of this Lease) and on such conditions (which may include concessions or free rent) as Landlord, in its reasonable discretion, may determine and may collect and receive the rents therefore, so long as Landlord uses normal and customary commercial practices in attempting to relet the Demised Property or any part thereof, and in collecting rent due from such reletting during the balance of the Term of

this Lease or any renewal thereof. Provided Landlord acts reasonably to mitigate damages, Landlord shall in no way be responsible or liable for any failure to relet the Demised Property or any part thereof, or for any failure to collect any rent due for any such reletting.

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

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

day period to proceed promptly after such notice and with due diligence and in good faith to cure said Event of Default.

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

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

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

(c) Subject to the prior written consent of the Investor Limited Partner, to terminate any and all obligations that Tenant may have under this Lease, in which event Tenant shall be released and relieved from any and all liability under this Lease and shall surrender possession of the Demised Property to Landlord; provided, however, that Tenant shall not terminate this Lease as to any portion thereof which is subject to a Sublease, without providing at least thirty (30) days written notice to the applicable Sublessee, and obtaining the written consent of the Sublessee to such termination.

19.9 No Waiver by Tenant. Failure by Tenant to insist upon the strict performance of any of the terms of this Lease or to exercise any right or remedy upon a breach thereof, shall not constitute a waiver of any such breach or of any of the terms of this Lease. None of the terms of

this Lease to be kept, observed or performed by Landlord, and no breach thereof, shall be waived, altered or modified except by written instrument executed by Tenant. No waiver of any default of Landlord hereunder shall be implied from any omission by Tenant to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated. One or more waivers by Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

ARTICLE 20

Notices

20.1 Addresses. All notices, demands or requests by Landlord to Tenant shall be deemed to have been properly served or given, if addressed to:

If to Tenant at:

c/o Atlantic Pacific Communities, LLC
3 Miami Central
161 NW 6th Street, Suite 1020,
Miami, Florida 33136
Attn: Chief Operating Officer

with a copy to:

Holland & Knight LLP
701 Brickell Avenue
Suite 3000
Miami, Florida 33131
Attn: Isabel C. Diaz, Esq.

Klein Horning LLP
1325 G Street NW
Suite 770
Washington DC 20005
Attn: Chris Horning, Esq.

If to Investor Limited Partner at:

WF Affordable Housing LLC
550 S. Tryon Street, 23rd Floor
D1086-239

Charlotte, NC 28202-4200
Attention: Director of Tax Credit Asset Management,

or to such other address and to the attention of such other party as Tenant may, from time to time, designate by written notice to Landlord. If Tenant at any time during the Term hereof changes its office address as herein stated, Tenant will promptly give notice of same in writing to Landlord. The Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee shall be deemed to have been properly served or given notice if addressed to such party at the address furnished pursuant to the provisions of Sections 17.1(e) and 17.3 above. All notices, demands or requests by or by a Leasehold Mortgagee, Sublessee or Subleasehold Mortgagee to Landlord shall be deemed to have been properly served or given if addressed to the Miami Dade County, 701 N.W. 1st Court, Miami, Florida, 33136, Attn: Department of Transportation and Public Works, Director, and to such other addresses and to the attention of such other parties as Landlord may, from time to time, designate by written notice to Tenant. If Landlord at any time during the Term hereof changes its office address as herein stated, Landlord will promptly give notice of same in writing to Tenant.

20.2 Method of Transmitting Notice. All such notices, demands or requests (a “Notice”) shall be in writing and sent by: (a) United States registered or certified mail, return receipt requested, (b) hand delivery, (c) nationally recognized overnight courier, or (d) electronic transmission, provided the electronic transmission confirms receipt of the transmission and the original of the Notice is sent by one of the foregoing means of transmitting Notice within 24 hours of the electronic transmission. All postage or other charges incurred for transmitting of Notices shall be paid by the party sending same. Such Notices shall be deemed served or given on (i) the date received, (ii) the date delivery of such Notice was refused or unclaimed, or (iii) the date noted

on the return receipt or delivery receipt as the date delivery thereof was determined impossible to accomplish because of an unnoticed change of address.

ARTICLE 21

Quiet Enjoyment

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

ARTICLE 22

Certificates by Landlord and Tenant

22.1 Tenant Certificates. Tenant agrees at any time and from time to time, upon not less than thirty (30) days prior written notice by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing setting forth the rents, payments and other monies then payable under this Lease, if then known; certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and stating the modification), and the dates to which the rents, payments and other monies have been paid, and stating (to the best of Tenant's knowledge) whether or not Landlord is in default in keeping, observing or performing any of the terms of this Lease; and, if in default, specifying each such default (limited to those defaults of which Tenant has knowledge). It is intended that any such statement delivered pursuant to this Section 22.1 may be relied upon by Landlord or any prospective assignee, transferee or purchaser of the fee, but reliance on such certificate shall not extend to any default of Landlord as to which Tenant shall have no actual knowledge.

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

ARTICLE 23

Construction of Terms and Miscellaneous

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

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

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

23.4 Recording. A Memorandum of this Lease may be recorded by either party among the Public Records of Miami-Dade County, Florida, at the sole cost of the party filing the document.

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

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

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

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

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

23.7 Entire Agreement. This Lease contains the entire agreement between the parties hereto and shall not be modified or amended in any manner except by an instrument in writing executed by the parties hereto and approved in writing by the Investor Limited Partner. Landlord may not accept any voluntary surrender of the Demised Premises or termination of this Lease without the prior written consent of the Investor Limited Partner, and any such voluntary surrender or termination shall be ineffective, null and void without such Investor Limited Partner consent.

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

23.9 Reserved.

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

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

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

23.13 Protest Payments. If at any time a dispute shall arise as to any amount or sum of money to be paid by Tenant to Landlord under the provisions of this Lease, in addition to the rights set forth in Article 19 herein, Tenant shall have the right to make payment “under protest” and such payment shall not be regarded as a voluntary payment, and there shall survive the right on the part of Tenant to seek the recovery of such sum, and if it should be adjudged that there was no legal obligation on Tenant to pay such sum or any part thereof, Tenant shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease; and if at any time a dispute shall arise between the parties hereto as to any work to be performed by either of them under the provisions of this Lease, the party against whom the obligation to perform the work is asserted may perform such work and pay the cost thereof “under protest” and the performance of such work shall in no event be regarded as a voluntary performance and there shall survive the right upon the part of said Tenant and/or Landlord to seek the recovery of the cost of such work, and if it shall be adjudged that there was no legal obligation on the part of said Tenant and/or Landlord to perform the same or any part thereof, said Tenant and/or Landlord shall be entitled to recover the cost of such work or the cost of so much thereof as Tenant or Landlord was not legally required to perform under the provisions of this Lease.

23.14 Radon. RADON GAS: Radon gas is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risk to persons who are exposed over time. Levels of radon that exceed Federal and State Guidelines have been

found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from a county public health unit.

23.15 Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of Florida, without regard to any choice of law provisions that would result in the application of other laws.

23.16 Counterparts. This Lease may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same agreement.

23.17 Exculpation. It is the intent and agreement of the parties hereto that only the parties as entities shall be responsible in any way for their respective obligations hereunder, except as otherwise expressly provided herein. In that regard, no officer, director, partner, trustee, representative, investor, official, representative, employee, agent, or attorney of any of the parties to this Lease shall be personally liable for the performance of any obligation hereunder or for any other claim made hereunder or in any way in connection with this Lease, or any other matters contemplated herein, and any and all such personal liability, either at common law or in equity or by constitution or statute or other Laws and Ordinances are expressly waived and released as a condition of, and as a consideration for, the execution of this Lease.

ARTICLE 24

Representations and Warranties

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

(a) It has full power and authority to enter into this Lease and perform in accordance with its terms and provisions and that the parties signing this Lease on behalf of Landlord have the authority to bind Landlord and to enter into this transaction and Landlord has

taken all requisite action and steps to legally authorize it to execute, deliver and perform pursuant to this Lease.

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

(c) Throughout the term of this Lease, Landlord will endeavor to continue transit service to and from the Station on a daily basis. The parties acknowledge that service disruptions occur occasionally and such disruptions shall not be considered termination of service under this Lease. If the Station is damaged or destroyed and as a result trains cannot stop at that location, the foregoing sentence shall not apply during the period of repair and rebuilding done in accordance with Section 16.2.

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

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

ARTICLE 25

Equal Opportunity

Tenant will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, age, ancestry, marital status, handicap, place of birth, or national origin. The Tenant shall take affirmative action to ensure that applicants are employed and that employees are treated during their employment, without regard to their race, religion, color, sex, sexual orientation, age, ancestry, marital status, handicap, place of birth or national origin. Such actions shall include, but not be limited to, the following: employment; upgrading; transfer or demotion; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. Tenant agrees to post in conspicuous places, available to employees and applicants for employment notices to be provided by Miami-Dade County setting forth the provisions of this Equal Opportunity clause. Tenant will comply with all of the following statutes, rules, regulations and orders to the extent that these are made applicable by virtue of the grant to Landlord under the Urban Mass Transportation Act of a Section 3 capital grant for Metromover:

- (a) all regulations of the U.S. Department of Transportation;
- (b) all applicable provisions of the Civil Rights Act of 1964;
- (c) Executive Order 11246 of September 24, 1964 as amended by Executive Order 11375;
- (d) Executive Order 11625 of October 13, 1971;
- (e) the Age Discrimination Employment Act effective June 12, 1968;
- (f) the rules, regulations and orders of the Secretary of Labor,
- (g) Florida Statute 112.042;

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

(i) Articles 3 and 4 of Chapter 11A of the Code of Metropolitan Miami-Dade County. Tenant does hereby covenant and agree that in the event facilities are constructed, maintained or otherwise operated by Tenant on the Demised Property for a purpose for which the State of Florida Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination of Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 and said Regulations may be amended. Tenant does hereby, covenant and agree (1) that no person on the grounds of race, color, gender, sexual orientation, disability or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing services thereon, no person on the grounds of race, color, gender, sexual orientation, disability or national origin shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and (3) that Tenant shall use the Demised Property in

compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

ARTICLE 26

Disadvantaged Business Enterprise (“DBE”)

26.1 Policy. It is the Policy of the United States Department of Transportation and Miami-Dade County that DBE contractors as defined in 49 CFR Part 23, as amended, shall have the maximum opportunity to participate in the performance of contracts for development or construction of the Demised Property the acquisition of which by Landlord was financed in part with Federal funds.

26.2 DBE Obligation. Tenant therefore agrees that DBE contractors as defined in 49 CFR Part 23, as amended, have the opportunity to participate in the performance of contracts and subcontracts for the design, construction, development, operation, or maintenance of tie Demised Property. In this regard, Tenant shall take all necessary and reasonable steps in accordance with 49 CFR Part 23, as amended, to ensure that DBE’s have the opportunity to compete for and perform such contracts. Tenant shall not discriminate on the basis of race, color, national origin, sexual orientation or sex, in the award and performance of such contracts. All determinations of compliance or noncompliance of Tenant with the DBE requirements of this Lease, and, of the appropriate consequences of noncompliance shall be made by Miami-Dade County. All such determinations shall be final and binding, except that an appeal from an adverse decision by Miami-Dade County may be taken by an affected DBE contractor to the U.S. Department of Transportation to the extent provided under 49 CFR Part 23, Section 23.55.

Nothing in this paragraph shall be construed to diminish the legal responsibility or authority of Miami-Dade County.

26.3 Tenant's Plan. Tenant agrees to use sufficient reasonable efforts to carry out Tenant's Disadvantaged Business Enterprise and Utilization Plan, a copy of which is attached hereto as Schedule 26.3. Tenant agrees to carry out this plan to the fullest extent consistent with the efficient performance of this Lease.

26.4 Remedies. If at any time Miami-Dade County has reason to believe that Tenant is in violation of its obligation under the DBE Plan, Miami-Dade County may, in addition to pursuing any other available legal remedy, under this Lease commence proceedings to impose sanctions. Such sanctions may include, but not be limited to the termination of this Lease in whole or in part after the applicable notice and/or cure period, pursuant to Article 19, unless Tenant is able to demonstrate compliance with its obligations under its DBE plan, and the denial to Tenant of the right to participate in any further contracts with Miami-Dade County for a period of no longer than three years. No such sanctions shall be imposed by Miami-Dade County upon Tenant except pursuant to an action duly taken in accordance with due process of law.

26.5 Reports. Tenant shall submit DBE activity reports on a monthly basis during any period of construction of a Building (as differentiated from minor construction activity). The DBE activity reports shall reflect Tenant's subcontracting and purchasing activities with DBE's and shall be submitted in the forms provided for the purpose by Miami-Dade County. The monthly reports are to be submitted to DBE, Contracts and Compliance Supervisor, and to the Chief, Office of Fair Employment and Labor Practice/DTPW or his/her designee, on or before the tenth working day of the month following the month the report covers. During non-construction periods, DBE progress reports may be submitted as part of Tenant's annual report to Miami-Dade County.

26.6 Discrimination Prohibited. No person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with the award and performance of any contract covered by this part, on the grounds of race, color, disability, national origin, or sex. (49 CFR Part 23.7).

[The remainder of this page is intentionally left blank]

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

LANDLORD

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

BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Name: _____
Title: _____

**APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:**

By: _____
Name: _____
Title: Assistant County Attorney

ATTEST:

Juan Fernandez-Barquin, CLERK

By: _____

TENANT

BROWNSVILLE VILLAGE V, LTD., a
Florida limited partnership

By: APC Brownsville Village V, LLC, a
Florida limited liability company, its
Managing General Partner

By: _____
Name: Kenneth Naylor
Title: Vice President

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

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2024, by Kenneth Naylor, the Vice President of APC Brownsville Village V, LLC, a Florida limited liability company, the Managing General Partner of Brownsville Village V, Ltd., a Florida limited partnership, on behalf of said partnership.

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

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

Exhibit A

Master Parcel Legal Description

A PARCEL OF LAND, BEING A PORTION OF TRACT "A", "BROWNSVILLE STATION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 159, PAGE 88, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING AT THE SOUTHWEST CORNER OF SAID TRACT "A"; THENCE ALONG THE WEST LINE OF SAID TRACT "A", NORTH 02°11'49" WEST, A DISTANCE OF 622.50 FEET TO A POINT OF A TANGENT CURVE; THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A DELTA ANGLE OF 89°53'53", AN ARC DISTANCE OF 39.23 FEET, A CHORD DISTANCE OF 35.32 FEET AND A CHORD BEARING OF NORTH 42°45'08" EAST TO A POINT OF TANGENCY AND THE NORTH LINE OF SAID TRACT "A"; THENCE NORTH 87°42'04" EAST ALONG SAID NORTH LINE OF TRACT "A" A DISTANCE OF 345.00 FEET TO A POINT; THENCE SOUTH 02°11'49" EAST A DISTANCE OF 553.00 FEET TO A POINT; THENCE SOUTH 87°41'27" WEST A DISTANCE OF 171.46 FEET TO A POINT; THENCE SOUTH 02°11'49" EAST A DISTANCE OF 94.39 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT "A"; THENCE SOUTH 87°41'27" WEST ALONG THE SOUTH LINE OF SAID TRACT "A" A DISTANCE OF 198.50 FEET TO THE POINT OF BEGINNING. SAID LAND LYING, BEING AND SITUATE IN MIAMI-DADE COUNTY, FLORIDA AND CONTAINING 223,199.69 SQUARE FEET +/-, 5.12 ACRES +/-.

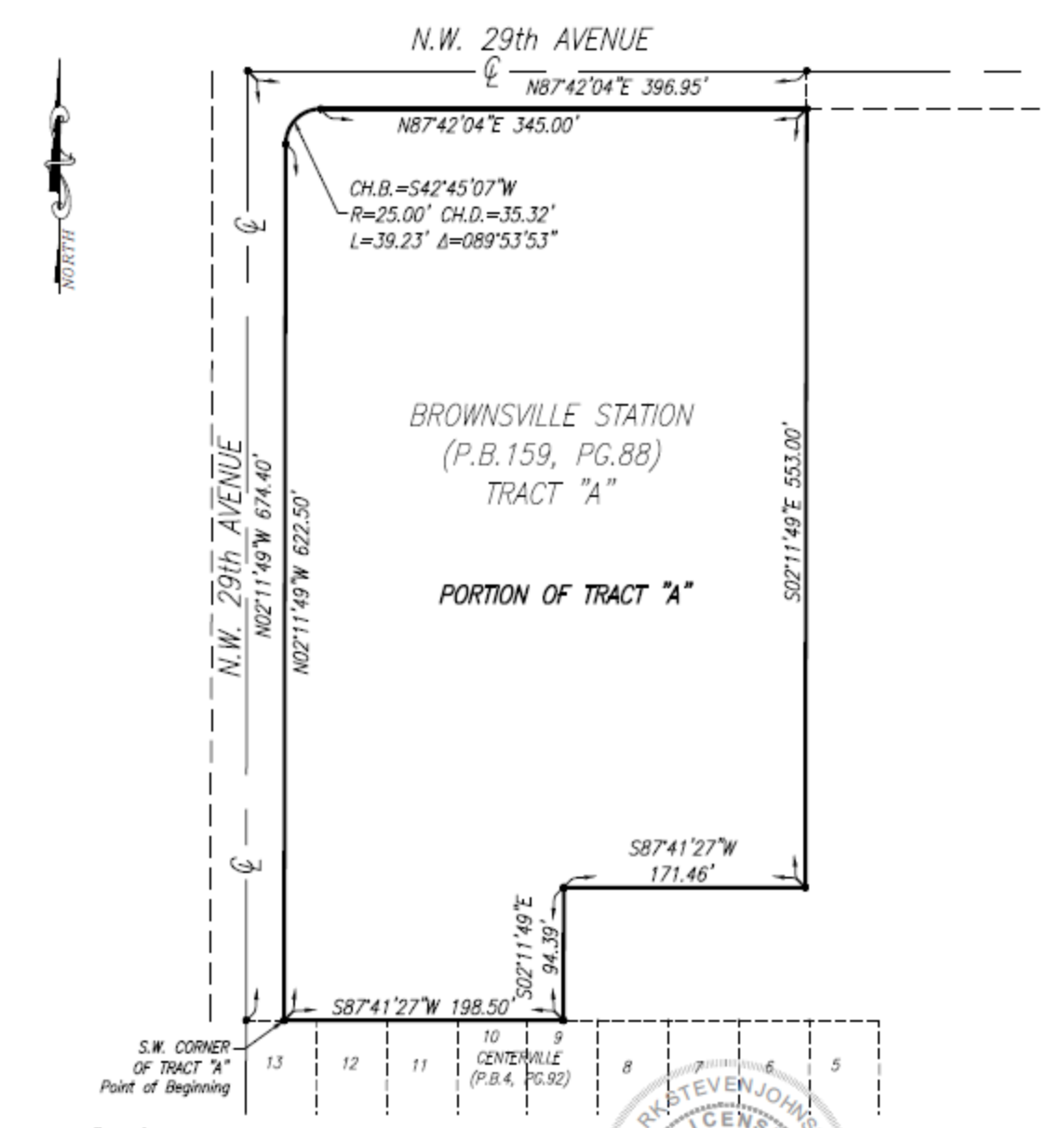


Exhibit A-1

Land Legal Description

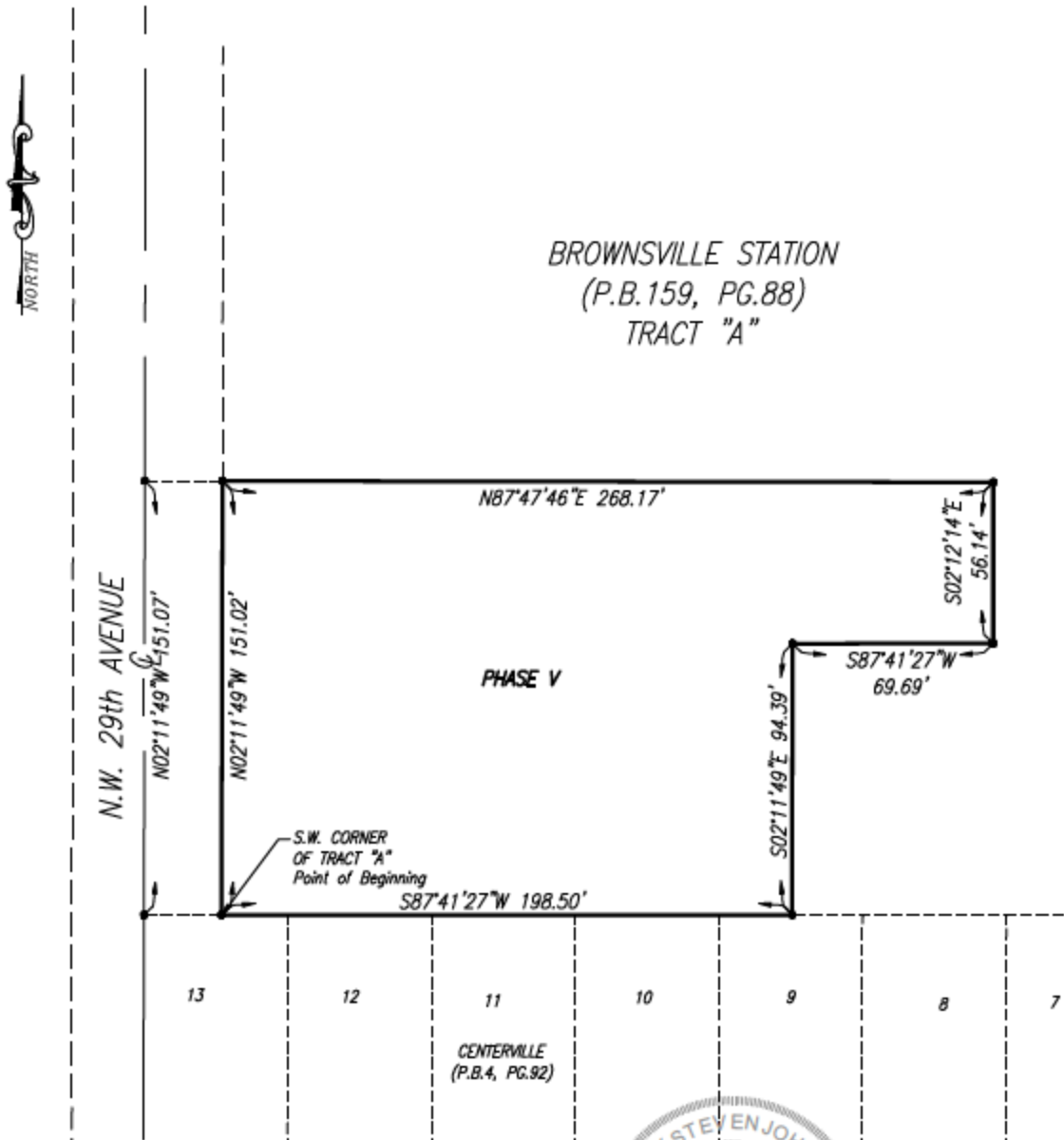
A portion of Tract "A", "BROWNSVILLE STATION", according to the plat thereof, as recorded in Plat Book 159 at Page 88, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Southwest corner of said Tract "A", of the aforementioned plat of "BROWNSVILLE STATION"; thence run North 02 degrees 11 minutes 49 seconds West along the West boundary of said Tract "A", and the East right of way of Northwest 29th Avenue, 151.02 feet; thence North 87 degrees 47 minutes 46 seconds East, a distance of 268.17 feet; thence South 02 degrees 12 minutes 14 seconds East a distance of 56.14 feet; thence South 87 degrees 41 minutes 27 seconds West for distance 69.69 feet; thence South 02 degrees 11 minutes 49 seconds East a distance of 94.39 feet to a point on the South line of said Tract "A"; thence South 87 degrees 41 minutes 27 seconds West along the South line of said Tract "A" a distance of 198.50 feet to the Point of Beginning.

Said land lying, being and situate in Miami-Dade County, Florida. Bearings mentioned are based on an assumed meridian where the West boundary of said Tract "A" bears North 02 degrees 11 minutes 49 seconds West.

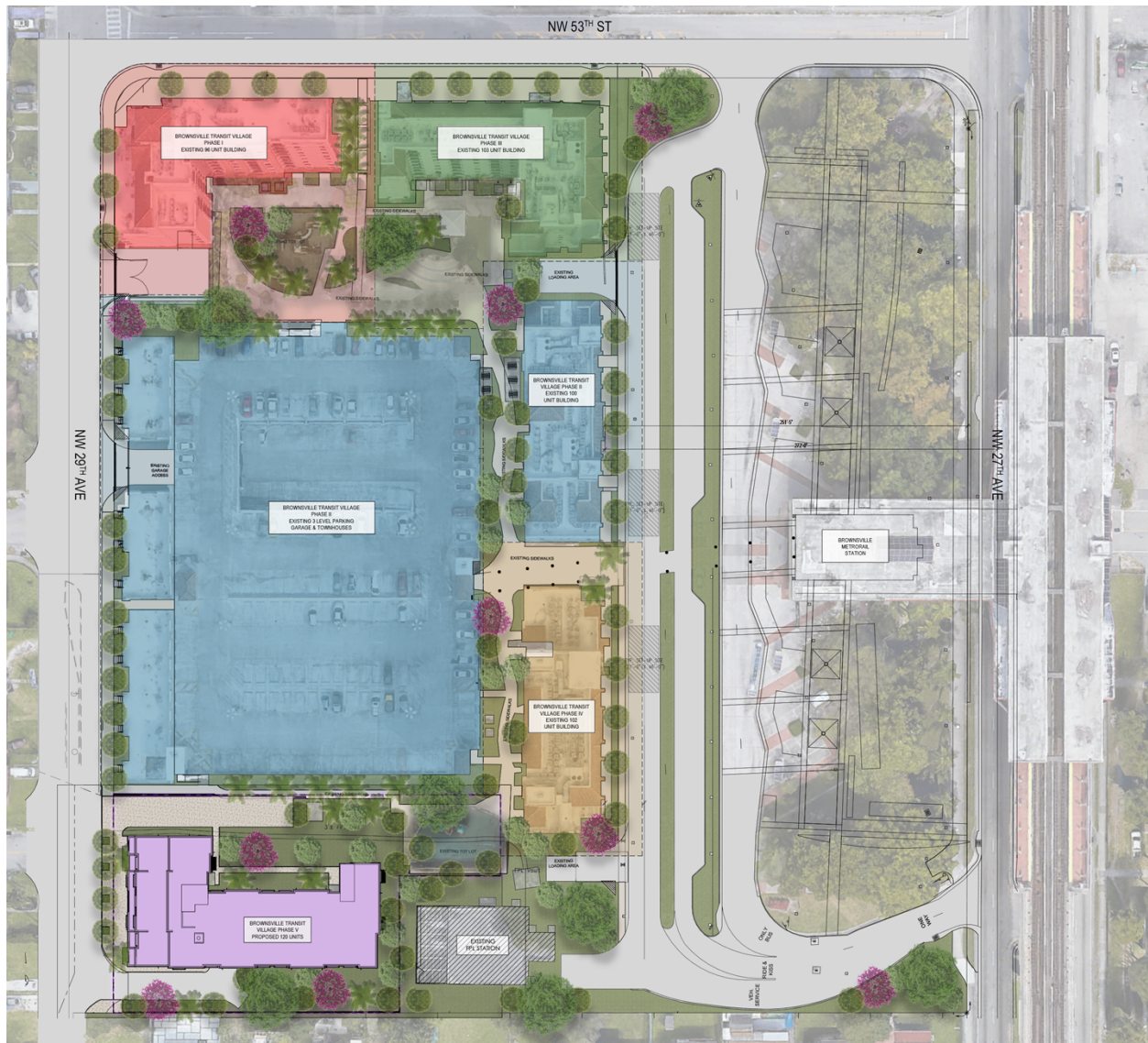
The Land contains 33,860 square feet +/-, 0.777 ACRES +/-.

PHASE V

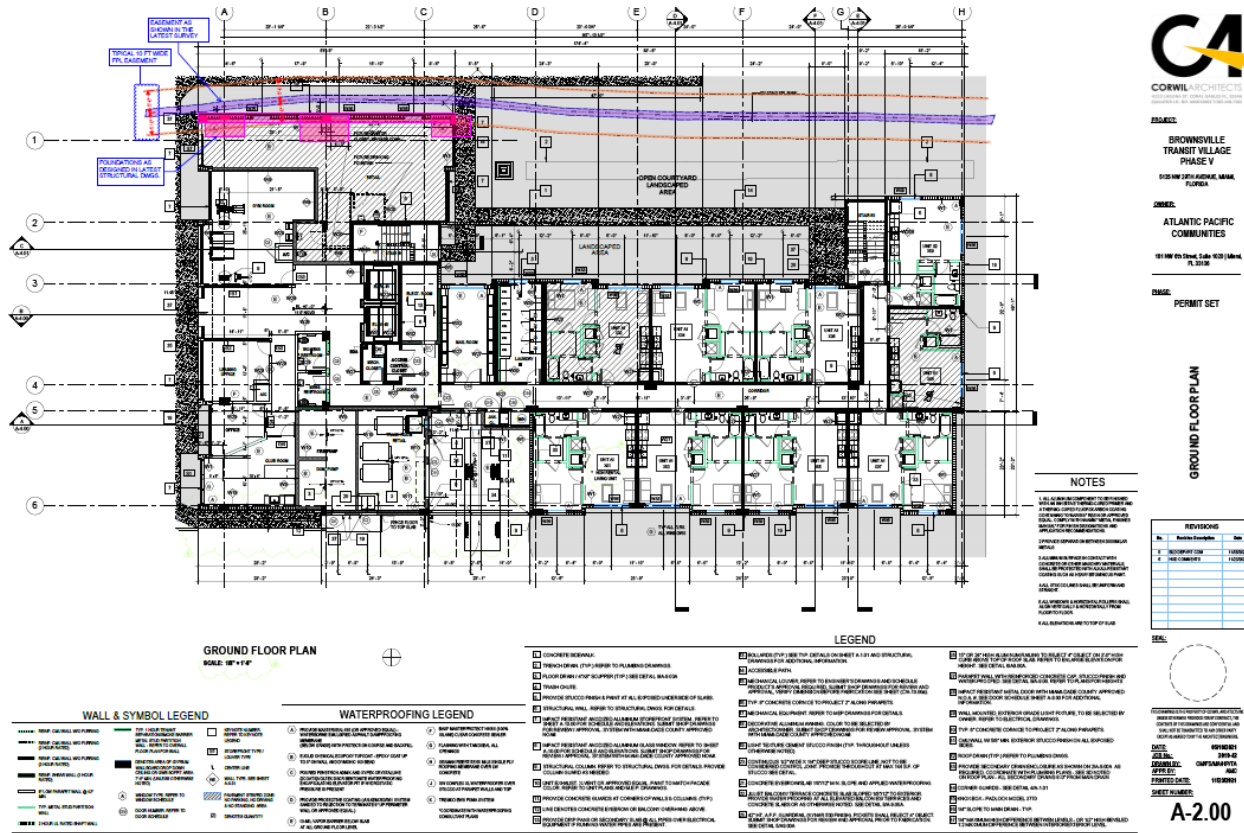


Development Concept

The fifth and final phase of the Brownsville Metrorail Station Transit Oriented Development will include the construction of 120 units of Affordable Housing on the Demised Property.



FPL Easement Area



Schedule 7.1

Insurance Requirements

Additional limits for each type of insurance may be determined upon review of changes to construction plans and operations description. Additional types of insurance coverage may be required if, upon review of Tenant plans and operations description, the Landlord determines that such coverage is necessary or desirable.

The Tenant shall furnish to Miami-Dade County c/o Miami-Dade Transit, Director, 701 N.W. 1st Court, Suite 1700, Miami, FL 33136, Certificate(s) of Insurance that shows that insurance coverage has been obtained that meets the requirements as outlined below:

- A. Worker's Compensation as required by Chapter 440, Florida Statutes.
- B. Public Liability Insurance, on a comprehensive basis, in an amount not less than \$1,000,000 per occurrence for bodily injury and property damage combined. Miami-Dade County must be shown as an additional insured with respect to this coverage.
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in conjunction with this agreement in an amount not less than \$500,000 per occurrence for bodily injury and property damage combined.

DESIGN STAGE (IF APPLICABLE)

In addition to the insurance required in (a) - (c) above, a certificate of insurance must be provided as follows:

- D. The Tenant shall provide or cause its subcontractors to provide Professional Liability Insurance in an amount not less than \$500,000 per occurrence providing for all claims arising out of the services performed in connection with this agreement. This insurance shall either be an occurrence based policy or shall be maintained for a period of two (2) years after Completion of Construction.

CONSTRUCTION PHASE (IF APPLICABLE)

In addition to the insurance required in (a) - (d) above, Tenant shall provide or cause its contractors to provide policies indicating the following type of insurance coverage prior to Commencement of Construction:

- E. Completed Value Builder's Risk Insurance on an "All Risk" basis for the insurable value of the building(s). The policy shall name the Landlord A.T.I.M.A.

OPERATION PHASE (IF APPLICABLE)

In addition to the insurance required in a-c above, Tenant shall provide the following:

F. Property Insurance on an “All Risk” basis for the replacement cost of the building(s) as applicable. The policy shall name the Landlord A.T.I.M.A.

LESSEE LIABILITY OBLIGATION

Compliance with the foregoing requirements shall not relieve the Lessee of his liability and obligation under this subsection or under any subsection of this Lease. The insurance requirements (as applicable) shall be satisfied by the Tenant prior to the Execution Date.

If the Tenant fails to submit the required insurance documents in the manner prescribed in this Schedule 7.1 within twenty (20) calendar days after the Execution Date, the Tenant shall be an Event of Default of the terms and conditions of this Lease.

CERTIFICATE CONTINUITY

The Tenant shall be responsible for assuring that the insurance certificates required in conjunction with this subsection remain in force for the duration of the Term of the Lease, including any and all option years, if applicable. If insurance certificates are scheduled to expire during the Term of the Lease, the Tenant shall be responsible for submitting renewal insurance certificates prior to expiration.

In the event that expiration certificates are not replaced with new or renewed certificates that cover the Term of the Lease, it shall be an Event of Default and the Tenant shall be in default of the terms and conditions of this Lease. Applicable insurance shall be maintained throughout the Term of the Lease.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications, provided such qualifications are in use:

The company must be rated no less than “B” as to management, and no less than “Class V” as to financial strength, according to the latest edition of Best’s Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the Landlord’s Risk Management Division.

Certificates will show that no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

Schedule 10.3

HUD Lease Addendum

Lease Addendum - Multifamily

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 2502-0598
(Exp. 9/30/2021)

Public Reporting Burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.

Project Name: Brownsville Transit Village V
HUD Project No: 066-35376

THIS **LEASE ADDENDUM** is attached to and made part of that certain lease agreement entered into on the ____ day of _____, 2024, between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, through the Department of Transportation and Public Works ("**Landlord**") and BROWNSVILLE VILLAGE V, LTD., a Florida limited partnership, ("**Tenant**") (collectively, the "**Parties**") (the "**Ground Lease**").

The Lease Addendum is required in connection with a mortgage loan insured by the U.S. Department of Housing and Urban Development ("**HUD**") for multifamily projects pursuant to the National Housing Act, as amended, found at 12 U.S.C. § 1701, *et seq.* ("**Act**"), and made by the following HUD-approved lender, WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, ("**Lender**"). The insured loan is secured by a Security Instrument on the leasehold estate set forth in the Ground Lease.

The definition of any capitalized term or word used in this Lease Addendum and not otherwise defined can be found in the Security Instrument and/or Note between Lender and Tenant; or the Regulatory Agreement between Tenant and HUD. The terms "HUD" and "Lender" as used in the Lease Addendum shall also include their successors and assigns, and the Tenant is the same legal entity as the Borrower under the Security Instrument. All references to "days" in this Lease Addendum shall mean calendar days.

Notwithstanding anything else in the **Ground Lease** to which this Lease Addendum is attached, and for valuable consideration, the receipt and sufficiency of which the Parties hereto hereby acknowledge and agree, and to induce the Lender to make the Loan to the Tenant described in the Security Instrument, and to induce HUD to insure said Loan, so long as this leasehold estate is subject to a security instrument insured, reinsured, or held by HUD or given to HUD in connection with a resale, or the Property is acquired and held by HUD because of a default under the Security Instrument, Landlord and Tenant acknowledge and agree to the following provisions.

The leasehold estate consists of the ground (land) only; all buildings, improvements, alterations and fixtures now or in the future located thereon are owned in fee simple by the Tenant. As such, the term “**Property**” means the legally described land subject to the Ground Lease **except** the buildings, improvements, alterations and fixtures now or in the future located on the land.

1. Compliance with HUD Requirements. Pursuant to the Act, the following provisions may not be waived under any circumstances, whether for a new ground lease or an existing ground lease:

- (a) the term of the Ground Lease and all other Ground Lease provisions comply with the section of the Act and related federal regulations under which the Note is endorsed for mortgage insurance;
- (b) the Landlord owns the Property in fee simple, and the leasehold estate is granted directly by the Landlord to the Tenant;
- (c) the leasehold estate underlying the Ground Lease constitutes a mortgageable real property interest under state law;
- (d) the Ground Lease and related Ground Lease documents do not conflict with any Program Obligations^[1] promulgated by HUD with respect to such mortgage insurance; and
- (e) all ground rent amounts have prior written approval by HUD.

2. Modifications. The Ground Lease and this Lease Addendum shall not be modified without the written consent of HUD and Lender. Modifications of the Ground Lease and this Lease Addendum that are not authorized in writing by HUD and Lender are void and unenforceable.

[1] “**Program Obligations**” means (1) all applicable statutes and any regulations issued by the Secretary pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Lease Addendum rather than add or delete provisions from such document. Handbooks, guides, notices, and mortgagee letters are available on “HUDCLIPS,” at www.hud.gov.

- 3. Conflict Provision.** The provisions of this Lease Addendum benefit Lender and HUD and are specifically declared to be enforceable against the parties to the Ground Lease and all other persons by Lender and HUD. In the event of any conflict, inconsistency or ambiguity between the provisions of this Lease Addendum and the provisions of any other part of the Ground Lease, the provisions of this Lease Addendum shall prevail and control.
- 4. Recording.** The full Ground Lease agreement and incorporated HUD Lease Addendum, or a memorandum of ground lease (if permitted under state law), must be recorded in the applicable land records office. If a memorandum of ground lease or a short form ground lease is to be recorded, it must set forth the following information, in addition to compliance with state law requirements:
- (a) names of the Parties;
 - (b) legal description;
 - (c) term and renewals;
 - (d) reference to the HUD Lease Addendum; and
 - (e) specific reference to HUD's option to purchase in Section 7 (unless Section 7 is expressly waived in writing by HUD in accordance with Program Obligations).
- 5. Estoppel Certificate.** As a condition of HUD's acceptance of a ground lease transaction, an estoppel certificate identifying the Ground Lease documents and signed by the Landlord, dated within thirty (30) days of the Note endorsement, must be provided to Lender and HUD at closing. The Landlord must confirm in writing to Lender and HUD that the Security Instrument is authorized, the Ground Lease is in full force and effect, there are no defaults or pending defaults under the Ground Lease or conditions that would give rise to defaults given the passage of time, and that the legal description of the Property is correct. The document must provide the language required by 24 CFR Section 200.62, and also include the "Warning" language found at the beginning of this Lease Addendum.
- Upon a reasonable request from Tenant, Lender, or HUD, Landlord further agrees to promptly provide from time to time an estoppel certificate to confirm the terms of, and no default under, the Ground Lease.
- 6. Consent for Mortgage.** Landlord agrees that the Tenant is authorized to obtain a loan, the repayment of which is to be insured by HUD and secured by the Security Instrument on this leasehold estate and the Improvements. The Tenant is further authorized to execute all documents necessary as determined by Lender or HUD and otherwise to comply with Program Obligations for obtaining such an insured loan.
- 7. HUD Option to Purchase.** ~~In the event that HUD acquires title to this leasehold estate or otherwise acquires title to the Tenant's interest herein, HUD shall have the option to purchase good and marketable fee simple title to the Property and the Landlord's interest, if any, in the Improvements, free of all liens and encumbrances except such~~

~~as may be waived or accepted by HUD. Such option shall be exercised within twelve (12) months after HUD so acquires such leasehold estate or the Tenant's interest. The _____ purchase _____ price _____ shall _____ be _____ the _____ sum _____ of _____ Dollars (\$ _____), payable in cash, by check drawn on the U.S. Treasury, by electronic funds transfer or by wire transfer, provided all ground rents are paid to date of transfer of title. HUD shall, within said twelve (12) months, give written notice to the Landlord of its election to exercise said option to purchase. The Landlord shall, within thirty (30) days after HUD gives such notice, execute and deliver to HUD a warranty deed of conveyance to HUD as grantee conveying the said fee simple interest and any interest in Tenant's Improvements. Nothing in this Section 7 shall require the Landlord to pay any taxes or assessments that were due and payable by the Tenant.~~

8. Conveyance by Tenant. If approved in writing by HUD in advance, the Tenant may convey, assign, transfer, lease, sublease or sell all or any part of its leasehold interest in the Property without the need for approval or consent by any other person or entity.

9. Insurance.

- (a) Insurance policies shall be in an amount, and with such company or companies and in such form, and against such risks and hazards, as shall be approved by Lender and HUD in accordance with Program Obligations.
- (b) The Landlord shall not take out separate insurance concurrent in form or contributing in the event of loss with that specifically required to be furnished by the Tenant to Lender. The Landlord may at its own expense, however, take out separate insurance which is not concurrent in form or not contributing in the event of loss with that specifically required to be furnished by the Tenant to Lender.

10. Condemnation.

- (a) If all or any part of the Property or the Improvements or the leasehold estate shall be taken or damaged by condemnation, that portion of any award attributable to the Improvements or the Tenant's interest in the leasehold estate or damage to the Improvements or the Tenant's interest in the leasehold estate shall be paid to Lender or otherwise disposed of as may be provided in the Security Instrument. Any portion of the award attributable solely to the underlying fee estate (exclusive of any Improvements) shall be paid to the Landlord. After the date of taking, the annual ground rent shall be reduced ratably by the proportion which the award paid to the Landlord bears to the total value of the Property as established by the amount HUD is to pay, as set forth in Section 7 of this Lease Addendum.
- (b) In the event of a negotiated sale of all or a portion of the Property and/or the Improvements, in lieu of condemnation, the proceeds shall be distributed and

annual ground rent reduced as provided in cases of condemnation above, but the approval of HUD and Lender shall be required as to the amount and division of the payments to be received.

11. Tenant Default on Ground Lease; Cure Rights; Termination. The Landlord may terminate the Ground Lease prior to the expiration day of the full term of this Ground Lease (“**Expiration Date**”) after a Tenant default under this Ground Lease (“**Ground Lease Event of Default**”), but only under the following circumstances and procedures.

- (a) If any Ground Lease Event of Default shall occur, then and in any such event, the Landlord shall at any time thereafter during the continuance of such Ground Lease Event of Default and prior to any cure, give written notice of such default(s) (“**Notice of Default**”) to the Tenant, Lender, and HUD, specifying the Ground Lease Event of Default and the methods of cure, or declaring that a Ground Lease Event of Default is incurable. If the Ground Lease Event of Default is a failure to pay money, the Landlord shall specify and itemize the amounts of such default. Failure to pay money shall be specified as a separate default and not combined with a non-monetary Ground Lease Event of Default.
- (b) Within sixty (60) days from the date of giving the Notice of Default to the Tenant, the Tenant must cure a monetary default by paying the Landlord all amounts specified in the Notice of Default and must cure any specified Ground Lease Event of Default that is capable of being cured within such period.
- (c) During the period of one hundred-eighty (180) days commencing upon the date Notice of Default received by Lender and HUD, Lender or HUD may:
 - (1) cure any Ground Lease Event of Default; and
 - (2) commence foreclosure proceedings or institute other state or federal procedures to enforce Lender’s or HUD’s rights with respect to the Property or the Tenant Improvements.
- (d) If HUD or Lender commences foreclosure or other enforcement action within such one hundred-eighty (180) days, then its cure period shall be extended during the period of the foreclosure or other action and for ninety (90) days after the ownership of the Tenant’s rights under the Ground Lease is established in or assigned to HUD or such Lender or a purchaser at any foreclosure sale pursuant to such foreclosure or other action. The transfer of the Tenant’s rights under the Ground Lease to Lender, HUD or purchaser, pursuant to such foreclosure or other action shall be deemed a termination of any incurable Ground Lease Event of Default and such terminated Ground Lease Event of Default shall not give the Landlord any right to terminate the Ground Lease. Such purchaser may cure a curable Ground Lease Event of Default within said ninety (90) days.

- (e) If the Tenant, Lender or HUD reasonably undertake to cure any Ground Lease Event of Default during the applicable cure period and diligently pursues such cure, the Landlord shall grant such further reasonable time as is necessary to complete such cure. If, after the expiration of all of the foregoing cure periods, no cure, or termination of an existing Ground Lease Event of Default has been achieved as aforesaid, then and in that event, the Ground Lease shall terminate, and, on such date, the term of this Ground Lease shall expire and terminate and all rights of the Tenant under the Ground Lease shall cease and the Improvements, subject to the Security Instrument and the rights of Lender thereunder, shall be and become the property of the Landlord. All costs and expenses incurred by or on behalf of the Landlord (including, without limitation, reasonable attorneys' fees and expenses) occasioned by any default by the Tenant under this Ground Lease shall constitute additional rent hereunder. The Landlord shall have no right to terminate this Ground Lease except as provided in this Section 11.

12. Lender/HUD Option for New Ground Lease.

- (a) Upon termination of this Ground Lease pursuant to Section 11 above, the Landlord shall immediately seek to obtain possession of the Property and Improvements. Upon acquiring such possession, the Landlord shall notify HUD and Lender in writing. Lender and HUD shall each have six (6) months from the date of receipt of such notice of acquisition to elect to take, as Tenant, a new ground lease on the Property and on the Improvements.
- (b) Such new ground lease shall have a term equal to the unexpired portion of the term of this Ground Lease immediately prior to such termination and shall, except as otherwise provided herein, be on the same terms and conditions as contained in this Ground Lease, including without limitation, the option to purchase set forth under Section 7 above, except that Lender's or HUD's liability for ground rent shall not extend beyond their occupancy under such ground lease. The Landlord shall tender such new ground lease to Lender or HUD within thirty (30) days after a request for such ground lease and shall deliver possession of the Property and Improvements immediately upon execution of the new ground lease.
- (c) Upon executing a new ground lease, Lender or HUD shall pay to the Landlord any unpaid ground rent due or that would have become due under this Ground Lease to the date of the execution of the new ground lease, including any taxes which were liens on the Property or the Improvements and which were paid by the Landlord, less any net rentals or other income which the Landlord may have received on account of the Property and Improvements since the date of default under this Ground Lease.

13. Landlord Cooperation for Needed Authorizations. The Landlord agrees that within ten (10) days after receipt of written request from the Tenant, it will join in any and all applications for permits, licenses or other authorizations required by any Governmental Authority in connection with any work which the Tenant may do hereunder and will also join in any grants for easements for electric, telephone, telecommunications, cable, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the Property or of any Improvements and if, at the expiration of such ten (10) day period, the Landlord shall not have joined in any such application, or grants for easements, the Tenant shall have the right to execute such application and grants in the name of the Landlord, and for that purpose, the Landlord hereby irrevocably appoints the Tenant as its attorney-in-fact to execute such papers on behalf of the Landlord, only to the extent that a public body as Landlord may do so within the exercise of its municipal powers and responsibilities.

14. Taxes. Nothing in this Ground Lease shall require the Tenant to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of the Landlord or any income excess profits or revenue tax, or any other tax, assessment charge or levy upon the rent payable by the Tenant under this Ground Lease.

15. Notices. All notices, demands and requests which are required to be given by the Landlord, Tenant, Lender or HUD in connection with the Ground Lease and this Lease Addendum shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given in this instrument unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is given.

All notices shall be addressed as follows:

If to Lender: Wells Fargo Bank, National Association
Attn: FHA Servicing Department
1751 Pinnacle Drive, 8th Floor
McLean, Virginia 22102

If to HUD: U.S. Department of Housing & Urban Development
Brickell Plaza Federal Building
909 SE First Avenue, Room 500
Miami, FL 33131

If to Tenant: Brownsville Village V, Ltd.
c/o Atlantic Pacific Communities, LLC
161 NW 6th Street, Suite 1020
Miami, FL 33136
Attn: Kenneth Naylor

If to Landlord: Miami-Dade County

701 N.W. 1st Court, Suite 1700
Miami, FL 33136
Attn: Department of Transportation and Public Works
Director

16.No Merger. There shall be no merger of this Ground Lease or the leasehold estate created by this Ground Lease with the fee estate of the Property or of the Improvements or any interest therein by reason of the fact that the same person or entity may acquire or hold, directly or indirectly, this Ground Lease or the leasehold estate hereby created or any interest therein and the fee estate of the Property or of the Improvements. No such merger shall occur unless and until HUD specifically consents and agrees in writing to such merger.

Landlord and Tenant hereby certifies that each of their statements and representations contained in Ground Lease and this Lease Addendum and all their supporting documentation thereto are true, accurate, and complete. This Lease Addendum has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

Schedule 22.2

Landlord's Estoppel Certificate

(form - subject to amendments based on lender or Developer requirements)
[_____ Bank]

Re: Brownsville Metrorail Station Transit Oriented Development Lease Agreement (Phase V) dated _____, 2024 (the "Lease"), by and between Miami-Dade County, acting by and through the Department of Transportation and Public Works ("Landlord") and Brownsville Village V, Ltd., a Florida limited partnership ("Tenant").

Ladies and Gentlemen:

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

1. A true, complete and correct copy of the Lease is attached to this Estoppel Certificate. There have been no amendments, modifications, extensions, renewals or replacements of the Lease (other than as attached hereto).

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

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

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

5. As of [date], the Minimum Rent is as specified in Exhibit "A" hereto. No Rent has been paid by Tenant more than one month in advance under the Lease (except as expressed hereunder or attached hereto).

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

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

Dated this ____ day of _____.

Very truly yours,

Schedule 26.3

Disadvantaged Business Enterprises and Utilization Plan

BROWNSVILLE VILLAGE V, LTD.
(Tenant)

BROWNSVILLE METRORAIL STATION TRANSIT ORIENTED DEVELOPMENT
(Project)

DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION PLAN

Brownsville Village V, Ltd. (“Tenant”), recognizing Miami-Dade Transit’s (MDT) commitment to the equitable participation of qualified Disadvantaged Business Enterprises (DBE) in the joint development of the Brownsville Metrorail Station Transit Oriented Development, presents this Disadvantaged Business Enterprise Plan. This submittal reflects Tenant’s projected DBE participation in all the different Phases of the Project. The projected levels of DBE participation contained herein indicate Tenant’s effort to assure DBE participation in the project. However, these projected levels of DBE participation may change subject to a change in conditions, and Tenant may submit to MDT for approval a revised DBE Plan for each future phase as the project progresses.

SECTION 1. DESIGN AND ENGINEERING

Tenant has identified design and engineering as major potential categories for DBE utilization in all Phases of this contract. Opportunities for such participation may exist in each phase of the project. MDT’s DBE goal for the design and engineering portion of all Phases of the project is twenty-five percent (25%) of the total cost of the design and engineering functions. It is anticipated that this goal could be reached using the services of certified and qualified architectural, design, engineering, landscape architecture and land surveying DBE firms.

SECTION 2. CONSTRUCTION

The construction category also affords DBEs an excellent opportunity to participate in all Phases. In the construction phase, Tenant has set a DBE participation goal of twenty percent (20%) of the total construction costs. Currently identified construction trades/crafts where DBEs have a feasible opportunity for participation are:

1. Site Work
2. Paving/Curb/Gutter
3.
 - (a) Concrete
 - (b) Pre-tension
 - (c) Post-tension

- (d) Paving, other
- 4. Dry walling
- 5. Painting
- 6. Metal Fabrication/Steel Reinforcement
- 7. Window/Door Installation
- 8. Electrical
- 9. Mechanical
- 10. Plumbing
- 11. Carpentry
- 12. Asphalt Paving & Striping
- 13. Floor/Wall Covering
- 14. Others as appropriate

While Tenant is not intending to perform construction with its own forces, it will take steps to ensure compliance with this goal by seeking to contract directly with DBE contractors and by requiring, through terms of contract, that prime construction contractors hired to perform such services make every reasonable effort to meet the DBE goal by providing opportunities for DBE participation in each trade and professional category described herein and any others as may be appropriate.

SECTION 3. DBE TENANTS

Tenant will endeavor to identify DBE firms and businesses whose purposes and uses may be consistent with the commercial uses developed at the Project, and Tenant will use reasonable good faith efforts to lease commercial space within the Project to such DBE firms and businesses, under terms and conditions at least as favorable as those offered to other unaffiliated businesses and firms. Tenant's goal is that ten percent (10%) of the rentable and rented commercial square footage not utilized by Tenant (which itself is a service organization representing DBE firms and businesses), or its affiliate, shall be rented/leased to and occupied by DBE firms or businesses. As a possible alternative means of satisfying this goal, Tenant proposes that the goal may also be satisfied if commercial DBE tenants are responsible for paying ten percent (10%) of the total dollar value of commercial rents to be paid by all unaffiliated commercial tenants at the Project. The DBE goal shall be based on a presumed occupancy rate of fifty (50) percent or higher.

SECTION 4. SUPPLIES, EQUIPMENT, NON-PROFESSIONAL SERVICES

Tenant will take affirmative steps to assure that DBE firms are used to the maximum extent possible in providing supplies, equipment, and non-professional services required by the

development, administration and operation of this project. By way of illustration, such items may include printing, cleaning supplies, painting, janitorial services, and so forth. The DBE Goal for use of such firms during the administrative and operations phase is Dunbar Cornell, Miami-Dade Transit. Ten percent (10%) of the total costs paid during the administrative and operations phase for all such items.

SECTION 5. TENANT'S EFFORTS TO MAXIMIZE PARTICIPATION OF DBE FIRMS

To assure the maximum utilization of DBE in all Phases of this contract, Tenant will:

1. Obtain from MDT/DBE Division a registry of its approved/eligible DBEs.
2. Establish, through MDT, a liaison with various public agencies and minority construction trade organizations, i.e., Metro-Dade County Enterprise Community Center, Contractors Training & Development, Latin Builders, unions, etc.
3. Establish contact with various community services organizations, i.e., Brownsville community groups, Metro-Dade Chamber of Commerce, Latin Chamber of Commerce, Urban League of Greater Miami, etc.
4. Advertise opportunities for doing business with Tenant in the various public and trade media, especially with those directed toward minority and ethnic communities.
5. Compile, with the assistance of MDT, a listing of qualified and available DBEs interested in the project.
6. Designate a Construction Manager and/or Project Manager who will serve as liaison with MDT and who will coordinate the company's efforts in this regard. This person will be responsible for monitoring, maintaining and ensuring our compliance with this program.

SECTION 6. ASSISTANCE PROGRAM FOR DBE

Tenant, in order to encourage DBEs participation, will work with MDT and other county departments and agencies, lending institutions and bonding agencies to identify and provide such agency or third-party technical assistance and bonding and financial support for DBEs where necessary, reasonable and available, and where applicable, Tenant will consider waiving such bonding requirements (subject to Lease, conditions of development approval and/or lender requirements), as may be waived without compromising the integrity of the project. Further, Tenant will attempt to develop, through its prime contractors, a reasonable mechanism for management assistance for DBEs where such DBE firms may require. Tenant's implementation of the DBE program will be guided by the policies confirmed herein, subject to the obligations under the Lease, and applicable contracts, laws and permits, as well as Tenant's overall obligation to ensure that the Project is developed and operated in an efficient, cost-effective and compliant manner. If there are performance problems or material concerns relative to the qualifications or performance of DBEs, Tenant will act promptly, reasonably and in good faith in an effort to identify and address such problems so that the Project may continue with the continuing participation of the subject DBE; subject to Tenant's prudent business discretion and other

requirements concerning the Project. Tenant will comply with federal, state and local requirements pertaining to the utilization of minorities and women and welcomes any assistance from the County so that it may satisfy those requirements.

AFFIDAVIT

The undersigned swears that the foregoing statements truly and correctly represent the intent and plan for the achievement of the DBE participation and DBE goals for this project. Further, the undersigned agrees to provide to MDT current, complete and accurate information regarding actual work performed on the project, the payment therefore and any proposed changes, if any, of the foregoing arrangements and to permit the audit and examination of books, records and files of the firms used in the project. Any material misrepresentation may be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statements.

Note: If, after filing this DBE Plan and at any time during the construction, development and operation of the project, there is any significant change in the project which requires alteration or modification of the DBE Plan submitted or its implementation, you must inform MDT of the change and desired alteration and receive approval prior to implementation.

Name of Firm

Name of Project

Signature

Name (Printed or Typed)

Title

Date

City of _____ State of _____ County of _____

On this ____ day of _____, 20____, before me appeared

(Name) _____,

to me personally known, who, being duly sworn, did execute the foregoing Affidavit, and did state that he or she was properly authorized by

(Name of firm) _____ to execute
the Affidavit and did so as 44 or her free act and deed.

Notary Public _____ Commission expires _____