

LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY

1121 Lucerne Avenue | Lake Worth Beach, Florida 33460-3346 | T: 561-493-2550

www.lakeworthcra.org

MEMORANDUM

TO: Chair, Vice-Chair and Members of the Board

FROM: Joan C. Oliva, Executive Director 

DATE: October 8, 2024

SUBJECT: **Public Private Partnership with Sunshine Lake Worth Development and the City of Lake Worth Beach for a Downtown, Mixed-use, Cultural Campus**

EXPLANATION:

In February of 2024, the CRA heard a presentation from the Wiener Museum of Decorative Arts and United Management for the development of a downtown art-campus. The Board unanimously agreed to give WMODA/ United the summer months to develop a proposal for the CRA owned sites in the downtown versus the advertising of a 2-part RFP developed by the CRA and City.

Since February, both City and CRA Staff have been working with Renee Miller and Associates, representatives for WMODA/United and other consultants to develop a thorough plan and development project that meets both the needs of the Museum, the City and the community. This has not been an easy task, taking into consideration the Downtown Parcel Master Plan and charette results, the LDR's, and the feedback the CRA has received over the years from the Commission. Specifically, the outcome of years of meetings and plans resulted in the need for a development that could meet the community's needs, including;

- A mixed-use development with reduced height and scale
- High quality design
- Lush landscaping
- Affordable housing
- Pedestrian amenities
- Community Space
- Activity on Lake Avenue
- The moving and restoration of historic structures
- Additional parking opportunities without a structure on "L" and "M" Streets
- Reactivation of alleyways
- An increased customer base for downtown
- Employment opportunities

History – 2018 - 2022

The City of Lake Worth Beach and the CRA partnered to create a mixed-use project in the downtown with the acquisition of several parcels of land beginning as far back as 2018. Since that time, the CRA has created an RFP, a Master Plan, had public charettes and workshops and held over 30 meetings to discuss future plans for both "L" and "M" Street and the "K" and 1st Avenue South assemblage.

The City has held HRPB meetings, City Commission meetings, hired Treasure Coast Regional Planning Council and managed the Master Plan process, helped staff public workshops, changed ULDR's, created historic design and thoroughfare guidelines and worked on the development of a downtown parking plan.

Both entities have sought the advice of professionals in addition to those at the TCRPC and these include Elizabeth Plater-Zyberk, Joe Minnicozi from Urban 3 and the architecture firm of Dover/Kohl. A number of Staff memos are included to help provide information on the various steps and discussions held in relation to the downtown parcels. These are attached as Exhibit "A."

2022 - today

The final Downtown Master Plan was submitted to the City in December 2022. TCRPC made several policy recommendations for the redevelopment of the downtown parcels. To assist with the creation of a new RFP, the CRA hired Dover/Kohl to help draft plan diagrams and language that would give a proposer a clear idea of what the CRA and City were seeking. Once Dover/Kohls input was complete, Staff finished up the RFP and sent it over in draft form to the City Manager and Staff for review and editing. To help facilitate the RFP, William Waters and CRA Staff, wrote a detailed *Process, Tasks and Responsibility* update for the Commission and this is included in the packet as Exhibit "B."

At approximately the same time the two-part draft RFP was sent to the City Manager's office, CRA Staff was put in contact with a representative from Wiener Museum of Art. Although the Museum is currently located in Hollywood, Florida, the museum is seeking a permanent home. Shortly after speaking with Renee Miller, from the Miller Consulting Group, and Staff from the Wiener Museum, a tour was set up for CRA Staff, then City Manager, Carmen Davis, Community Sustainability Director William Waters and Mayor Betty Resch to visit the Museum at its temporary headquarters in Hollywood.

Because representatives from the City and CRA were so impressed with the museum and the idea of bringing such a prominent and distinguished museum campus to downtown Lake Worth Beach, a visit to the City was arranged for Mr. Wiener, his family and team. On the tour were CRA and City Staff, CRA Board Member Anne Fairfax, and Mayor Betty Resch. During the month of January, Staff worked closely with the consultants and Staff at WMODA to arrange private tours of the Museum for all seven Board members and with the City Commissioners.

At the February CRA Regular Meeting, the Board agreed to give WMODA/United sufficient time to develop a proposal that met both the needs of both parties. The CRA Board selected both Anne Fairfax and Drew Bartlett as CRA Liaisons for the project.

The Proposal

As mentioned earlier in this Memo, the team from WMODA, United Management(aka Sunshine Lake Worth Development), CRA and City Staff worked together, with all our respective attorneys, to develop a set of agreements that would not only meet the needs of the developer and the Museum but also accomplish several other City goals, including a long-term downtown parking solution, the activation and beautification of City alleyways, the undergrounding of City electric lines to allow for shade trees and a way to finance improvements.

What is proposed is a multi-partner, multi-property, mixed-use project that will create:

- A 33,000 square foot museum on the corner of Lake Avenue and South "M" Street
 - The Museum will also include a gift store and café;
 - Classroom space, and;

- Community space
- A 110-unit apartment building with 8 affordable, live/work lofts
- An Arts Alley from M – L Street that will be created and maintained by WMODA in perpetuity
- The design and creation of an Arts Alley extension from L – K that will be paid for by the City and WMODA, to be maintained by the City
- The movement of 4 historical structures, identified by the City Commission to lots on “J” and “K” Streets owned by the CRA
- The design and construction of a City parking garage on lots on K owned by the City and the CRA

The development, due to its complexity, will be a Public-Private Partnership between the CRA, City and developer. Copies of the preliminary agreements, the Purchase and Sale and Development Agreement, are included for the Board’s review as Exhibit “C.” Ultimately, to cover all the details of the many transactions and plans needed, an additional 4 agreements will be created after the CRA comes to terms on the Purchase and Sale and Development Agreement for the parcels on both “L” and “M.” These will be provided at a later date.

The purchase and sale is an agreement between the CRA and Sunshine Lake Worth Development (WMODA, United) that sets terms and requirements of both parties as they relate to the sale of the CRA owned property. The development agreement is a tri-party agreement that defines the role of each party in the development of the overall project that includes a museum, residential units, the Arts Alley’s, public garage and historic home relocations.

A summary of the deal structure follows.

- The CRA will sell the parcels on “L” and “M” to Sunshine for \$0.00. In exchange the project will pay property taxes to the CRA. Over the course of 10 years, the tax increment created by the project will reimburse the CRA for the cost of the land.
- The CRA will provide a \$2M infrastructure incentive. These funds will go towards paying for portions of the Arts Alley, landscaping, lighting and other improvements in the public realm. These funds will also be reimbursed to the CRA in the form of tax increment.
- The CRA will “buy down” eight, live-work units in the project, making them affordable for households making 80 – 120% of area median income. These funds will come from our housing program that consists mostly of federal and other grant funding.

WMODA will be providing \$1M to the City for their downtown parking fee. This fee pays the City for spaces that the City is requiring for the Museum component of the project. Instead of collecting the in-lieu-of-fee, the City wanted to take advantage of the opportunity this public-private development creates and implement their parking plan which includes the building of a City garage on “K” Street. The CRA will play an active role in the development of the garage by donating one of the CRA owned parcels on K Street and helping to finance the structure.

To expediate the development and to keep construction costs in check, WMODA has agreed to hold the note on the garage. According to the City’s consultant, WGI, the 3.5 story garage will cost approximately \$8.5M. An initial payment is needed before construction starts and totals \$5M. Of this \$5M, WMODA will pay \$1M, the CRA \$1.5M and the City \$2.5M. The remaining \$3.5M note will be held by the developer at a 4% (below market) interest rate for up to 5 years. The CRA will pay another \$2.5M to buy down the note while the remaining payment (approx. \$1M) will be paid by the City in years 3-5.

This allows the City to pay off the garage in 5 years, saving the City millions of dollars in interest. Additionally, because Sunshine development will design and constructing the garage, the City saves on time and money.

This five-year time frame gives the City time to implement a downtown parking program, discussed by the Administration and Commission for at least six years.

The CRA will also be responsible for the rehabilitation of the two historic structures being moved by WMODA. At the present time, the CRA plans to move the smaller structure (24 South "L") to 126 South "J" and use it as an affordable rental ADU. Community Partners will be the owner of the site and will add another few units on the site for households making 80% or below of Area Median Income. The larger, two-story house (formerly on 26 S "L") will be moved to the K and 1st Street site along with the building and garage for Leisure Services, formerly 17 South "M." The CRA will partner with our non-profit housing developers and rehabilitate the structure and offer rental units to households making less than 80% or less of area median income.

These two addresses will produce approximately 8 new rental units. In addition, the CRA lot on the northeast corner of South "K" and 1st Avenue South can be developed in the future to accommodate a combination of both affordable and market rate units.

Again, for clarification, the CRA's purchase and sale and development agreement provides the legal building blocks for which the rest of the public-private partnership will be built. Additional agreements will be needed between the three partners to address all the components of the public-private partnership. In addition to that, the project will have to go through an entitlement process that will require city staff, HRPB and Commission review and approval.

RECOMMENDATION:

Staff recommends the Board review and approve the Purchase and Sale agreement with Sunshine Lake Worth Development and the Development Agreement between the City of Lake Worth Beach and Sunshine Lake Worth Development.

LAKE WORTH BEACH COMMUNITY DEVELOPMENT DEPARTMENT

1121 Lucerne Avenue | Lake Worth Beach
www.lakeworthcra.org

Exhibit "A"

MEMORANDUM

TO: Chair, Vice-Chair and Members of the Board

FROM: Joan C. Oliva, Executive Director

DATE: February 13, 2024

SUBJECT: Wiener Museum of Art and Possible Downtown Collaboration with CRA/City

EXPLANATION:

At the October 2023 meeting, a brief presentation was given to the Board regarding the status of the "L," "M," and "K" or downtown properties. Present at the Board meeting, in person or via zoom was Joe Kohl from Dover/Kohl and Dana Little from Treasure Coast Regional Planning Council (TCRPC). The purpose of the meeting was to have the Board review the 2-part Request for Proposals/ Qualifications written by CRA Staff with input from City Staff, TCRPC and Dover/Kohl. Once input from the Board was included, the draft request for proposal was sent to the City for their input. For context, a brief timeline of the downtown acquisition and development process is attached as Exhibit "A."

History

A draft, 2-part RFP was drafted after TCRPC was hired by the City to conduct a public charette and master parcel plan-like document that was paid for by the CRA. The final plan was submitted to the City in December 2022 but was never formally approved or adopted. TCRPC made several policy recommendations for the redevelopment of the downtown parcels. However, it was noted by Staff that some of the recommendations differed from what was allowed by zoning or the comprehensive plan. Because the Plan and City Policy differ, the CRA hired Dover/Kohl to help draft plan diagrams and language that would give a developer wishing to respond to an RFP a clear idea of what the CRA and City were seeking for this important group of parcels. Once Dover/Kohls input was complete, Staff finished up the RFP and sent it over in draft form to the City Manager and Staff for review and make changes. To help facilitate the RFP, William Waters and CRA Staff, wrote a detailed *Process, Tasks and Responsibility* update for the Commission and this is included in the packet as Exhibit "B".

The majority of recommendations by TCRPC can be accomplished through a Planned Development application. If the Commission wants to adopt policy recommendations from the Master Plan they could remove maximum density requirements, sustainability requirements and any affordable housing requirements. However, if the City does not want to incorporate the policy recommendations by TCRPC and a proposer comes along who is willing to develop something similar to the plan diagrams designed by TCRPC and/ or Dover/Kohl, it would make sense to work with the City to develop a plan that most closely resembles the key recommendations and implementation steps listed in the Plan.

At approximately the same time the draft RFP, Exhibit "C", was sent to the City Managers office, CRA Staff was put in contact with a representative from Wiener Museum of Art. Although the Museum is currently located in Hollywood, Florida, the museum is seeking a permanent home. Shortly after speaking with Renee Miller, from the Miller Consulting Group, and Staff from the Wiener Museum, a tour was set up for CRA Staff,

then City Manager, Carmen Davis, Community Sustainability Director William Waters and Mayor Betty Resch to visit the Museum at its temporary headquarters in Hollywood.

Because representatives from the City and CRA were so impressed with the museum and the idea of bringing such a prominent and distinguished museum campus to downtown Lake Worth Beach, a visit to the City was arranged for Mr. Wiener, his family and team. In December of last year, Mr. Weiner, his daughter and team came to visit the downtown site to get a sense of its appropriateness and if there was a possibility of us all working together to bring the museum along with housing, to the Downtown. On the tour were CRA and City Staff, CRA Board Member Anne Fairfax, and Mayor Betty Resch. Staff made all local plans and documents available to the Team for review, including the Lake Worth Beach Downtown Parcels Plan, the Lake Worth Beach Cultural Master Plan (excerpts attached as Exhibit "D") various design guidelines and the Redevelopment Plan.

During the month of January, Staff worked closely with the consultants and Staff at WMODA to arrange private tours of the Museum for all seven Board members. The virtual tour is available on-line at <https://www.wmoda.com/at-home-with-wmoda/>.

The Museum

The Museum was founded in Dania Beach in 2014 and was created by Arthur Wiener and his family. Mr. Wiener started collecting art when he was in college and today has amassed thousands of spectacular pieces from around the world. The Wiener Museum of Decorative Arts is a world-class collection of ceramic art and studio glass in South Florida. Their galleries showcase the finest British and European pottery and porcelain from the last two centuries, including Wedgwood, Royal Doulton and Lladró. Glass collections feature stunning works of art by Lalique and Chihuly. In addition to the collection, the 501(3)(c) museum engages the community with workshops, programs for both children and seniors and charitable events.

A real, rare possibility exists whereby the Museum, the CRA and the City could partner to bring this unique and impactful project to the City. The museum would make a substantial statement, solidifying Lake Worth Beach as the home to Arts and Artists. The Museum, along with the Playhouse, Historical Museum and other cultural attractions (Exhibit "E") would provide the City with a catalog of valuable destinations that would not only engage the public and add to the cultural fabric of the City but attract tourists and investment to our wonderful downtown area. Furthermore, the development would include new housing units which are desired by the City and County.

A presentation will be made by WMODA at Tuesday night's meeting. After the presentation and Board discussion, the Board can give Staff direction on next steps. To work out a program and plan that would include adopted City policies and Plan recommendations, some time and consideration would need to be given to WMODA so they would have guidance and direction for their proposal. In the meantime, CRA Staff would hold off on advertising the RFP. Although the CRA would like to immediately move forward with a development everyone could agree on, the reality is that compromises will have to be made to attract the right kind of development that enhances the area while being financially feasible.

RECOMMENDATION:

Staff recommends the Board discuss the possibility of allowing WMODA to develop a proposal for the downtown sites, working closely with City and CRA Staff. CRA Staff will hold off on advertising the 2-part RFP until after WMODA is able to put together a proposal and possible terms are worked out with Staff and brought back to the Board by the summer.

Lastly, the Board may want to consider appointing a CRA Board member to be the Board liaison for this important project.

**LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY**

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MEMORANDUM

TO: Chair, Vice Chair and Members of the CRA Board

FROM: Joan C. Oliva, Executive Director *JO*

DATE: January 25, 2022

SUBJECT: Downtown Properties along “L” and “M” Streets and 1st Ave. South and “K” St.

EXPLANATION

In February of 2020, the CRA advertised Request for Proposals (RFP) #02-1920 for the development of two sites in downtown Lake Worth Beach. The sites currently consist of a mixture of vacant lots, public parking and unoccupied residential structures (Exhibit “A”.) The three combined sites located primarily along South ‘K’, ‘L’ & ‘M’ Streets just south of Lake Avenue, total approximately 2.6 acres. On August 4th, 2020 the CRA received 3 qualified submittals from interested development teams.

The downtown sites were assembled over a three-year period, starting in 2018 and with ten different transactions, adding to the two lots previously bought in 2005 by the CRA and the old Chamber building, which is still owned by the City although an agreement was signed in November 2019 for its sale to the CRA. The two assemblages consist of 16 separate parcels that are owned outright by either the CRA or City of Lake Worth Beach. Attached in Exhibit “B” are the City authorization of funds, Interlocals and the preliminary Parking Plan. The lots were purchased with CRA loan proceeds and/or City funds provided through the County’s penny sales tax program.

In order to help stimulate the downtown core, this area of the City was identified by our (previous) local officials and administration as being ideal and prime for redevelopment efforts. The future of the downtown, its shops, restaurants and stores hinge on consumers visiting and spending money in the downtown. Also, Downtown Lake Worth Beach is a walkable and attractive area where additional units could house those seeking lower than PBC market rents.

In September of 2020, an RFP evaluation committee was setup to review and rank the 3 submittals that were received for #02-1920. Although the chosen developer, Rosemurgy Properties, never submitted a site plan or final rendering due to several impediments, including a lawsuit filed against the City, community reactions, a change in the make-up of the Commission and concerns about the City sustainability incentive program that currently allow up to 5 stories in the downtown.

The CRA was then asked, by the City, to do a charette and take public feedback more in line with the new Commissions and public’s vision for downtown before reproducing an RFP. Staff’s understanding is that any future RFP would have additional restrictions placed on the height, density and design, in addition to the existing City’s land development regulations and design guidelines.

CRA Staff reached out to Treasure Coast Regional Planning Council (TCRPC) to help develop a scope for engaging the community and preparing for a re-advertised RFP with parameters. TCRPC is responsible for constructing the City's Historic Design Guidelines and, previously, the City's Transit Oriented Development Master Plan (TOD Plan) in 2008. The TCRPC, and specifically Dana Little, is very familiar with the City, its historic districts, character and New Urbanist principles.

The TCRPC was hired by the City to conduct a charette-like master plan for the downtown and in January of this year, an agreement was approved by the Commission. The CRA previously approved paying for the Plan in October of 2021, with the understanding that it would be led by City Staff so the City Administration and Commission would manage the program and oversee the outcome. Dana Little, Urban Design Director at the TCRPC began stakeholder interviews and plan review earlier this month after execution of the agreement.

Although the downtown properties were originally slated for redevelopment, there have been significant changes in CRA and Commission Board members, a lawsuit and other considerations that have come to light slowing down the project, almost to a halt. Time has a significant influence on structures, resources and although the CRA continually boards up the buildings, cleans and landscapes the properties, pays non-ad-valorem taxes and provides routine maintenance, there are outside factors making it more and more difficult to keep the buildings in decent condition.

At the City Commissions January 2022 meeting, the Commission directed Staff to inspect the City-bought properties and to investigate the hiring of a contractor or contractors so the City could house people in the buildings in the short term. Of the 7 historic properties, not including 509 Lake Ave. (fka: Havanna Hideout), 5 were purchased using City sales tax dollars.

These include:

25 S. K

704 1st Ave. South

26 S. L

30 S. L

32 S. L

Structural assessments were conducted by WGI on behalf of the City last November, however, those assessments focused on whether the homes could be moved and not their current condition or approximate costs to rehabilitate.

If the City were to proceed with inspections and reviews, it would be in the best interest of the CRA to have the City release the CRA from any liability. Our attorney, David Tolces, has prepared a license agreement for the Board to review and potentially approve (Exhibit "C"). What transpires after the homes are inspected and scopes of services produced remains something the Boards will have to discuss at the joint February meeting.

At this time, Staff recommends the CRA Board review the attached agreements the CRA has with the City in regards to these properties. There are serious implications associated with deviating from the already agreed to plan. If we are to continue with the TCRPC plan for the area, what ramifications does moving tenants into the buildings have on the ability of finalizing a redevelopment plan for the area? Certainly, doing one does not negate the possibility of the other but resources, time and the attraction of a developer can be impacted. It should be clear to everyone that one of the possible outcomes of the Plan is to keep the current buildings in place and build around them. However, if the Commission would prefer to own the buildings and rehabilitate them then the CRA could focus its efforts on doing a smaller redevelopment project on the properties owned by the Agency.

Because the majority of the CRA Board were not members in 2018-19, when the properties were purchased, I have included a link to the CRA web page, https://www.lakeworthcra.org/index.php?option=com_content&view=article&id=552:the-element&catid=87:cra-projects&Itemid=958 that includes the Parking Plan, the various agreements, a list of properties and other information.

RECOMMENDATION

CRA Staff recommends the Board review and approve the license agreement between the CRA and City, attached to this memo, allowing the City to access CRA owned properties purchased with City penny sales tax money and discuss the CRA's role in the wake of changing City policy.

**LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY**

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MEMORANDUM

TO: Chair, Vice Chair and Members of the CRA Board

FROM: Joan C. Oliva, Executive Director *JO*

DATE: October 12, 2021

SUBJECT: Interlocal Agreement with City of Lake Worth Beach for the funding of TCRPC for Public Outreach and Master Plan Development for Downtown/ Planning Services

EXPLANATION

At the September CRA meeting the Board voted to approve the scope of work provided by the Treasure Coast Regional Planning Council (TCRPC) for the provision of public outreach and planning services in relation to City/CRA held properties in the downtown. The Board, after thoughtful discussion, asked that the City Commission also approve the scope and the City manage the project. This was decided in an effort to provide continuity in development parameters in the downtown, increase community participation and create a unified vision for growth.

At their October 5, 2021 meeting, the City Commission voted 4-1 in support of the Interlocal between the City and TCRPC, provided the CRA cover the costs for the services. A copy of the CRA Staff memo and the scope of services, Exhibit "A", is attached for the Board's review. An Interlocal needed between the City and CRA to authorize the payment is included as Exhibit "B". A revised timeline is also attached for the Boards review (Exhibit "C").

RECOMMENDATION

Staff recommends the Board approve the IL between the City and the CRA for the funding of planning services to be provided by the Treasure Coast Regional Planning Council for public outreach and downtown master planning.



LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY

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Exhibit "A"

FAX: (561) 586-1750

MEMORANDUM

TO: Chair, Vice Chair and Members of the CRA Board

FROM: Joan C. Oliva, Executive Director *JO*

DATE: September 14, 2021

SUBJECT: **Interlocal Agreement with TCRPC for Downtown Property Public Outreach and Master Plan Development**

EXPLANATION

In February of 2020, the CRA advertised Request for Proposals (RFP) #02-1920 for the development of two sites in downtown Lake Worth Beach. The sites currently consist of a mixture of vacant lots, public parking lots and unoccupied residential structures. The combined sites located primarily along South 'K', 'L' & 'M' Streets just south of Lake Avenue, total approximately 2.4 acres (including the City surface lot). Due to the pandemic associated with COVID-19, the submission deadline for responses was extended from early June to August 4th, 2020. The CRA received 3 qualified submittals from interested development teams.

The downtown sites were assembled over a three-year period and with ten different transactions, adding to the two lots previously bought in 2005 by the CRA and the old Chamber building, which is still owned by the City although an agreement was signed in November 2019 for its sale to the CRA. The two assemblages consist of 14 separate parcels that are owned outright by either the CRA or City of Lake Worth Beach. The lots were purchased with CRA loan proceeds and/or City funds provided through the County's penny sales tax program. In order to help stimulate the downtown core, this area of the City was identified by our (previous) local officials as being ideal and prime for redevelopment efforts. The future of the downtown, its shops, restaurants and stores hinge on consumers visiting and spending money in the downtown.

In September of 2020, an RFP evaluation committee was setup to review and rank the 3 submittals that were received for #02-1920. The evaluation committee was comprised of CRA Staff, the Director of the Lake Worth Beach Community Sustainability Department, William Waters, and CRA Board members Drew Bartlett and Brent Whitfield. A virtual RFP review meeting, which included all submittal teams and members of the public, was conducted using the ZOOM application. The highest rated proposal was received from *Rosemurgy Properties/Stateside Development*. The evaluation committee forwarded the

highest ranked development submittal and the Board approved the selection committee's recommendation in October 2020.

In early 2021, CRA Staff and the developers were asked to host a public meeting to engage the public on the design of the proposed building. In April, Rosemurgy Properties hosted a Zoom meeting to answer questions posted by the public. However, the developer was not given the opportunity to present a redesigned project to the Board due to many reasons including time and lack of direction. An agreement with Rosemurgy/ Stateside was never negotiated or presented to the Board.

The CRA was asked to do a charette and take public feedback before reproducing an RFP, more in line with the new Commissions vision for downtown. Staff's understanding is that any future RFP may have additional restrictions placed on the height, density and design, in addition to the City's land development regulations and design guidelines. At this stage in the process, the CRA Board should decide whether or not to set aside the previous approval given to the selection of Rosemurgy/ Stateside as the chosen developer for this project. If the Board does agree to set aside the previous decision, Staff can then focus on a possible alternative path.

In light of previous discussions, Staff reached out to Treasure Coast Regional Planning Council (TCRPC) to help develop a scope for engaging the community and preparing for a re-advertised RFP with parameters. TCRPC is responsible for constructing the City's Historic Design Guidelines and, previously, the City's Transit Oriented Development Master Plan (TOD Plan) in 2008. The TCRPC is very familiar with the City, its historic districts, character and New Urbanist principles.

After touring the area and meeting with Dana Little, the Urban Design Director, and taking into consideration Covid protocols, the attached scope was created for the Board's review and possible approval. A copy of this scope and Interlocal agreement is attached as Exhibit "A". The scope includes due diligence and the development of a clear understanding of the land purchases and restrictions, site reconnaissance, stakeholder interviews, public workshops, a redevelopment masterplan for the area with strategic recommendations, and reports to both the City and the CRA. Once the public process is complete, Staff will rewrite the RFP, better reflecting the community's vision. Once responsive proposals are received, a new committee will be created to review and score them. All responsive submittals will then be reviewed by the Board.

The Board has several options available. These include:

1. Moving forward with a public process, negotiations and an agreement with the previously chosen developer, Rosemurgy/ Stateside
2. Setting the previously selected proposal aside and approving a contract with TCRPC for a public input process and production of a Master Plan to use in a future RFP
3. Land bank downtown CRA properties and wait for other opportunities to present themselves
4. Develop CRA properties paid for with LOC funds while returning the others to the City (17 S. M and 26-32 S. L Street)
5. A combination of the above or an alternative

If the Scope with TCRPC is approved, the initial payment will be paid from 20/21 Capital Project fund and the remainder will come from next year's Operating budget. Funds from the Business Assistance line item will be transferred into Professional Services to cover the expense.

RECOMMENDATION

Staff suggests the Board review the proposal, consider setting aside the previous selection of a developer and engage the Treasure Coast Regional Planning Council with a public input process and the development of a master plan for the downtown parcels under CRA/ City ownership. Staff further recommends the Board seek approval from the City Commission on this redesigned process so both Boards can work in unison with the public and devise a future redevelopment plan, with implementation, that results in new housing, retail and other needed uses. If the Board chooses to engage TCRPC, an Interlocal must also be approved and executed.



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MEMORANDUM

TO: Chair, Vice Chair and Members of the CRA Board

FROM: Joan C. Oliva, Executive Director *JO*

DATE: October 13, 2020

SUBJECT: Downtown Property Redevelopment RFP – Multiple Downtown Lots

EXPLANATION

In February of this year, the CRA advertised Request for Proposals (RFP) #02-1920 for the development of three sites in downtown Lake Worth Beach. The sites currently consist of a mixture of vacant lots, public parking lots and unoccupied residential structures. The three combined sites located primarily along South 'K', 'L' & 'M' Streets just south of Lake Avenue, total approximately 2.6 acres. The formal RFP document is included for your review as Exhibit "A". Due to the pandemic associated with COVID-19, the submission deadline for responses was extended from early June to August 4th, 2020. As a result of widely promoting the RFP through various professional channels, the CRA received 3 qualified submittals from interested development teams.

Below is a summary of each development submission:

- **AINA Development – 'Eco-Jewell' (Exhibit "B"):** A phased project consisting of 107 residential units in Phase I. Project would include market rate studio / apartment units and amenities such as a clubhouse, green building techniques and up to 127 parking spaces in a 2-story parking garage. Phase II of the project would include an additional parking garage and up to 20,000 sq. ft of commercial space. Development of the Lake Avenue sites were to be completed at a later date and payment of the required \$2.8M was to be distributed over 3-5 years.
- **ATELIER 305/Lineaire Group – 'The MODULOR' (Exhibit "C"):** Up to 195 rental units located within a 6-7 story building. Some of the rental units would be for extended stay and/or hotel use. Also included is up to 12,000 sq. ft of commercial space, 218 parking spaces, pool, gym and lounge. This development team also proposed additional surface parking at the sites on K Street with the potential for future redevelopment. This group offered to pay the CRA \$2.8M for the sites.
- **Stateside Development/Rosemurgy Properties – 'ELEMENT' (Exhibit "D"):** This project would consist of approximately 100-120 apartment units located in a 5 -story building. Amenities include a pool, fitness facility, communal office space, ground floor commercial space, UBER/LYFT lounge and a 4-story parking garage. Element would include a stepped-down, live-work component along 1st Avenue South and the development will be a certified Florida Green Building Council project. The group offered the CRA \$2.81M for the site and will help develop Site number 2, once the City confirms it's plans for Site 3, the City owned parking lot.

The downtown sites were assembled over a three-year period and with ten different transactions, adding to the two lots previously bought in 2005 by the CRA and the old Chamber building, still owned by the City. The two assemblages consist of 16 separate parcels that are owned outright by either the CRA or City of Lake Worth Beach. The lots were purchased with CRA loan proceeds and/or City funds provided through the County's penny sales tax program. In order to help stimulate the downtown core, this area of the City has been identified by our local officials as being ideal and prime for redevelopment efforts. The future of the downtown, its shops, restaurants and stores hinge on consumers visiting and spending money in the downtown. With an additional 100-200 new, downtown residents, downtown Lake Worth Beach will not only survive but flourish as new people live and visit the area, shop and eat locally.

Before issuing the RFP, Staff, along with their consultants, WGI, prepared an application for a Condition of Approval to the City's Historic Resource Board, requesting relocation or demolition of the structures located at "L" and "M" Streets. The request was approved with conditions (Exhibit "E"). In October of 2019, the CRA issued an RFP for the relocation and renovation of the contributing houses. By the closing date, January 30, no proposals were submitted.

Last month, an RFP evaluation committee was setup to review and rank the 3 submittals that were received for #02-1920. The evaluation committee was comprised of CRA Staff, the Director of the Lake Worth Beach Community Sustainability Department, and CRA Board members Drew Bartlett and Brent Whitfield. A virtual RFP review meeting, which included all submittal teams, was conducted using the ZOOM application. Meeting minutes from this evaluation committee review meeting are included as Exhibit "F". As reflected in the minutes, the scores of the submittals received from the evaluation committee indicate that the proposal received from *Stateside Development/Rosemurgy Properties* as being the highest ranked. The evaluation committee decided to forward the highest ranked development submittal to the CRA Board of Commissioners for final review, discussion and selection.

The development of this project fulfills the CRA's Redevelopment Plan goals and objectives by:

- Eliminating dilapidated or unsafe structures
- Encourage the consolidation of small parcels of land into parcels of adequate size to accommodate new construction
- Increase the tax base
- Work in conjunction with the City to ensure future economic stability
- Eliminate conditions that decrease property values
- Encourage the acquisition, demolition and the reuse of properties that no longer function at their highest potential economic use
- Initiate programs to improve and strengthen existing businesses
- Improve the investment image of the redevelopment area
- Make the redevelopment area competitive with major activity centers in the region
- Expand the economic base of the district
- Create investment opportunities by capitalizing on the development and redevelopment opportunities associated with the revitalization of Downtown
- Seek opportunities for land assemblage and encourage mixed-use development in the downtown
- Encourage private efforts toward building housing in the redevelopment area
- Promote in-fill housing and housing choice

A strong Downtown can be a major stimulator for economic growth and a revenue generator for small businesses and local government. Visually appealing and lively downtowns represent the image and

character of a City. Vibrant downtowns are not only important to the local economy, they are inherently equitable because they enable a diverse range of users, from various income apartment dwellers, to house and condo owners. They provide jobs, civic space, recreation and essential services. Compact downtowns promote tourism and offer area cultural assets as well as transportation choices.

RECOMMENDATION

Staff recommends the Board review the submittal packages and contact Staff prior to the October 13th Board meeting to request any additional information. Representatives from Stateside Development/ Rosemurgy Properties will be available during the CRA Board meeting to answer any questions. Staff recommends the Board approve the development project and authorize Staff to negotiate a purchase/sale and development agreement with Stateside Development/ Rosemurgy Properties.



City of
**Lake Worth
Beach**
FLORIDA

DEPARTM

Exhibit "B"

Lake Worth Beach, FL 33461
561-586-1687

To: Honorable Mayor and City Commission

From: William Waters, DCS Director
Joan Oliva, LWB CRA Executive Director

Through: Carmen Y. Davis, City Manager

Date: October 2, 2023

Subject: L&M Project Process, Tasks and Responsibilities Update

As an update for the proposed L&M Project, the final downtown master plan presentation took place on January 24, 2023 where the Treasure Coast Regional Planning Commission (TCRPC) and Dana Little offered suggestions for future RFP based on the recommendations for the Downtown Master Plan. The Commission considered those recommendations and arrived at consensus in many areas. The preferred recommendations as well as further feedback provided at a workshop held on March 21, 2023 regarding the solicitation process led to a proposed two-step RFP process, whereby qualifications and track record of interested developers would be considered first. The initial proposals would be short listed to arrive at several developers preparing full proposals including conceptual design and pro formas for consideration by the CRA and City.

The CRA contracted with Dover Kohl in May of 2023 to assist with the preparation of a formal RFP to incorporate recommendations accepted from the Downtown Master Plan and to craft the preferred two step selection process. After several months of collaborating with both CRA and City Staff, a draft RFP is ready for consideration. The CRA Board will receive a copy of the proposed RFP as part of their October 10, 2023 meeting package. In addition, the proposed RFP will be provided to the City Commission once areas of concern and recommendations are collected from the CRA Board. The City Commission will be requested to provide its input and suggestions to be incorporated with those from the CRA Board with a final draft of the anticipated two-step RFP being ready for advertisement by the end of the calendar year.

The following is provided as an overview of the tasks completed, tasks pending, the process and the responsibilities for each step of the process, including the steps in the RPF solicitation process and the project entitlement process, if a proposed project is selected.

Tasks Completed

1. Completion of Downtown Parking Study, 2017-2018
2. City and CRA Authorization of Funding for Assemblage, 2018-2019
3. Acquisition of sites, 2018-2020
4. Approval of conditional Certificate of Appropriateness Application for Relocation/Demolition of ten (10) structures in Old Town Historic District, 2019
5. Massing Study prepared of maximum development potential on combined sites, 2019

6. Hearing before Historic Resources Preservation Board (HRPB) for review and approval of relocation/demolition plans, 2019
7. Stay of original RFP Process, 2020
8. Preparation of Downtown Master Plan by Treasure Coast Regional Planning Commission (TCRPC), 2021
9. Demolition of non-contributing structures, 2020
10. Assessment of contributing structures with presentation to the Commission on condition assessment and costs for rehabilitation 2022
11. Commission provides consensus to preserve two contributing structures at 24 and 26 S L Street and the structures at 17 S M Street, Spring 2023
12. Presentation to Commission on types of solicitation processes available. Consensus provided to draft two step RFP with one step being a selection of several qualified entities to move forward to second step where formal conceptual plans including proformas, entitlement process being sought, financial incentives being requested and financial return to both the CRA and City, Spring 2023
13. Collaborative drafting of second RFP with input from TCRPC, Dover Kohl and staff from the CRA and City, Summer 2023
14. Final initial draft of RFP completed, Fall 2023

Tasks to Complete

Selection of Project Developer – three to six months

1. Complete draft of two stage RFP for advertising and soliciting of developers for project
2. Advertise RFP
3. Hold required pre-bid meeting
4. Close stage one of RFP after review by CRA Board and City Commission
5. Review and evaluate proposals – public meeting
6. Select Developers to move along to stage two
7. Review and evaluate proposals by Selection Committee– public meeting
8. Select final Developer(s) at CRA Board meeting
9. Negotiate contract and terms including payments and proposed incentives
10. Present Developer(s) and conceptual project including financials and proforma to CRA Board for approval – open to the public

Developer(s) Prepares Formal Conceptual Design and Entitlement Application – three to six months

1. Review Land Development Regulations
2. Review Historic Preservation Design Guidelines
3. Review Major Thoroughfare Design Guidelines
4. Review Affordable/Workforce Housing Program
5. Review Site and Building Qualitative Design Standards
6. Review Sustainable Bonus Incentives
7. Review Transfer Development Rights Incentives

Entitlement Process – six months, possibly longer based on responsiveness of developer to staff comments and neighborhood meeting(s)

1. Developer/Architect/Engineer/Consultants prepare entitlement and site plan submittal documents including site plan, elevations and justification statements
2. Prepare Universal Development Applications
 - a. Certificate(s) of Appropriateness – New Construction and Demolition
 - b. Conditional Use(s)
 - c. Major Site Plan
 - d. Development of Significant Impact (DSI) (if applicable)
 - e. Sustainable Bonus
 1. Density/Height/Intensity
 2. Any requests for financial relief
 - f. Transfer Development Rights (if applicable)
 - g. Planned Development (if applicable)
 - h. Affordable/Workforce Housing Program (if applicable)
 - i. Alley vacation request (if applicable)
 - j. Prepare easements, covenants and other agreements for project
3. Review of Application by Site Plan Review Team
4. Conduct Required Neighborhood Meeting(s)
 - a. Prepare Project Website and Social Media Presence
 - b. Prepare project links from both City and CRA websites
 - c. Advertise meeting
 - d. Conduct meeting
 - e. Report back to City Staff
5. Public hearing(s) before the HRPB – Hearing can be delayed 30 days at request of qualified affected party
 - a. Approval of Certificate(s) of Appropriateness
 - b. Recommendations for the following
 1. Major Site plan
 2. Conditional Use(s)
 3. Sustainable Bonus
 4. Development of Regional Impact (if applicable)
 5. Transfer Development Rights (if applicable)
 6. Planned Development (if applicable)
 7. Affordable Housing Program (if applicable)
 8. Alley vacation request (if applicable)
9. Minimum of Two Public Hearings before the City Commission – Initial hearing (first reading) can be delayed 30 days at request of qualified affected party
 - a. Notice of intent to abandon alley (if applicable)
 - b. Public Hearing and First Reading of Development Ordinance
 - c. Public Hearing and Second Reading of Development Ordinance
 - d. Review and approve economic development incentive package (if requested)
 - e. Abandonment resolution for alley

Preparation of Construction Documents for Permitting – six months

Submission and Review of Permit Application – two to four months

Construction Schedule – 12 to 24 months depending on size and complexity of proposed project

Note: Any proposed project may be phased or have separate, independent components that may be permitted separately or in tandem. Permitting and construction schedules would need to be adjusted if more than one project phase is proposed.

Please keep in mind that a prospective developer may wish to avail themselves of financial support for the proposed project from entities outside of the City such as the Palm Beach County Affordable Housing Bond, Federal Low-Income Housing Tax Credits, National Register Historic Preservation Tax Credits, State of Florida Low Income Housing Funds and/or other funding sources. Depending on the application requirements of one or more of these programs and their deadlines as well as approval of funding, the project timeline may extend out accordingly.

It is highly unlikely that any Developer will not request the waiver of all or a portion of the City's Sustainable Bonus Incentive Program requirements, Transfer Development Rights payments and/or Affordable/Workforce Housing requirements. Also, there likely will be waivers requested as part of the Planned Development process to better align a project with several of the recommendations of the Downtown Master Plan. At stage two of the RFP process, any financial relief from these programs or incentives needs to be outlined by the prospective developer including any proposed waivers from the City's Code of Ordinances.

Lastly, provided, as additional background information, are several CRA documents outlining the sequence of events leading up to the L&M project and the prior failed initial RFP process. The Executive Summary from the Downtown Master Plan and the minutes from the two Commission meetings held this year regarding this subject are also included.

I hope that you find this information helpful. If you have any questions, please let me know.

WMODA MIXED USE DEVELOPMENT
PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (hereinafter the "Agreement") is made on this _____ day of _____, 2024 and entered into by and between the **LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY**, an entity created pursuant to Florida Statutes, Chapter 163 (hereinafter the "SELLER") and **SUNSHINE LAKE WORTH DEVELOPMENT, LLC**, a Florida limited liability company (hereinafter the "PURCHASER").

In consideration of the mutual agreements and upon and subject to the terms and conditions herein contained, the parties hereto agree as follows:

DEFINITIONS.

The following terms when used in this Agreement shall have the following meanings:

- 1.1 Arts Alley shall mean the platted alleyway that lies east and west between South M Street and South L Street across the Property.
- 1.2 Business Day shall mean any day that the SELLER is open for business.
- 1.3 City means the City of Lake Worth Beach, a Florida municipal corporation.
- 1.4 City Development Approval the final approval by the City's operational, development and legal staff of the Development Review Application and the Site Plan and all appeal periods with respect to such approval shall have expired.
- 1.5 City Commission means the five (5) public officials elected to serve on the Lake Worth Beach City Commission.
- 1.6 City Commission Approval means the final approval by the City Lake Worth Beach Commission of all required entitlements for the project and all appeal periods with respect to such approval shall have expired.
- 1.7 Closing means the consummation of the transaction contemplated by this Agreement.
- 1.8 Closing Date means that date which is sixty (60) calendar days from and after PURCHASER has obtained the following: (i) the City Development Approval and the City Commission Approval, and (ii) all Permits required to commence construction for the Project.
- 1.9 Comprehensive Agreement means an agreement required under Section 255.065 Florida Statutes (2024) to be entered into between the Purchaser, the Seller and the City, for the construction of the K Street Parking Garage
- 1.10 Construction Agreement K Street Parking Garage: Means that certain agreement to be entered into between the PURCHASER and SELLER concerning the construction of a Parking Garage on K Street to support the Museum. The material terms for the Construction

Agreement shall include but not be limited to, construction cost, critical path, payment schedules, revenue note commitments, and ground lease provisions. The Parties agree that the Construction agreement will have to be approved by the Community Redevelopment Agency Board and executed and delivered among the parties no later than the expiration of the Inspection Period. If the Construction Agreement for the K street parking Garage is not executed by the parties during the Inspection Period, then either party may terminate this agreement as set forth in Section 3

1.11 Construction Agreement Relocation of Contributing Structures means that certain agreement to be entered into between the PURCHASER and SELLER concerning the relocation of four contributing structures. The material terms for the Construction Agreement shall include but not be limited to, construction costs, critical path, location of facilities, site specifications, roles and responsibilities of the parties, cost overruns, and liability.

1.12 Construction Loan means acquisition, development, or construction financing related to the Project consisting of, without limitation: debt financing, private equity, equity participations, joint venture, hybrid financing, mezzanine financing, or other financing arrangements, provided in each such event the material terms of all such financing arrangements shall be described in the Construction Loan Commitment (or its reasonable equivalent).

1.13 Construction Loan Commitment means a loan commitment issued to PURCHASER from a bona fide third party lender describing the proposed Construction Loan with respect to the Project, which shall be provided to the SELLER within thirty (30) calendar days of the PURCHASER obtaining all Permits required to commence construction for the Project.

1.14 CRA means the Lake Worth Beach Community Redevelopment Agency.

1.15 Deed means the special warranty deed which shall convey the Property from SELLER to PURCHASER at the Closing.

1.16 Development Agreement means that certain Development Agreement by and between the City, Seller, and Purchaser, as developer, with respect to the Project.

1.17 Development Plan has the meaning set forth in the Development Agreement.

1.18 Development Review Application means PURCHASER'S applications to the City to approve the Site Plan as required in the development review procedure.

1.19 Development Review Application Date means that date which is within thirty (30) calendar days after the expiration of the Inspection Period by which date the PURCHASER must submit to the City the Development Review Application.

1.20 Effective Date means the date when the last one of the SELLER and PURCHASER executes this Agreement and delivers an unaltered counterpart hereof to the other party.

1.21 Force Majeure events or Force Majeure shall have the meaning set forth in Section 34(c).

1.22 Government Approval means the collective reference to all preliminary and final approvals, consents, amendments, rezonings, special exceptions or variances by the City with

respect to the sale of the portion of the Property owned by the Seller to Purchaser and the development of the Project as described in this Agreement and in the Development Agreement, including, without limitation, the City Development Approval, and the City Commission Approval, which will be required to obtain the necessary approvals to develop the Project without conditions which modify or adversely impact, in a material respect, the design, cost, use, timing or functionality, and density of the Project and the applicable appeal period has run without appeal or, if an appeal is taken, then the date the appeal is resolved in favor of the approval, (and, if any such Governmental Approvals are issued with any governmental conditions, then, such conditions must be consistent with, and in alignment with, and directly related to, the development plan described in the Site Plan, the definition of "Project", and the Primary Site Plan or Alternate Site Plans).

1.23 Government Approval Date means within one hundred eighty (180) calendar days from the Development Review Application Date.

1.24 Governmental Authority means the Federal or State government of or any political subdivision thereof, whether at the national, state, territorial, provincial, municipal, or any other level, and any agency, authority, instrumentality, regulatory body, or other entity exercising executive, legislative, taxing, regulatory, or administrative powers or functions of, or pertaining to, government.

1.25 Inspection Period means the period of ninety (90) calendar days which commences upon the Effective Date of the Development Agreement. If the expiration date of the Inspection Period ends on a Saturday, Sunday or legal holiday, the expiration date shall be extended until the end of the next business day. However, the Inspection Period shall be automatically extended until the following agreements are approved and executed by the CRA and City (i) the approval of the Construction Agreement for the K Street Parking Garage (ii) the approval of the Construction Agreement for the relocation of the four (4) contributing structures (iii) the approval of the Arts Alley Long Term Maintenance Agreement (iv) the approval of the Long Term Parking Agreement for the K Street Parking Garage.

1.26 Long Term Maintenance Agreement Arts Alley means that certain agreement to be entered into between the PURCHASER and the City that will govern the roles and responsibilities of each party regarding the long-term maintenance and repair of the Arts Alley. The parties agree that this is an integral part of the operational success of the project. The material terms for the Long-Term Maintenance Agreement shall include but not be limited to roles and responsibilities of parties, repair and replacement costs, public access, and liability.

1.27 Long Term Parking Agreement means that certain agreement to be entered into between the PURCHASER and City for the operation of long-term parking facilities developed as part of the Project. The material terms for the parking agreement shall include but not be limited to, access, parking fees, special event parking, residential lease opportunities, and liability.

1.28 Museum means that certain building located on the corner of Lake Avenue and South M Street to be built by the PURCHASER for the display of Fired Art as part of the Project.

1.29 Permitted Exceptions means the collective reference to: (a) taxes for the year of Closing (which shall be prorated at the Closing) and subsequent years not yet due and payable; and (b) any exception to title set forth in the Title Commitment which has not been objected to by PURCHASER as a Title Objection pursuant to Section 11; provided that such exception does not cause the fee simple title to the Property to be to be unmarketable under applicable law.

1.30 Permits means all building and construction permits necessary or required by the SELLER, Palm Beach County, and any other Governmental Authority in order for the PURCHASER to develop, construct and operate the Project including, without limitation, site development permits, utility permits, environmental permits, FDOT permits, mechanical, plumbing, electrical and building permits, and, if any such permits are issued with any governmental conditions, then, such conditions must be consistent with, and in alignment with, and directly related to, the development plan described in the Site Plan, the definition of "Project", the applicable building code.

1.31 Project means the comprehensive project submitted by PURCHASER consisting of the following components as illustrated in the Site Plan attached hereto as **Exhibit "A"**: Museum, 102 market rate residential apartment units, 8 artist lofts with artist workspace dedicated at 80%-120% of adjusted median income for 15 years, 117 parking space subterranean parking structure to support residential uses, off parking garage on K street to support Museum parking and public parking, art alley between K and M Street, relocation of (4) contributing structures, together with related amenities and utilities, as generally set forth in the Development Plan as provided in the Development Agreement. Each respective component of the Project will be developed on that portion of the Property which is so designated on the Development Plan and each component of the Project is more particularly described in the Development Agreement.

1.32 Property is a collective term comprising 1.7 acres of real property situate, lying and being located in Lake Worth Beach, Palm Beach County, Florida, more particularly described in the final approved Site Plan and in **EXHIBIT "B"** attached hereto and made a part hereof, together with all improvements thereon, together with all of the right, title and interest of the SELLER in and to any site plans, site plan approvals, development plans, specifications, engineering drawings, impact fee credits, if any, and all other related matters and things owned by the SELLER which relate to said Property; it being the intent of the SELLER to sell, transfer, set over unto and convey to the PURCHASER all interests of the SELLER of whatsoever kind, type, nature, description or characterization in and to the Property, free and clear of all liens, claims, interests, and encumbrances or possible liens, claims, interests, or encumbrances of whatsoever kind, type, nature, description or characterization, including, without limitation, the following, to-wit:

- (a) All, privileges, easements and appurtenances which are on or benefit all the Property;
- (b) All right, title and interest, if any, of SELLER in any property lying in the bed of any public or private street, which has formally been abandoned in accordance with applicable Florida law, in front of any adjoining property to the centerline thereof;
- (c) To the extent transferable, all licenses, permits, approvals, and other governmental authorizations relating to the operation use or occupancy of the Property (including those all licenses, permits, approvals, and other governmental authorizations obtained by PURCHASER hereunder) and in effect as of the Closing Date; provided that PURCHASER shall not be required to assume any contracts with respect to the Property at the Closing or otherwise;
- (d) All development rights, if any, including but not limited to entitlements, water and sewer connection rights, air rights, oil, gas and other mineral rights, any impact fee credits previously paid.

1.33 Purchase Price has the meaning set forth in Section 2(a).

1.34 Purchaser Termination Provisions means the collective reference to the

following sections in this Agreement which grant to Purchaser the right to terminate this Agreement: (i) Section 3(c) (Termination by PURCHASER During Inspection Period), (ii) Section 4(c) (Failure to Obtain City Development Approval and City Commission Approval prior to the Government Approval Date), (iii) Section 9.2 (Seller Default), (iv) Section 11.1(d) (Title/Survey Uncured Matter), (v) Section 12. (Condemnation Termination) (vi) and Section 17.

1.35 Seller Reports has the meaning set forth in Section 3.

1.36 Site Plan means the illustrative site plans referred to in Exhibit "A", which include, as a minimum, the location of the proposed buildings, residential apartment units, parking, arts alley, and public open space which constitute the Project and the public streets surrounding the Property and which illustrates the proposed off street parking, sidewalks and major landscape features as such plans may be modified subject to the 10% variance, from time to time and approved by SELLER.

1.37 Third Party Reports means all reports, studies, plans and specifications prepared by third parties for PURCHASER in connection with the design, development and construction of the Project (but not any internal reports work product or analysis prepared by PURCHASER in connection with the Project or any materials covered by a privilege).

1.38 Title Commitment has the meaning set forth in Section 11.1 (a).

1.39 Title Company means Fidelity Title Insurance Company or any other national title insurance company selected by PURCHASER.

1.40 Other Definitions. The terms defined in this Agreement shall have the defined meaning wherever capitalized herein. Wherever appropriate in this Agreement, the singular shall be deemed to refer to the plural and the plural to the singular, and pronouns of each gender shall be deemed to comprehend either or both of the other genders. As used in this Agreement, the terms "herein", "hereof" and the like refer to this Agreement in its entirety and not to any specific section or subsection.

2. PURCHASE PRICE AND DEPOSITS.

(a) Purchase Price. Subject to the provisions of this Agreement, SELLER hereby agrees to sell the Property to PURCHASER, and PURCHASER hereby agrees to purchase the Property from SELLER for the total purchase price of **Ten (\$10.00) Dollars (\$10.00)**, subject to prorations and adjustments as set forth herein (the "Purchase Price"), upon and subject to the terms and conditions set forth herein.

3. INSPECTIONS.

(a) PURCHASER shall, during the Inspection Period, (a) determine whether or not the Property is satisfactory for PURCHASER'S purposes with respect to the development and construction of the Project in PURCHASER'S sole and absolute discretion, and (b) determine whether or not the Property has adequate services available and that all federal, state, county and local laws, rules and regulations have been and are currently being complied with relative to the Property. PURCHASER shall be responsible for all costs and expenses in conducting inspections of the Property.

(b) During the Inspection Period, it shall be the responsibility of the

PURCHASER to determine that utility services including, water, waste water, electric, telephone and all other utilities are available in the proper size and capacity to serve the Property and installed to the Property lines. Furthermore, it shall be the responsibility of the PURCHASER to determine whether or not the existing zoning classification of the Property will permit PURCHASER to construct, develop and utilize the Property as the Project. At all times during the Inspection Period, PURCHASER and its agents shall be provided with reasonable access during normal business hours to the Property for purposes of on-site inspections. The scope of the inspections shall be determined by the PURCHASER as deemed appropriate under the circumstances.

(c) In the event that any inspections and any review of documents conducted by the PURCHASER relative to the Property during the Inspection Period prove unsatisfactory to the PURCHASER, or for any reason at all, at its sole and absolute discretion, PURCHASER shall be entitled to terminate this Agreement by providing written notice by mail, overnight delivery service, or by e-mail or facsimile to SELLER and/or SELLER'S counsel, at any time prior to 5:00 p.m. Florida time on or before the last day of the Inspection Period and receive an immediate refund of the Earnest Money plus interest earned thereon.

(d) In the event that PURCHASER fails to provide a timely notice of termination prior to the expiration of the Inspection Period, then, this Agreement shall not terminate pursuant to this Section 3 and the PURCHASER and SELLER shall proceed to Closing as set forth herein, subject to the terms and provisions of this Agreement, including, without limitation, the respective rights of termination as provided for herein. PURCHASER hereby indemnifies and holds the Seller harmless from any loss, cost or expense including, but not limited to reasonable attorney's fees and out-of-pocket costs actually incurred by the Seller as a result of the negligence or misconduct of any of Purchaser's agents who enter the Property. The indemnification provided herein shall survive any termination or closing under this Agreement.

(e) On or before ten (10) calendar days after the Effective Date, SELLER shall provide to PURCHASER reasonable access to any appraisals, environmental reports (Phase I and Phase II, if any), surveys, abstracts and title policies and all other studies, reports, plans or other documents relating to the Property that SELLER may have in its possession or is subject to its control relating to the Property (collectively, the "SELLER Reports") and SELLER shall, without additional consideration, consent to the use of the SELLER Reports by PURCHASER and to PURCHASER'S lender(s). PURCHASER shall have access to, and the right to review and use, the SELLER Reports upon receipt and through the Closing Date and thereafter, if the Closing occurs.

(f) PURCHASER'S right to inspect and enter onto the Property during and after the Inspection Period is expressly conditioned upon PURCHASER'S covenant to protect SELLER from the filing of any liens against the Property. In the event that any claims of lien are filed against the Property as a result of work performed or requested by PURCHASER, the PURCHASER shall either pay the sum claimed by the lienor or bond such claim of lien in the manner permitted by law within twenty (20) Business Days after PURCHASER receives written notice of the existence of the lien.

(g) PURCHASER shall give the SELLER forty-eight (48) hour notice prior to any physical inspections upon the Property. PURCHASER and its consultants shall maintain requisite insurance coverage during the term of this Agreement and provide evidence of insurance to the SELLER prior to any physical inspection of the Property and restore the Property to substantially the same as such Property's condition as of the date of such testing after any testing for Inspection purposes.

(h) Except as otherwise provided herein, all inspections shall be conducted and completed during the Inspection Period. In the event PURCHASER elects not to terminate this Agreement as provided herein, PURCHASER and its consultants shall continue to have access to the

Property after the expiration of the Inspection Period through and including the Closing Date upon twenty-four (24) hour advance notice to SELLER.

(i) The PURCHASER and SELLER agree that, after the execution of this Agreement, the PURCHASER and SELLER shall not take any actions that could materially and adversely affect (i) the physical condition of the Property owned by the SELLER or (ii) the status of title to the Property owned by the SELLER (as described in (i) or (ii) of this sentence, each a "material adverse change"). At least thirty (30) calendar days, but not more than sixty (60) calendar days, days before the Closing on Project, the PURCHASER shall have the right to update its environmental reports and re-inspect the Property comprising the Project to confirm that the condition of the Property has not materially and adversely changed since the expiration of the Inspection Period. If the updated inspections or reports reveal any material adverse changes in the physical condition of, or title to, the Property occurring after the expiration of the Inspection Period, which were not caused by PURCHASER or PURCHASER's Representatives, the SELLER shall have forty-five (45) calendar days, following written notice thereof from the PURCHASER to the SELLER, to cure the material adverse change; provided, however, that if such material adverse change is capable of cure but cannot reasonably be cured within forty-five (45) calendar days, such failure shall not constitute an Event of Default so long as the SELLER provides the PURCHASER with written notice within fifteen (15) calendar days of receipt of the PURCHASER's notice advising the PURCHASER that the default cannot be reasonably cured within forty-five (45) calendar days and specifying the reasons therefore and, within the thirty (30) day period, commences and thereafter is in good faith proceeding diligently and continuously to remedy such failure, but in no event shall any additional time to cure granted hereunder exceed one hundred eighty (180) calendar days in the aggregate after SELLER's receipt of the original written notice. If the SELLER cannot cure such material adverse changes to PURCHASER's reasonable satisfaction in the time set forth herein, then, (i) SELLER shall be in default under this Agreement and (ii) PURCHASER shall have the right to terminate this Agreement and the Development Agreement by delivering written notice to the SELLER and the City, in which case, (a) the Earnest Money shall be returned to the PURCHASER and (b) the PURCHASER shall be entitled to recover actual damages against the SELLER for such breach as set forth herein.

4. DEVELOPMENT REVIEW APPLICATION; CITY DEVELOPMENT APPROVAL, CITY COMMISSION APPROVAL AND SITE PLAN APPROVAL.

(a) During the term of this Agreement, PURCHASER shall exercise due diligence in order to obtain the Government Approvals with respect to the Development Review Application and the Site Plan.

(b) PURCHASER agrees that within thirty days (30) calendar days after the expiration of the Inspection Period, PURCHASER, at PURCHASER'S expense, (i) shall submit to the SELLER the Development Review Application and (ii) shall apply, when appropriate, for the Permits. The parties each agree that they will act promptly throughout the approval process and cooperate with each other in an effort to obtain the Government Approvals and the Permits in as short a time period as is possible within the applicable laws that define the approval process. With respect to such Governmental Approvals and the Permits, PURCHASER shall not be deemed to have obtained or received such Government Approvals until all appeal periods shall have passed without

any appeal having been taken or, if any such appeal shall have been taken, such appeal(s) shall have been finally and conclusively resolved in favor of PURCHASER.

(c) If PURCHASER does not receive written evidence that, with respect to the Project, the Government Approvals have been obtained by the Government Approval Date (hereinafter defined), then (only after PURCHASER has exhausted all extension rights available to PURCHASER to the "Government Approval Date" described in this clause (c) or otherwise in this Agreement), PURCHASER or the SELLER may terminate this Agreement by delivering written notice, whereupon the PURCHASER and the parties shall be relieved of any further liability or obligation hereunder. Any notice of termination shall be effective upon delivery and shall be delivered prior to the end of the applicable Governmental Approval Date. The PURCHASER shall have the right, upon giving written notice to SELLER no later than fifteen (15) calendar days prior to the expiration of the "Governmental Approval Date", to extend the Government Approval Date for an additional one hundred eighty (180) calendar days, so long as PURCHASER is still seeking, and continues to seek, in good faith, to obtain the Governmental Approvals; provided further that such Government Approval Date shall automatically be extended in the event (a) any person or legal entity (other than PURCHASER) appeals the issuance of any City Development Approval or any City Commission Approval by the applicable Governmental Authority or (b) PURCHASER appeals any denial of any requested Governmental Approval, until, in each case, thirty (30) calendar days after the final, non-appealable resolution of such appeal(s).

(d) If the CITY issues the applicable City Development Approval and the City Commission Approval for the Development Review Application, the Site Plan and the Project and approves the issuance to PURCHASER of the Permits, then, PURCHASER agrees to pay the required fees for such approvals and for the issuance of such Permits and to accept delivery of such Permits upon issuance thereof by the CITY.

5. SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS. To induce PURCHASER to enter into this Agreement, SELLER makes the following representations, warranties and covenants, all of which, to the best of its knowledge, in all material respects and except as otherwise provided in this Agreement (i) are now true, and (ii) shall be true on the Closing Date:

5.1 At all times prior to Closing, SELLER shall keep the Property free and clear of any construction, mechanic's or materialmen's liens for work or materials furnished to or contracted for, by or on behalf of SELLER prior to the Closing.

5.2 SELLER has no actual knowledge of pending or contemplated condemnation proceedings affecting the Property or any part thereof.

5.3 SELLER has no actual knowledge nor has SELLER received any notice of any litigation, claim, action or proceeding, actual or threatened, against SELLER or the Property by any organization, person, individual or governmental agency or other entity which would affect the use, occupancy or value of the Property or any part thereof or which would otherwise relate to the Property.

5.4 To the best of SELLER'S knowledge, SELLER has not received any written notice claiming that the Property or any method of operation of the Property is in violation ("Violation") of any applicable law, ordinance, code, rule, order, regulation or requirement of any governmental authority, the requirements of any local board of fire underwriters (or other body exercising similar functions) and SELLER further represents that the Property shall be delivered free of any Violation at Closing.

5.5 SELLER shall not (i) license, lease, convey, hypothecate, pledge or otherwise encumber the Property, (ii) file any application to change or modify, or take any governmental action to change or modify, the current zoning or land use of the Property unless requested by PURCHASER, (iii) enter into any contracts, licenses or leases relating to, or affecting, any of the Property, or (iv) impose a moratorium on building or development of any of the Property. Notwithstanding the foregoing, the property located at [501 Lake] shall remain subject to a lease to the City which shall remain in effect until Closing.

5.6 No individual, person, legal entity, trust, real estate investment trust, association or any other legal entity has or is entitled to occupancy, possession of, or to purchase or acquire, any portion of the Property.

5.7 No development rights with respect to any portion of the Property has been sold, transferred, assigned, leased, pledged, or otherwise encumbered in any manner whatsoever.

5.8 SELLER is not a party to any unrecorded leases, contracts, restrictions, easements, leases, option contracts, rights of first refusal, commitments, or any other contracts with respect to all or any portion of the Property nor shall SELLER enter into any of the foregoing from the Effective Date through after the termination of this Agreement in accordance with the terms of this Agreement, without the prior written consent of PURCHASER. To the extent there are any leases, agreements or service contracts affecting any of the Property as of the Closing (other than this Agreement and the Development Agreement), then, such leases, contracts and service contracts will be terminated by SELLER on or prior to Closing at no cost to PURCHASER.

5.9 SELLER maintains the casualty and commercial liability insurance with respect to the Property which is described on Schedule 5.9 attached hereto and SELLER shall contain to maintain such insurance until the later to occur of (i) the Closing or (ii) the termination of this Agreement in accordance with the terms hereof.

5.10 Prior to the Closing, SELLER shall comply with all of the obligations of SELLER under the service agreements and all other agreements and contractual arrangements by which SELLER and/or the Property are bound. SELLER shall maintain all existing insurance coverage in full force and effect through Closing and shall pay all required premiums and other charges.

5.11 REAL PROPERTY SOLD AS IS, WHERE IS, RELEASE: Except as otherwise provided herein, SELLER makes and shall make no warranty regarding the title to the Property except as to any warranties which will be contained in the Deed and in the other instruments to be delivered by SELLER at Closing in accordance with this Agreement (including the Affidavit described in Section 6.b. hereof), and SELLER makes and shall make no representation or warranty either expressed or implied (except as specifically set forth in this Agreement) regarding condition, operability, safety, fitness for intended purpose, use, governmental requirements, development potential, utility availability, legal access, economic feasibility or any other matters whatsoever with respect to the Property. Subject to SELLER'S representations and warranties set forth in this Agreement, PURCHASER specifically acknowledges and agrees that SELLER shall sell and PURCHASER shall purchase the Property on an "AS IS, WHERE IS, AND WITH ALL FAULTS" basis and that, except for the SELLER'S representations and warranties set forth in this Agreement, PURCHASER is not relying on any representations or warranties of any kind whatsoever, express or implied, from SELLER, its agents, officers, or employees, as to any matter concerning the Property including, without limitation, any matter relating to (i) the quality, nature, adequacy or physical condition of the Property; (ii) the quality, nature, adequacy or physical condition of soils, fill, geology, or any groundwater; (iii) the existence, quality, nature, adequacy or physical condition of utilities serving the Property; (iv) the development potential, income potential, or expenses of the Property; (v) the Property's value, use, habitability, or merchantability; (vi) the fitness, suitability,

or adequacy of the Property for any particular use or purpose; (vii) the zoning or other legal status of the Property; (viii) the compliance of the Property or its operation with any applicable codes, laws, rules, regulations, statutes, ordinances, covenants, judgments, orders, directives, decisions, guidelines, conditions, or restrictions of any governmental or quasi-governmental entity or of any other person or entity, including without limitation, environmental person or entity, environmental laws; (ix) the presence of Hazardous Materials, as defined herein, or any other hazardous or toxic matter on, under or about the Property or adjoining or neighboring property; (x) the freedom of the Property from latent or apparent defects; (xi) peaceable possession of the Property; (xii) environmental matters of any kind or nature whatsoever relating to the Property; (xiii) any development order or agreement, or (xiv) any other matter or matters of any nature or kind whatsoever relating to the Property.

(a) As used herein, the term "Hazardous Materials" means (i) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances" or "solid waste" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §960 et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S. C. §1801 et seq., or the Clean Water Act, 33 U.S.C. §1321 et seq., as amended, and in the regulations promulgated pursuant thereto; (ii) those substances listed in the United States Department of Transportation Table (49 CFR §172.101) or by the Environmental Protection Agency as "hazardous substances," "hazardous materials," "toxic substances" or "solid waste;" (iii) such other substances, materials and wastes which are regulated, or classified as hazardous or toxic, under applicable local, state or federal laws, ordinances or regulations; and (iv) any material, waste or substance which is petroleum, asbestos, polychlorinated, biphenyls, flammable explosives or radioactive materials.

5.12 Notwithstanding the foregoing, from and after the Effective Date, SELLER shall maintain the Property and shall cause the Property to be maintained in a manner generally consistent with past practices and in a manner fully compliant with applicable law and the SELLER shall reasonably endeavor to prevent the introduction of any Hazardous Materials onto the Property and the PURCHASER shall have and is hereby granted the right to enter upon the Property to confirm the compliance of the SELLER with the foregoing duties and obligations. Any notices received by SELLER concerning an environmental condition, condemnation, code violation or other matter concerning the Property shall promptly be sent to PURCHASER.

5.13 Notwithstanding the foregoing, the SELLER does not and PURCHASER acknowledges that SELLER has not waived the provisions of sovereign immunity that exist within Section 768.28 of the Florida Statutes.

5.14 SELLER has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by SELLER at the Closing will be, authorized and properly executed and constitute or will constitute, as appropriate, the valid and binding obligation of SELLER, enforceable against SELLER in accordance with their terms.

5.15 SELLER has full power and authority to enter into this Agreement and to assume and perform its obligations hereunder. There is no agreement to which SELLER is a party or to SELLER'S knowledge, binding on SELLER which is in conflict with this Agreement.

5.16 All of the representations, warranties, and covenants of SELLER contained in this Agreement or in any other document delivered to PURCHASER in connection with the transaction contemplated herein shall be true and correct in all material respects and not in default at

the time of Closing, just as though they were made on the Closing Date and shall survive Closing for the applicable statute of limitations period.

5.17 SELLER shall indemnify, hold harmless and defend PURCHASER against any claims, demands, losses, liabilities, costs, and expenses including attorney's fees imposed upon or accruing against PURCHASER as a result of any of the representations, warranties and covenants contained in this Section 5 not being true and correct in all material respects. Subject to the limitations contained in Section 768.28, Florida Statutes. Nothing herein shall constitute a waiver to the SELLER's entitlement to sovereign immunity.

5.18 SELLER shall demolish the 501 Lake Avenue Building, prior to closing in accordance with the Development Agreement.

6. SELLER'S CLOSING DOCUMENTS.

SELLER shall deliver to the Title Company which is serving as the closing agent for the Closing originals of the following documents with a copy to PURCHASER (and its counsel), at least three (3) calendar days prior to the Closing:

(a) Special Warranty Deed. A special warranty deed in recordable form, duly executed by the SELLER, conveying to the PURCHASER good, marketable and insurable fee simple title to the Property subject only to the Permitted Exceptions, with the legal description provided in the Title Commitment.

(b) Affidavit. A no-lien and exclusive possession affidavit sufficient for the title company to delete the gap, any exceptions for parties in possession and mechanic's or materialmen's liens from the title policy (the "Affidavit").

(c) FIRPTA Affidavit. In order to comply with the requirements of the Foreign Investment Real Property Tax Act of 1980 ("FIRPTA"), SELLER will deliver to PURCHASER at closing SELLER'S affidavit stating the SELLER is not a "foreign person," as defined in Section 1445 of the Internal Revenue Code of 1986 and the U.S. Treasury Regulations thereunder.

(d) General Assignment and Bill of Sale. An Assignment and Bill of Sale (the "Assignment and Bill of Sale") of SELLER'S right, title and interest in and to (i) the personal property described in the definition of "Property" in Section 1.31 hereof and (ii) the SELLER Reports.

(e) Certificate of Seller. A certificate of SELLER certifying to the PURCHASER that each of the representations and warranties of SELLER set forth in Section 5 of this Agreement are true and correct in all material respects as of the Closing Date.

(f) Evidence of Authorization. Evidence of authority of the individual executing and delivering the Deed and the other closing documents on behalf of the Seller for the satisfaction of the Title Company and PURCHASER.

(g) Closing Statement. An executed copy of the Closing Statement executed by Seller.

(h) Possession. SELLER shall deliver possession of the Property to PURCHASER at Closing. SELLER will provide keys, remote controls, necessary to operate all locks, mailboxes, and security systems.

(i) Other Documents. Such additional documents or instruments as may be reasonably required to effectuate the terms, conditions and provisions hereof and to carry out the intent of the parties hereto, or as may be reasonably required by the Title Company, so as to be able to delete at Closing all of the requirements of Schedule B-I of the Title Commitment.

7. PURCHASER'S DELIVERIES.

At the Closing, and after the SELLER has complied with all of the terms and conditions of this Agreement and simultaneously with SELLER'S delivery of the original documents required in Section 6 to the Title Company:

(a) Purchase Price. PURCHASER shall deliver to the Title Company, as title agent, by wire transfer the Purchase Price, adjusted for the prorations, adjustments and other payments provided for in this Agreement;

(b) Closing Statement. An executed copy of the Closing Statement to PURCHASER.

(c) Title Commitment and Closing Statements. At Closing, PURCHASER shall have received from the Title Company, as a condition to the closing, a "marked up" owner's and mortgagee's Title Commitment, in form and substance acceptable to PURCHASER and to PURCHASER'S lender, provided, however, that the Property shall be sold, assigned, and conveyed by Seller to Buyer, and Buyer shall accept and assume same, subject to the following matters (collectively, the "Permitted Exceptions"):

1. Any and all present zoning, building, environmental, and other laws, statutes, ordinances, codes, rules, regulations, requirements, or executive mandates of all governmental authorities having jurisdiction with respect to the Property, including, without limitation, landmark designations and all zoning variances and special exceptions, if any.
2. Possible encroachments and/or projections of stoop areas, roof cornices, window trims, vent pipes, cellar doors, steps, columns and column bases, flue pipes, signs, piers, lintels, window sills, fire escapes, satellite dishes, protective netting; sidewalk sheds, ledges, fences, coping walls (including retaining walls and yard walls), air-conditioners, and the like, if any, on, under, or above any street or highway, the Property or any adjoining property, provided, however, that the same do not materially impact the value of the Property or impair the continued use of the Property as it is being used on the date of this Agreement.
3. All presently existing liens for unpaid real estate taxes, assessments, and water and sewer charges that are not due and payable as of the Closing Date, subject to any apportionments as provided for in this Agreement.
4. All covenants, restrictions, and rights of record, and all easements and agreements of record for the erection and/or maintenance of water, gas, steam, electric, telephone, sewer or other utility pipelines, poles, wires, conduits, or other like facilities, and appurtenances thereto, over, across, and under the Property, provided, however, that the same are not violated by the Improvements and do not impose any monetary obligation on the owner of the Property.
5. Party walls and party wall rights; beams and beam rights; the possible revocable nature of or lack of right to maintain vaults or other improvements or installations beyond building or property lines.

6. Variations between tax lot lines and lines of record title provided same do not render title unmarketable.
7. Any lien or encumbrance arising out of the acts or omissions of the Buyer.
8. Any financing statements filed on a date more than five (5) years prior to the Closing Date and not renewed, and any financing statements, chattel mortgages, encumbrances, or construction liens, or other liens filed against the property or equipment which is not part of the Property.
9. Any exceptions disclosed on Schedule B-2 of the Title Commitment (as hereinafter defined) which will be extinguished upon the transfer of the Property.

8. REAL ESTATE COMMISSIONS.

PURCHASER and SELLER represent and warrant to each other that each has not dealt with any broker, agent or similar person in connection with this transaction. Each of PURCHASER and SELLER agree to indemnify and hold harmless the other party from and against any all liability, loss, cost, damage and expense, including but not limited to attorneys' fees and costs of litigation both prior to and on appeal, which either PURCHASER or SELLER shall ever suffer or incur because of any claim by any agent, broker or finder engaged by either party whether or not meritorious, for any fee, commission or other compensation with respect to this Agreement or to the sale and purchase of the Property contemplated herein.

9. DEFAULT.

9.1 DEFAULT BY PURCHASER. The PURCHASER shall be deemed to be in default hereunder only upon the occurrence of any of the following events, to-wit:

(a) In the event that PURCHASER fails to file the Development Review Application on or before the Developer Review Application Date, which date shall be extended by Force Majeure events; or

(b) In the event that the PURCHASER fails to close the acquisition of the Property on or before the Closing Date (which date shall be extended by Force Majeure events) and such failure to close is not otherwise attributable to a default by SELLER; provided SELLER is not in material default herein, if PURCHASER materially defaults in the performance of any of the obligations to which reference is made in the immediately preceding subsections (a) through (b), both inclusive, and PURCHASER fails to remedy such default within ten (10) calendar days after written notice by SELLER to PURCHASER of such default(s) unless the Default is not reasonably curable within 10 calendar days, and SELLER and PURCHASER fail to agree on a reasonable time to cure (the "SELLER Default Notice"), SELLER may terminate this agreement. Provided SELLER is not in material default herein, if Purchaser defaults herein, then SELLER remedies for such default shall be the recovery of the sum of (i) SELLER actual, documented expenses incurred in connection with the negotiation of this Agreement, the inspections to be performed, and actual expenses for the planning and development of the Property and upon the receipt thereof, (ii) SELLER'S attorney fees and costs described in Section 30 incurred by SELLER to collect items (i) and (ii), then this Agreement shall become null and void, and neither party shall have any claims of whatsoever kind, type, nature or description against the other party.

(c) The PURCHASER shall be entitled to an extension of no more than ninety (90) calendar days for the completion of obligations referenced in subsections (a) and (b). It shall be the PURCHASER'S obligation to notify the SELLER in writing prior to the deadlines referenced in subsections (a) and (b) that the PURCHASER will exercise its right to an extension.

9.2 DEFAULT BY SELLER. The SELLER shall be deemed to be in default hereunder only upon the occurrence of any of the following events, to-wit:

(a) In the event that SELLER fails to perform SELLER'S obligations under this Agreement or in the event any of the representations and warranties of SELLER in this Agreement are not true and correct in all material respects as of the Effective Date and as of the Closing; or

(b) In the event that the SELLER fails to close the sale of the Property on or before the Closing Date (which date shall be extended by Force Majeure events) and such failure to close is not otherwise attributable to a default by PURCHASER.

Provided PURCHASER is not in material default herein, if Seller defaults herein, then PURCHASER remedies for such default shall be the recovery of the sum of (i) PURCHASER actual, documented expenses incurred in connection with the negotiation of this Agreement, the inspections to be performed, and actual expenses for the planning and development of the Property) and upon the receipt thereof, (ii) PURCHASER'S attorney fees and costs described in Section 30 incurred by PURCHASER to collect items (i) and (ii), then, this Agreement shall become null and void, and neither party shall have any claims of whatsoever kind, type, nature or description against the other party.

10. TIMELINE FOR CITY DEVELOPMENT APPROVAL, CITY COMMISSION APPROVAL AND PERMITS.

10.1 Governmental Approvals.

(a) Prior to submission of the Development Review Application, SELLER'S staff shall consult with and advise PURCHASER on the resolution of zoning and related entitlement issues associated with the proposed Development Review Application and the development of the Project.

(b) PURCHASER shall file its Development Review Application with the City by the Development Review Application Date.

(c) PURCHASER shall exercise due diligence in order to obtain the Government Approvals which are in the control of the City within one hundred eighty (180) calendar days after the Development Review Application is filed. The parties agree that they will act promptly and in good faith throughout the approval process in an effort to obtain the Government Approvals which are in the control of the City in as short a time period as is possible within the applicable laws that define the approval process for such Government Approvals.

(d) PURCHASER shall exercise due diligence in order to obtain the approvals which are not in the control of the City (including, without limitation, any required approvals issued by any federal, state or county Governmental Authorities having jurisdiction over the Project) within one hundred eighty (180) calendar days after the Development Review Application is filed with the SELLER.

10.2 Permits for the Project.

(a) After PURCHASER has obtained the Government Approvals, then, PURCHASER shall use commercially reasonable efforts in order to obtain all Permits necessary to permit the construction of the Project within eight (8) months after all required Government Approvals have been finally issued (and all appeals periods have expired with respect thereto).

(b) INTENTIONALLY DELETED.

(c) PURCHASER shall exercise due diligence in order to obtain the Permits for the Project which are not in the control of the City (including, without limitation, any required Government Approvals issued by any federal, state or county Governmental Authorities having jurisdiction over the Project) within eight (8) months after all the required Government Approvals have been finally issued (and all appeals periods have expired with respect thereto).

10.3 Closing of Acquisition By PURCHASER of Property from SELLER.

The Closing for the acquisition of the Property by PURCHASER from SELLER shall occur within sixty (60) calendar days after PURCHASER has obtained the following: (i) the Governmental Approvals, (ii) all of the Permits to develop and construct the Project.

11. EVIDENCE OF TITLE.

11.1 Title to the Property. SELLER shall convey the Property, including all easements and restrictions of record with the exception of the encroachment(s), if any, to PURCHASER at Closing by delivery of the Deed and the Assignment and Bill of Sale.

(a) PURCHASER shall, during the Inspection Period, secure a title insurance commitment issued by an agent (on behalf of a Title Company) selected by and acceptable to PURCHASER which commits to insure PURCHASER'S title to the Property (the "Title Commitment"). The costs and expenses relative to the issuance of a title commitment and an owner's title policy and mortgagee title insurance policy, if applicable, at the Closing shall be borne by the PURCHASER.

(b) PURCHASER shall have fifteen (15) calendar days from the date of receiving the Title Commitment and a Current Survey (as set forth in Section 11.2) to review and examine said Title Commitment and any survey exception as shown in the Current Survey. If PURCHASER objects to any exception to title as shown in the Title Commitment and Current Survey, PURCHASER shall, within ten (10) calendar days of receipt of said Title Commitment, notify SELLER in writing specifying the specific exception(s) to which it objects (collectively, the "Title Objections"). Any Title Objection(s) of which PURCHASER has so notified SELLER, shall be cured by SELLER so as to enable the removal of said Title Objection(s) from the Title Commitment within ninety (90) calendar days after PURCHASER has provided notice to SELLER. For the avoidance of doubt, the matters described in Section 13 may be included as a Title Objection by Purchaser.

(c) Within twenty (20) calendar days after the expiration of SELLER'S time to cure any Title Objection, SELLER shall send to PURCHASER a notice in writing (the "Cure Notice") stating either (i) that each of the Title Objection has been cured and, in such case, enclosing evidence of such cure, or (ii) that SELLER is unable to cure such Title Objection despite the good faith efforts of the SELLER to effectuate the cure.

(d) If SELLER is unable to cure all Title Objections within the time period set forth in the preceding sentence despite the good faith efforts of the SELLER, then PURCHASER

may (a) terminate this Agreement by written notice to the SELLER within thirty (30) calendar days after receipt of a Cure Notice specifying an uncured Title Objection, in which event all Earnest Money held by the Escrow Agent, together with interest thereon, shall be immediately returned to PURCHASER; or (b) subject to the provisions set forth below, proceed to close the transaction contemplated herein despite the uncured Title Objection(s).

(e) At least five (5) calendar days prior to Closing, PURCHASER shall obtain an update to the Title Commitment showing all new items which affect title to the Property. Should any additional matters (including any Survey matters) be listed in the updated Title Commitment or the updated Survey, if applicable, subsequent to the original effective date of the original Title Commitment (a "New Encumbrance"), then, PURCHASER shall have five (5) Business Days from receipt of the updated Title Commitment, together with a copy of said title document to object to same, in which event, such New Encumbrance shall be deemed a "Title Objection" by PURCHASER and be subject to the same terms and conditions set forth above in this Section 11.1.

(f) Notwithstanding anything to the contrary in this Agreement, in no event shall Seller be obligated to prosecute legal action to cure any title defects or expend more than \$5,000.00 in curing such defects. (provided SELLER shall not be obligated to cure any such financial liens arising solely because of the acts or failure to act of PURCHASER).

11.2 Survey and Legal Description. During the Inspection Period, PURCHASER shall order: (i) a Current Survey ("Current" is defined to be certified within ninety (90) calendar days of the Effective Date), prepared by a registered land surveyor or engineer licensed in the State of Florida showing the boundaries of the Property, and the location of any easements and other matters as reflected on Schedule B II of the Title Commitment thereon and certifying the number of acres (to the nearest one thousandth acre) of land contained in the Property, all buildings, improvements and encroachments; and (ii) a correct legal description of the Property which, upon approval thereof by PURCHASER and SELLER (not to be unreasonably withheld, conditioned or delayed), and the title underwriter, shall be the legal description for the Property that is used in the Deed; provided however if the granting deed(s) for the Property into the SELLER contained a different legal description for the Property, then, the SELLER shall grant to PURCHASER, pursuant to the Deed, the Property as described in the legal description(s) set forth in such granting deed(s). The Current Survey shall be certified to SELLER, PURCHASER, the PURCHASER'S mortgage lender and the title insurance company issuing the title insurance.

(a) In the event the Current Survey shows (i) any material encroachments, strips, gores, or any portion of the land non-contiguous to any other portion of the Property or (ii) any other matter affecting the intended use of the Property or marketability of title to the Property (any such matter is herein called a "Survey Objection" and treated as an object to title by PURCHASER), PURCHASER shall have a period of fifteen (15) calendar days after receipt of the Title Commitment and Current Survey by PURCHASER within which to approve or disapprove any Survey Objection and to give notice to SELLER of any disapproval thereof indicating in reasonable detail the nature and reasons for PURCHASER'S objection. As used in this Section 11.2, the term "material encroachment, strips, gores or any other portion of the land" shall mean any such encroachment, strips, gores or other portion of the land" which prevents all of the Property from being continuous or which otherwise adversely affects the ability of PURCHASER to develop and/or finance the development of, the Property, as reasonably determined by PURCHASER.

(b) In the event PURCHASER provides a notice of disapproval of a Survey Objection to SELLER, the rights and obligations of the parties respecting such objections shall be governed by Section 11.1 hereof such that the parties shall have the same rights and objections as

though such Survey Objection objected to as a new exception to title which was listed on the updated Title Commitment and objected to by PURCHASER within the contemplation of Section 11.1.

12. RISK OF LOSS; CONDEMNATION.

(a) Risk of Loss. Risk of loss or damage from fire, other casualty, or both, is assumed by SELLER until the Closing occurs and the Deed is delivered by SELLER to PURCHASER.

(b) Condemnation. If at any time following the Effective Date and prior to the Closing Date, SELLER receives written notice of any pending or threatened condemnation or similar type of proceeding by any agency of the Federal Government, or the State of Florida or Palm Beach County, in each case, affecting all or any portion of the Property, then, SELLER shall promptly give written notice thereof to PURCHASER, and upon receipt of such notice PURCHASER shall have the following options:

(c) to terminate this Agreement by delivering a written notice of termination to SELLER, whereupon this Agreement shall terminate, the Escrow Agent shall promptly return the Earnest Money to PURCHASER and the parties shall be released from all terms, provisions, obligations and liabilities of this Agreement, except from those that expressly survive its termination; or

(d) to waive its right under (i) above and close on and take title to the Property subject to such proceeding or material damage, provided that: in the event of any such pending or threatened condemnation or similar type of proceeding, (A) SELLER shall have no right to enter into any settlement of the proceeding or grant any deed in lieu of condemnation or similar type of conveyance in connection with the proceeding without PURCHASER'S prior written consent, (B) SELLER shall assign to PURCHASER at Closing all of SELLER'S right, title and interest in and to any and all proceeds payable in the proceeding, and (C) Any proceeds awarded to SELLER shall be assigned to PURCHASER.

PURCHASER shall be required to deliver written notice of its election to SELLER within twenty (20) calendar days after receiving written notice, "written notice" shall include notice by email (which is confirmed by written notice delivered via overnight delivery), of the condemnation proceeding from SELLER and the Closing Date shall be extended accordingly. If PURCHASER fails to timely deliver its election to SELLER under this Section, then it shall be deemed that PURCHASER elected to terminate this Agreement under (i) above.

13. TRANSFER OF TITLE SUBJECT TO.

Except as otherwise set forth and subject to Section 11, the Property shall be conveyed subject only to the following matters affecting the Property existing as of the Effective Date: water lines, sanitary sewer, drainage, gas distribution, electrical and telephone easements of record; provided however that nothing in this Section 13 shall prohibit the PURCHASER from objecting to any matter described in this Section 13 as a title objection under Section 11.1(a) above.

14. ADJUSTMENTS AT CLOSING.

(a) All prorations, if any, shall be calculated as of midnight of the day before the Closing Date.

(b) All utilities, security deposits, electric, non-delinquent taxes and assessments (real property and personal property), and water and sewer charges. Adjustments shall be based upon the maximum discount available.

15. CLOSING DATE AND PLACE.

The Closing shall occur on the Closing Date. The Closing shall be held in the offices of the Escrow Agent/Title Company as a "mail away closing" and upon satisfaction of all Conditions Precedent.

16. TERMINATION.

(a) In the event the Closing does not occur solely because of either Party's failure to close on or before sixty (60) calendar days from and after the date PURCHASER has obtained the City Governmental Approvals and the Permits, subject to the right of PURCHASER to extend the Closing Date and the Closing as provided herein, the non-breaching Party shall have the right to terminate this Agreement and each Party shall be released from any and all liability to one another.

(b) The PURCHASER shall have the right to terminate this Agreement in its sole discretion in the event:

(c) The PURCHASER, SELLER and the City do not agree upon and execute within one hundred eighty (180) calendar days from the Effective Date of this Agreement the following (all such agreements, the "Accompanying Agreements"):

1. Development Agreement
2. Construction Agreement K Street Parking Garage
3. Construction Agreement Relocation of Contributing Structures
4. Long Term Maintenance Agreement Arts Alley
5. Long Term Parking Agreement

17. CLOSING COSTS.

Upon Closing, PURCHASER shall be responsible for the costs and expenses related to the owner's title insurance commitment and policy, and the costs and expenses related to the recording of the Deed, the SELLER shall be responsible for, documentary stamps affixed to the Deed, to the extent required, and all related costs. PURCHASER, at its own expense, may conduct and obtain an Environmental Site Assessment Phase I and Phase II (if so mandated by the Phase I) of the Property. All costs and expenses related to the development of the Property shall be borne by PURCHASER. The SELLER and PURCHASER shall bear their own costs for legal fees with respect to this Agreement, the Government Approvals, the Permits, the Development Agreement and the Project.

18. PURCHASER'S WARRANTIES.

PURCHASER hereby acknowledges and warrants to the best of its knowledge that all of the following are true and correct as of Closing:

(a) PURCHASER has full power and authority to enter into this Agreement and to assume and perform all of its obligations hereunder.

(b) The execution and delivery of this Agreement and the performance by PURCHASER of the obligations hereunder have been duly authorized by the PURCHASER as may be required, and no further action or approval is required in order to constitute this Agreement as a binding obligation of the PURCHASER.

(c) The execution and delivery of this Agreement and the consummation of the transaction contemplated hereunder on the part of the PURCHASER do not and will not violate the organizational documents of PURCHASER and do not and will not conflict with or result in the breach of any condition or provision, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which PURCHASER is a party.

All of the representations, warranties and covenants of PURCHASER contained in this Agreement shall be true and correct in all material respects and not in default at the time of Closing, just as though they were made on the Closing Date and will survive Closing. PURCHASER shall indemnify, hold harmless and defend SELLER against all claims, demands, losses, liabilities, costs and expenses, including attorney's fees, imposed upon or accruing against SELLER as a result of any of the representations contained in this Section 18 not being true and correct in all material respects.

19. OPTION TO REPURCHASE ALL OF THE PROPERTY.

(a) SELLER expressly reserves the right at its sole option and election to repurchase all of the Property for the same Purchase Price as paid by PURCHASER to SELLER in connection with the Project (the "Right of Repurchase") in the event the PURCHASER fails to commence construction of the Project within one hundred twenty days_ (120_) calendar days following the Closing.

(b) The SELLER'S right to repurchase and its terms and conditions herein shall be incorporated in a Memorandum of Agreement executed by the parties prior to Closing and shall survive the Closing. At PURCHASER's request, SELLER shall record a termination of the right to repurchase in form and content acceptable to PURCHASER within ten (10) Business Days of PURCHASER receiving certificate of occupancy for the Project. The Memorandum of Agreement shall expressly provide that the Seller be afforded the right to repurchase the Property only in the event the PURCHASER:

(1) fails to commence construction of the Project, within one hundred twenty (120) calendar days following the Closing. For purposes of this Section, "Commence construction" shall be considered site preparation and/or securing the Property with an enclosed barrier; and

(2) fails to commence the installation of the concrete foundation for the structures to be constructed within the Project within one hundred eighty (180) days following the commencement of construction;

(3) fails to perform its material obligations arising under this Agreement and the Development Agreement.

(c) In the event SELLER elects to repurchase the Property as provided herein, then, within thirty (30) calendar days after SELLER'S election to exercise the Right to Repurchase, (i) PURCHASER shall tender in escrow a Special Warranty Deed to the title company designated by SELLER conveying the Property, (ii) SELLER and PURCHASER shall prorate the real estate taxes and other expenses of the Property in the manner such prorations occurred on the Closing Date and (iii) each of the parties shall provide to such title company evidence of authority necessary to satisfy the title company with respect to the authorization to convey the Property and to close on the transfer of the Property from PURCHASER to SELLER.

(d) This Section 19 shall survive Closing. Notwithstanding the foregoing, the Right of Repurchase granted herein shall be subject to and subordinate to any acquisition, development and/or Construction Loan and mortgage on the Property and all modifications thereof and SELLER will execute and deliver a subordination of the Right of Repurchase in recordable form upon request of any mortgagee of an acquisition, development and/or Construction Loan, in form acceptable to such mortgagee, which shall provide, among other things, written notice and opportunity to cure any failure to receive a certificate of occupancy by PURCHASER in favor of the lender under such Construction Loan and mortgage.

20. ENFORCEABILITY.

If any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, shall be determined to be unenforceable by a court of competent jurisdiction (the "Offending Provision"), then the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term, covenant and condition of this Agreement shall be valid and enforced to the fullest extent permitted by law; provided however, that the parties affected by the Offending Provision shall endeavor in good faith, within sixty (60) calendar days after the date such determination is made, to agree upon alternative provisions which shall have the same practical effect as the Offending Provision and upon any agreement being reached, the new provision shall be incorporated into and form a part of this Agreement.

21. CONDITIONS PRECEDENT TO CLOSING AND CONTINGENCIES.

21.1 SELLER'S Conditions Precedent to Closing: SELLER'S obligation to close the subject transaction is contingent upon the satisfaction of the following conditions:

(a) Government Approvals shall have been obtained by PURCHASER and all time periods to challenge or appeal the issuance of such approvals shall have expired.

(b) No legal or administrative proceeding shall exist which challenges the enforceability of any of the terms and provisions of this Agreement or otherwise seeks to stay, restrict or prohibit the construction, development and/or operation of the Project.

(c) PURCHASER'S execution and continued performance under this Agreement and the Development Agreement.

21.2 PURCHASER'S Conditions Precedent to Closing: PURCHASER'S obligation to close the subject transaction is contingent upon satisfying the following condition:

(a) PURCHASER closing on the Construction Loan (i) from a reputable lender regularly engaged in commercial real estate lending, (ii) which contains such terms as are typical in

Palm Beach County for loans similar in size and purpose to the proposed Construction Loan.

(b) All Government Approvals shall have been obtained by PURCHASER and all time periods to challenge or appeal such approvals shall have expired.

(c) No legal or administrative proceeding shall exist which challenges the enforceability of any of the terms and provisions of this Agreement or otherwise seeks to stay, restrict or prohibit the construction, development and/or operation of the Project.

21.3 CONTINGENCIES

PURCHASER obligation to close is contingent upon:

(a) PURCHASER, SELLER and City shall have negotiated, executed and delivered to one other the following agreements in form and substance reasonably acceptable to PURCHASER, SELLER and City on or before one hundred eighty (180) calendar days subsequent to the Effective Date : (a) Construction Agreement – K street Parking Garage (b) Construction Agreement – Contributing Structure Relocation (c) Arts Alley Long Term Maintenance Agreement; and (d) Long Term Parking Agreement;

(b) Purchaser has obtained a loan commitment in an amount and terms acceptable to it allowing for the construction of the Project;

(c) Seller providing clear and marketable title to the Property:

(d) Title to the Property shall be free of all encumbrances other than the Permitted Exceptions and the Property shall be free of violations of record of any applicable law:

e) The title company shall be able to deliver at Closing an ALTA Form B Marketability Owner's Title Insurance Policy ("Title Policy") insuring Purchaser's right, title and interest in the Property, excepting no matters other than the Permitted Exceptions;

f) All of the Approvals from the applicable governmental authorities contained in this Agreement have been granted and all appeal periods have expired.

22. NOTICE.

Except as otherwise provided herein, all written notices shall be effective upon the actual receipt or first refusal of the addressee to accept delivery after having been sent by reputable overnight delivery service or by certified mail, postage prepaid, return receipt requested, to the following addresses:

SELLER: Joan Oliva, Executive Director
Lake Worth Beach Community Redevelopment Agency
1121 Lucerne Avenue
Lake Worth Beach, FL 33460
Telephone: (561) 493-2550

With Copy to: David N. Tolces, Esquire
Weiss Serota Helfman Cole + Bierman, PL
2255 Glades Road, Suite 200-E

Boca Raton, FL 33431
Telephone: (561) 835-2111

PURCHASER: Sunshine Lake Worth Development, LLC
16711 Collins Avenue
Sunny Isles Beach, FL 33160

With a Copy to: Donald J. Doody, Esquire
GOREN, CHEROF, DOODY & EZROL, P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
Telephone: (954) 771-4500

23. HEADINGS.

The paragraph headings as set forth in this Agreement are for convenience or reference only and shall not be deemed to vary the content of this Agreement or limit the provisions or scope of any paragraph herein.

24. EFFECTIVE DATE.

This Agreement shall be deemed effective as of the Effective Date.

25. GOVERNING LAW AND VENUE.

This Agreement shall be governed by the laws of the State of Florida and venue with respect to any suit in connection with this Purchase and Sale Agreement shall reside in the courts of Palm Beach County, Florida.

26. ENTIRE AGREEMENT.

This Agreement and the Development Agreement constitute the entire agreement between the parties with respect to the transaction contemplated herein, and it supersedes all other prior understandings or agreements between the parties. In the event a conflict exists between this Agreement and the Development Agreement, the terms of this Agreement shall control with respect to the purchase and sale of the Property by SELLER to PURCHASER.

27. NO ORAL CHANGE.

This Agreement may not be changed or amended orally.

28. SUCCESSORS.

This Agreement shall apply to and bind the successors and assigns of SELLER and PURCHASER. The SELLER shall not assign this Agreement without first obtaining the approval of PURCHASER, which approval shall not be unreasonably withheld. The PURCHASER shall not assign this Agreement without first obtaining the written approval of the SELLER, which approval shall not be unreasonably withheld, provided, however, PURCHASER may assign this Agreement to an entity which is owned and controlled by PURCHASER (or its principals). For purposes of this Agreement, the terms "controls", "is controlled by" or "is under common control with" shall mean

the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise. In connection with any permitted assignment, PURCHASER shall provide SELLER with the name of the assignee and the executed assignment and assumption agreement not less than ten (10) calendar days prior to the Closing Date. A permitted assignment shall not release PURCHASER from liability under this Agreement.

29. COUNTERPARTS.

This Agreement may be executed in two or more counterparts, each of which shall be and shall be taken to be an original and all collectively deemed one instrument. The parties hereto agree that a facsimile copy hereof and any signatures thereon shall be considered for all purposes as originals

30. RADON GAS.

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health unit.

31. ATTORNEYS' FEES.

If for any reason a party initiates any legal or equitable action to secure, protect or enforce its rights under this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs and expenses incurred by it, including, without limitation, reasonable arbitration, paralegals', attorneys' and experts' fees and expenses, whether incurred without the commencement of a suit, in any suit, arbitration, or administrative proceeding, or in any appellate or bankruptcy proceeding.

32. COOPERATION AND STATUS UPDATES.

(a) Cooperation. SELLER shall reasonably cooperate with PURCHASER, its agents and professional advisors, in connection with the filing of applications and the obtaining of all required Government Approvals and Permits (including but not limited to demolition permits, site development permits, utility permits, landscaping, mechanical, plumbing, electrical and all necessary permits, authorizations and approvals to commence immediate improvements for the Project) and any necessary utility access agreements, and shall sign any application reasonably made by PURCHASER that is required in order to obtain such Government Approvals and Permits and utility access agreements and shall provide PURCHASER with any information and/or documentation not otherwise reasonably available to PURCHASER (if available to City) which is necessary to procure such Government Approvals and Permits and utility access agreements. Any such accommodation by SELLER shall be without prejudice to, and shall not constitute a limit on, impairment or waiver of, or otherwise affect SELLER'S rights to exercise its discretion in connection with its governmental or quasi-governmental functions.

(b) Status Updates. During the term of this Agreement, PURCHASER agrees to provide SELLER with updates as to the status of the Project on at least a quarter-annual basis.

33. ESCROW.

Any Escrow Agent receiving funds is authorized and agrees by acceptance thereof to promptly deposit and to hold same in escrow and to disburse the same subject to clearance thereof in accordance with terms and conditions of this Agreement. Failure of clearance of funds shall not excuse performance by the PURCHASER. In the event of doubt as to its duties or liabilities under the provisions of this Agreement, the Escrow Agent may, in its sole discretion, continue to hold the monies which are the subject of this escrow until the parties mutually agree to the disbursement thereof, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties thereto, or it may deposit all the monies then held pursuant to this Agreement with the Clerk of the Circuit Court of Palm Beach County, Florida, and upon notifying all parties concerned of such action, all liability on the part of the Escrow Agent shall fully terminate, except to the extent of accounting for any monies theretofore delivered out of escrow. In the event of any suit between PURCHASER and SELLER wherein the Escrow Agent is made a party by virtue of acting as such Escrow Agent hereunder, or in the event of any suit wherein Escrow Agent interpleads the subject matter of this escrow, the Escrow Agent shall be entitled to recover a reasonable attorney's fee and costs incurred, said fees and costs to be charged and assessed as court cost in favor of the prevailing party. All parties agree that the Escrow Agent shall not be liable to any party or person whomsoever for mis delivery to PURCHASER or SELLER of monies subject to this escrow, unless such mis delivery shall be due to willful breach of this Agreement or gross negligence on the part of the Escrow Agent. PURCHASER acknowledges that Escrow Agent has been retained as counsel for the SELLER in this matter and other matters and agrees that Escrow Agent may continue to represent SELLER in this matter and any and all present and future matters including any dispute resulting in litigation arising from the obligations set forth in this Agreement.

34. TIME OF THE ESSENCE; FORCE MAJEURE.

(a) Time is of the essence with respect to each provision of this Agreement. Provided however, if the date for performance is on a Saturday, Sunday or federal holiday, the date for performance shall be extended to the next business day.

(b) Notwithstanding the foregoing provisions, the commencement dates provided above and all other times for the commencement or completion of all performances required in this Agreement by the PURCHASER shall be extended on a day for day basis for Force Majeure events, as agreed upon by PURCHASER and SELLER. By the tenth (10) business day of each of month, PURCHASER shall deliver or cause to be delivered to SELLER a list of the days during each proceeding month as to which PURCHASER believes the Force Majeure provisions that apply and the reasons therefor. SELLER shall, within ten (10) business days after receipt of any such list, provide notice to PURCHASER as to whether SELLER disputes that any of the days set forth on that list would give rise to an extension of time for PURCHASER's performance based on Force Majeure. Any days claimed to be subject to the foregoing Force Majeure provision by PURCHASER which are not so disputed by SELLER within said time period shall be deemed approved by SELLER.

(c) If either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of acts of God, extreme weather, a named storm, hurricane, strikes, lockouts, labor trouble, inability to procure material, failure of power, restrictive governmental ordinances, orders, policies, directives, decrees, laws, regulations or any other form of governmental controlling guidance, riots, insurrections, war, or other reason of like nature not within the control of and not the fault of the party delayed in performance work or doing acts required under this Agreement (collectively, "Force Majeure events" or "Force Majeure"), then,

the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

(d) Notwithstanding anything to the contrary herein, any time deadline for PURCHASER to apply for or receive any Government Approvals or Permits shall be extended for any appeal period applicable to the issuance of such approval or permit and, if an appeal is taken, then such deadline shall further be extended for so long as it shall take to resolve the appeal.

(e) Notwithstanding anything to the contrary herein, the Development Review Application Date may be extended for up to sixty (60) calendar days each provided: (i) PURCHASER is not in material default of this Agreement beyond any applicable notice and grace period and (ii) PURCHASER gives SELLER written notice of an extension of time at least fifteen (15) calendar days prior to the deadline being extended.

35. NO THIRD PARTY BENEFICIARIES.

This Agreement is an agreement between SELLER and PURCHASER only and no third parties shall be entitled to assert any rights as third party beneficiaries hereunder.

36. SURVIVAL.

Except as otherwise provided herein, the provisions of this Agreement shall not survive the Closing and shall be merged into the conveyance documents executed and delivered at Closing.

37. WAIVER OF JURY TRIAL.

The parties hereto hereby waive any right which either or both of them may have to receive a trial by jury on any claims, defenses or controversies arising out of, directly or indirectly, this Agreement and the transaction described herein.

38. CLOSING AGENT ESCROW AGREEMENT.

The Title Company, as closing agent for the Closing, may require that the parties execute and deliver an escrow agreement and/or the parties may provide to the Title Company separate written escrow instruction letters with respect to the Closing. In the event that the Title Company requires that the parties execute an escrow agreement with the Title Company, each party shall cooperate with the Title Company to execute and deliver an escrow agreement for the Closing which is reasonably acceptable to the Title Company, SELLER and PURCHASER.

Signatures on Next Page

The parties have executed this Purchase and Sale Agreement as of the dates indicated below:

SELLER:

**Lake Worth Beach Community
Redevelopment Agency**

By: _____
Title: Chair

Date: _____, 2024

PURCHASER:

Sunshine Lake Worth Development LLC

By: _____
Arthur Wiener, Manager

Date: _____, 2024

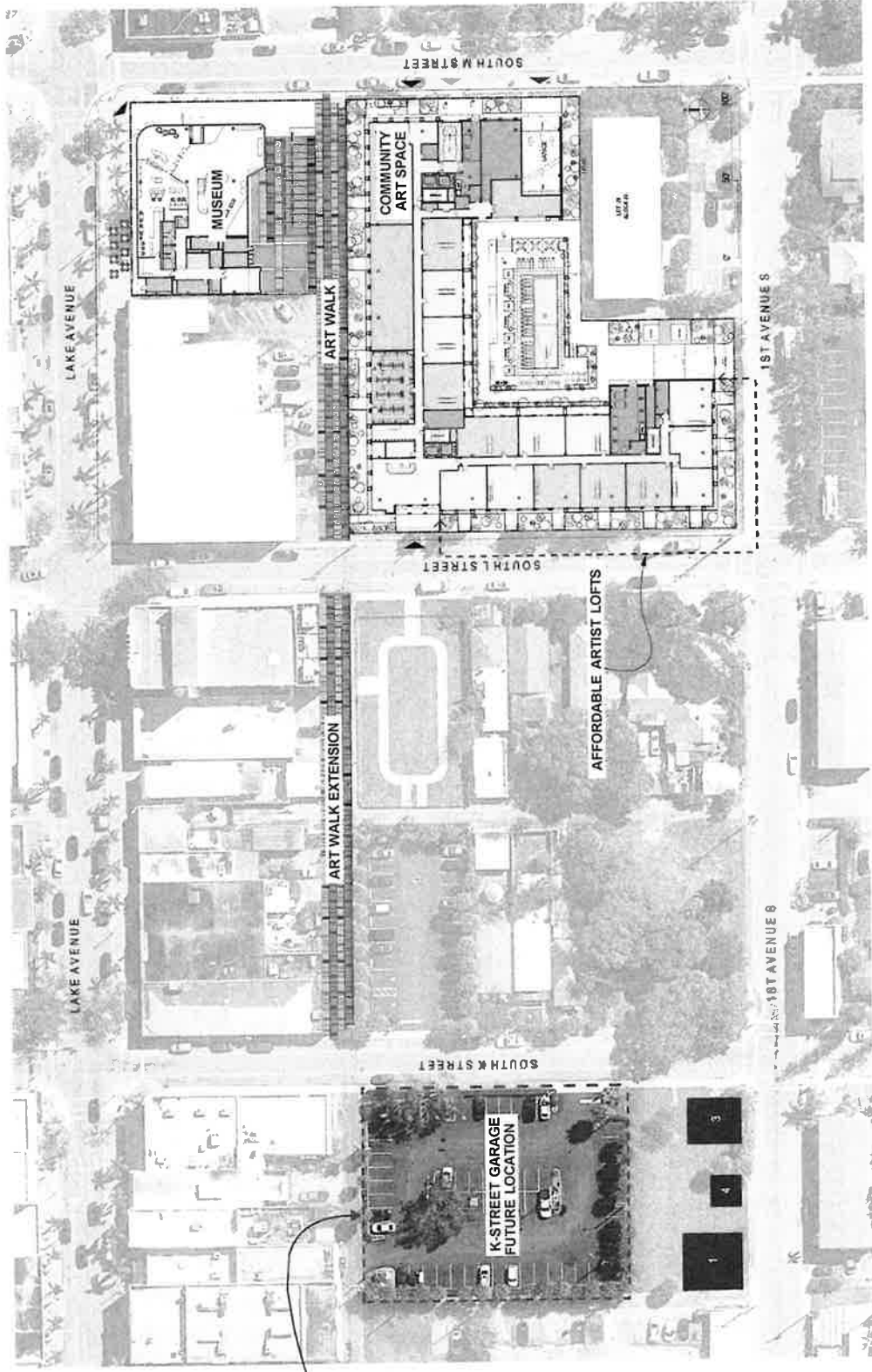
**ESCROW AGENT:
GOREN, CHEROF, DOODY & EZROL, P.A.**

By: _____
Donald J. Doody, Secretary

Date: _____, 2024

Exhibit "A"

SITE PLAN AERIAL OVERLAY



MUSEUM PROGRAM:
 MUSEUM: +/- 33Ksf
MUSEUM REQUIRED PARKING: 66 CARS
 66 PROVIDED ON SITE (ALLEY + STREET): 15
PARKING AT K-STREET GARAGE: +/- 51

RESIDENTIAL PROGRAM:
 RESIDENTIAL (+/- 129Ksf) + PARKING (45Ksf) + AMENITY (7Ksf) = 181Ksf
 110 units total

RESI REQUIRED PARKING: 180 CARS
 184 PROVIDED (W/ CREDIT)
 PROVIDED ON SITE CELLAR: 117 CARS
 STREET PARKING: 27
 BICYCLE PARKING PROVIDED



EXHIBIT "B"

PCN #	Address	Size/acres	Zoning	Land Use
38-43-44-21-15-023-0090	16 S L ST	0.16	MU-E	DMU
38-43-44-21-15-023-0220	13 S M ST	0.08	MU-E	DMU
38-43-44-21-15-023-0060	20 S L ST	0.23	MU-E	DMU
38-43-44-21-15-023-0230	17 S M ST	0.16	MU-E	DMU
38-43-44-21-15-023-0250	23 S M ST	0.23	MU-E	DMU
38-43-44-21-15-023-0050	24 S L ST	0.08	MU-E	DMU
38-43-44-21-15-023-0030	26 S L ST	0.16	MU-E	DMU
38-43-44-21-15-023-0020	30 S L ST	0.08	MU-E	DMU
38-43-44-21-15-023-0010	32 S L ST	0.08	MU-E	DMU
38-43-44-21-15-023-0191	501 LAKE AVE.	0.1866	DT	DMU
38-43-44-21-15-023-0170	509 LAKE AVE.	0.1722	DT	DMU

**WMODA MIXED USE DEVELOPMENT
DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into as of this ___ day of _____, 2024 (the "Effective Date"), by and between SUNSHINE LAKE WORTH DEVELOPMENT, LLC, a Florida limited liability company (the "Developer") and the CITY OF LAKE WORTH BEACH, FLORIDA, a Florida municipal corporation (the "CITY"), and the LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY, an entity created pursuant to Florida Statutes, Chapter 163 (the "CRA").

RECITALS

A. The CRA is the owner of approximately 1.7 acres of land generally located in the City of Lake Worth Beach, Florida, as more particularly described on Exhibit A attached hereto (each of such parcels being referred to herein individually as a "Parcel," or jointly as the "Parcels," and collectively, as the "Property"), which Property the CRA desires to be sold to and redeveloped by Developer pursuant to the Purchase and Sale Agreement (hereinafter defined) and this Agreement; and

B. The CITY and CRA are the owners of that certain K Street Property (hereinafter defined) which K Street Property the CITY and CRA desire to be developed into a parking garage to support downtown parking for the Property (as developed) and other public parking; and

C. The Developer is proposing to design and construct certain improvements on the Property and K Street Property which improvements are estimated to provide the City of Lake Worth Beach with \$56M in economic output during construction (first two (2) years), increase visitors to the CITY and downtown, increase jobs, increase downtown business revenues, provide an increase in property taxes over 10 years, and provide additional residential units and eight (8) affordable live/work artist units; and,

D. The CITY and CRA recognize the positive public impacts the Developer's improvements will bring to the City of Lake Worth Beach. The CITY and CRA agree to enter this Agreement with the Developer to advance the positive public impacts that the Developer's proposed improvements will make to the City and its residents, guests and visitors; and

D. The Parties find entering this Agreement is in each Party's best interest and serves a valid public purpose.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein set forth, the sufficiency of which is acknowledged by the Developer, CRA, and CITY, the Developer, CRA, and CITY hereby agree as follows:

Article 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

Article 2. General; Project; Definitions.

2.1 General. The purpose of this Agreement is to provide the terms and conditions pursuant to which the Developer shall develop the Project, obtain entitlements for the Property, close on the Property and develop the Project and the Property in substantial accordance with the terms set forth in this Agreement, the Development Plan, the Site Plan, all other Government Approvals, the Construction Documents, Permits and Applicable Laws (all as hereinafter defined) and within the time periods set forth in the Critical Path (as hereinafter defined). From and after the date of this Agreement, Developer shall diligently, expeditiously, and in good faith take all action necessary to develop the Project (inclusive of all Components (as hereinafter defined)) and the Property for the Project in accordance with the terms and conditions of this Agreement, and in compliance with the Project timeline set forth in the Critical Path attached as Exhibit B to this Agreement.

2.2 "Project" means the comprehensive project by Developer as illustrated in Exhibit C. The Project consists of the following components proposed under the Site Plan: 33,000 square foot museum, 102 market rate residential apartment units, 8 artist lofts with artist workspace dedicated at 80%-120% of adjusted median income for 15 years, 117 parking space subterranean parking structure to support residential uses, offsite parking garage on K street to support museum parking and public parking, art alley between L and M Street, relocation of (4) contributing structures, together with related amenities and utilities, as generally set forth in the Development Plan, attached hereto as Exhibit C (individually a "Component" and collectively, the "Components"). Except for certain Components (hereinafter defined), each respective Component of the Project will be developed on that portion of the Property which is so designated on the Development Plan and each component of the Project is more particularly described as follows:

(a) Museum and Residential Component: 33,000 square foot museum, 102 market rate residential apartment units, 8 artist lofts with artist workspace dedicated at 80%-120% of adjusted median income for 15 years, 117 parking space subterranean parking structure to support the residential uses.

(b) K Street Parking Component: offsite parking garage on K street to support museum parking and public parking on property owned by the CITY and CRA. The CITY and Developer will enter a comprehensive agreement to set forth the parameters of the K Street Parking Component consistent with the CITY's Parking Feasibility Study (hereinafter defined). The CITY and CRA shall enter into a ground lease for the proposed site of the K Street Parking Component. The CITY, CRA, and the Developer shall enter into a Construction Agreement for the purpose of developing the K Street Parking Component, which shall require the contributions of \$1 million from the Developer, \$2.5 million from the CITY, and \$1.5 million from the CRA along with the CRA issuing a \$3.5 million capital improvement revenue note. The CITY, CRA, and the Developer shall collaborate to identify Cost Savings for the K Street Parking Component as derived from the CITY's Parking Feasibility Study. Cost Savings identified for the K Street Parking Component shall be designated to fund the Arts Alley Extension (as hereinafter defined). The CITY, CRA, and the Developer shall execute a Long Term Parking Agreement for a term of less than twenty (20) years as further defined herein.

(c) Arts Alley Component: Arts Alley shall be limited to the portions of this amenity that lies between L Street and M Street. The Developer shall construct and maintain the Arts Alley along the existing public easement. The Arts Alley shall be open to the public in perpetuity. The Developer shall maintain the portion of the Arts Alley within the existing public easement and Property boundaries. The CITY, CRA, and the Developer shall enter into a Long-Term Maintenance Agreement for the Arts Alley that lies between L and M Street which shall dictate the agreed upon maintenance, repair, and capital replacement responsibilities between the CITY, CRA, and the Developer. The Parties agree that the Developer shall be responsible for the day-to-day maintenance of the Arts Alley, and the CITY shall be responsible for repairs and capital replacement needed as a result of infrastructure and or utility line repairs or upgrades, as set forth in the Long-Term Maintenance Agreement. All other terms and conditions shall be set forth in the Long-Term Maintenance Agreement.

(d) Arts Alley Extension: The Developer shall provide the CITY with design documents for the extension of the Arts Alley between L and K Streets. The design shall match the design implemented along the L and M Street portion of the Arts Alley within the existing public easement boundaries. The CITY, CRA, and the Developer agree that the extension of the Arts Alley to K Street benefits the overall campus concept of the Project. If sufficient funding from the K Street Parking Component's Cost Savings and/or other sources are realized to construct the Arts Alley Extension on or before the date of construction commencement for the Project as identified in the Critical Path, the Developer shall construct the Arts Alley Extension on behalf of the CITY. The Parties agree and acknowledge that the Developer's obligation to construct the Arts Alley Extension shall be limited to the amount of the Cost Savings realized from the construction of the K Street Parking Garage. Absent sufficient funding from the Cost Savings of the K Street Parking Garage, the Developer shall be under no obligation to construct the Arts Alley Extension.

(e) Structure Relocation: The Developer shall relocate the four (4) contributing structures currently located on the Property to 704 and 710 1st Avenue South and 126 South J Street. Three (3) contributing structures shall be relocated to 704 and 710 1st Avenue South and one (1) contributing structure shall be moved to 126 South J Street, as set forth in detail below:

- 17 South M and Garage: 17 South M and its garage shall be relocated from its current location to the lot on South K and 1st Avenue South, situated on the northwest corner.

- 24 South L: 24 South L shall be relocated from its current location to 126 South J, contingent upon the CITY's approval for the demolition of the existing house at that location.

- 26 South L: 26 South L shall be relocated to the lot on South K and 1st Avenue South, situated on the southwest corner adjacent to the CITY buildings.

CITY and CRA shall be responsible for any permit fees and utility relocation costs associated with the relocation of the structures. The Developer shall obtain all Government Approvals, prepare and make ready the site and construct the foundation and exterior utility connections for the structure currently located at 17 South M Street. The Developer's obligation for the relocation of all three (3) contributing structures shall not exceed \$500,000. In the event that costs exceed \$500,000, the CITY and the CRA shall be responsible for the amount in excess of that value. CITY and CRA shall also obtain all Government Approvals, prepare and make ready the relocation sites at 704 and 710 1st Avenue and 126 South J Street in accordance with the specifications from the qualified house mover for the delivery of the remaining three (3) contributing structures. The City shall be responsible for all utility hook-ups for the relocated

structures, including the former 17 South M and Garage. The Developer shall ensure its qualified house mover(s) use best efforts to preserve the structures during relocation, however, except for the exterior utility connections, the CITY and CRA agree to accept the relocated structures in their as-is condition upon delivery, which terms shall be included within the Construction Agreement Relocation of Contributing Structures as defined in the Purchase and Sale Agreement. This provision shall survive the termination of this Agreement.

2.3 Definitions. As used in this Agreement, the following defined terms shall have the following meanings; provided however that each capitalized term which is used but not defined in this Agreement shall have the meaning set forth in the Purchase and Sale Agreement:

"Agreement" shall mean this Development Agreement.

"Applicable Laws" shall mean any applicable law, statute, code, ordinance, regulation, permit, license, approval or other rule or requirement now existing or hereafter enacted, adopted, promulgated, entered, or issued by Governmental Authorities, including, but not limited to, the Florida Building Code.

"Authorized Financing" shall mean acquisition, development, or construction financing consisting of, without limitation: debt financing, private equity, equity participations, joint venture, hybrid financing, mezzanine financing, or other financing arrangements, provided in each such event the material terms of all such financing arrangements shall be documented in the Construction Loan Commitment (or its reasonable equivalent).

"Business Day" shall mean any day that the CITY is open for business.

"CITY" shall mean the City of Lake Worth Beach, a Florida municipal corporation.

"CITY Commission" shall mean the five (5) public officials elected to serve on the Lake Worth Beach City Commission.

"CITY Parking Feasibility Study" shall mean that study conducted by WGI, Inc., in _____ 2024.

"Closing Date" shall have the meaning set forth in the Purchase and Sale Agreement.

"Code" shall mean the CITY's Charter, Code of Ordinances, including but not limited to the Land Development Regulations now existing or hereafter amended.

"Comprehensive Agreement" means an agreement required under Section 255.065 Florida Statutes (2024) to be entered into between the Developer and the CITY for the construction of the K Street Parking Component.

"Construction Agreement K Street Parking Garage" means the transaction contemplated between the Developer, CITY, and CRA which shall govern the construction of a Parking Garage on K Street to support the museum and public parking.

“Construction Loan Commitment” shall have the meaning set forth in the Purchase and Sale Agreement.

“Construction Agreement Relocation of Contributing Structures” The transaction contemplated between the Developer, CITY, and CRA shall be subject to the relocation of four (4) contributing structures. The material terms for this Construction Agreement shall include but not be limited to, construction costs, critical path, location of facilities, site specifications, roles and responsibilities of the parties, cost overruns, and liability.

“Cost Savings” shall be defined as the difference between the City’s Parking Feasibility Study estimate of cost and savings realized as may be set forth in the Construction Agreement for the K Street Parking Garage or herein.

“CRA” shall mean the Lake Worth Beach Community Redevelopment Agency.

“Critical Path” shall mean the sequence of activities from this Agreement’s execution to Final Completion of the Project. The Critical Path, which is attached hereto as composite Exhibit B, describes the consequential elements of the schedule of the Purchase and Sale Agreement and this Agreement, including but not limited to, development obligations, termination, and default and is subject to the terms of the Purchase and Sale Agreement (for those Critical Path items only) and this Agreement.

"Developer" shall have the meaning provided in the introductory paragraph herein.

"Developer Financing" shall mean a Construction Loan (i) from a reputable lender regularly engaged in commercial real estate lending, (ii) which contains such terms as are typical in Palm Beach County for loans similar in size and purpose to the Construction Loan and (iii) which contains business terms such as interest rate, terms of repayment, loan to value, guaranty and collateral and equity requirements which are typical in State of Florida for loans similar in size and purpose to the Construction Loan and are otherwise reasonably acceptable to Developer. The Construction Loan Commitment must be provided to the CRA on the date prescribed on the Critical Path.

"Developer’s Representatives" shall mean Developer and its directors, officers, employees, agents, affiliates, or other representatives (including without limitation, attorneys, accountants, engineers, experts, consultants, contractors, financial advisors, and any other person or entity performing services for Developer in connection with this Agreement), and their respective successors and assigns.

“Development Review Application” shall mean the Application submitted by the Developer to the CITY for all Entitlements for the Project..

“Development Review Application Date” shall mean the date the Development Review Application is submitted to the CITY.

“Effective Date” shall mean the date when the CITY Commission and CRA Board respectively approves and authorizes the proper CITY and CRA officials to execute and deliver the Agreement previously executed by the Developer, which date shall be inserted on the first page of this Agreement.

“Entitlements” shall mean those CITY approvals required for the Developer to seek Permits for the construction of the Project Components.

“Final Completion Date” shall mean that date which is defined in composite Exhibit “B”, the Critical Path.

"Governmental Authorities" shall mean the United States Government, the State of Florida, Palm Beach County, the CITY (in its legislative/police power/quasi-judicial capacity), the CRA, and/or any other governmental agency or any instrumentality of any of them.

"Government Approvals" shall mean all approvals required from all applicable Governmental Authorities for the Entitlements, Permits, and other licenses and authorizations for the Developer to develop all Components of the Project. .

“Governmental Approval Date” shall mean all or each date the Developer obtains Government Approvals.

"Hazardous Materials" shall mean any material which may be dangerous to health or to the environment, including, without implied limitation, all "hazardous matter", "hazardous waste", and "hazardous substances", and "oil" as defined in or contemplated by any applicable federal, state or local law, rule, order or regulation relating to the protection of human health and the environment or hazardous or toxic substances or wastes, pollutants or contaminants, including all of the following statutes and their implementing regulations, as the same may have been amended from time to time:

- (a) Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq.;
- (b) Toxic Substances Control Act, 15 U.S.C. §2601 et seq.;
- (c) Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136;
- (d) Hazardous Materials Transportation Act, 49 U.S.C. §§1801 -1812;
- (e) Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq.;
- (f) Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.;
- (g) Clean Air Act, 42 U.S.C. §7401 et seq.;
- (h) Safe Drinking Water Act, 42 U.S.C. §3808 et seq.; or
- (i) Applicable or equivalent laws and regulations of the State of Florida relating to hazardous matter, substances or wastes, oil or other petroleum products, and air or water quality.

"Inspection Period" shall have the meaning set forth in the Purchase and Sale Agreement and as identified in the Critical Path.

"Institutional Lender" established federally chartered United States bank, United States trust company or other such recognized United States financial institution (or consortium thereof) of good repute and sound financial condition and having assets in excess of One Hundred Million Dollars (\$100,000,000.00).

"K Street Property" means that real property owned by the CITY and CRA generally located at 13 South K Street, 19 South K Street, and 25 South K Street (with PCNs: 38-43-44-21-15-019-0220, 38-43-44-21-15-019-0230, and 38-43-44-21-15-019-0290) to be utilized as the site for the K Street Parking Component.

"Long Term Maintenance Agreement Arts Alley" means the agreement by which the transaction contemplated between the Developer, CRA, and the CITY that will govern the roles and responsibilities of each party regarding the long term maintenance and repair of the Arts Alley.

"Long Term Parking Agreement" The transaction contemplated between the Developer, the CITY, and the CRA that will govern the access, parking fees, special event parking, residential lease opportunities, and liability for the K Street Parking Component.

"Museum" means that certain building located on the corner of Lake Avenue and South M Street to be built by the PURCHASER for the display of Fired Art as part of the Project.

"Permits" shall mean those permits issued by the CITY in its police-power/regulatory power for the construction of the Project's Components.

"Person" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

"Placed-In-Service" shall mean the date when the Developer notifies the CITY and the CRA in writing that it has received the final certificate of occupancy, certificate of completion, and executed any and all bills of sale and easements required under this Agreement or other agreement contemplated herein and that the Project and all Components are complete and operational.

"Purchase and Sale Agreement" shall mean that certain Purchase and Sale Agreement between the CRA and Developer for the CRA-owned Property as defined in Exhibit A, as the same may be amended from time to time by the parties thereto.

"Site Plan " shall mean the proposed submittal for the Project and as conceptually shown on composite Exhibit C, attached hereto and made a part hereof, and as may be revised during the site plan approval process from time to time, subject to the terms of this Agreement.

"Substantial Completion Date" shall mean that date on which the Developer makes application to the CITY for Temporary Certificate of Occupancy (TCO) (and maintains the same until Final Completion or obtains a final Certificate of Occupancy (CO)) for the Project.

"Surviving Obligations" shall mean any indemnities, covenants and obligations of the Parties which survive the closing under the Purchase and Sale Agreement, and any termination of this Agreement. Unless otherwise expressly set forth in this Agreement, all indemnities of the Parties contained in this Agreement shall be Surviving Obligations.

"Unsolicited Proposal for Qualifying Project Process" shall mean the public entity procedures required under Section 255.065 Florida Statutes (2024) for the CITY to proceed with an unsolicited proposal for the construction of the K Street Parking Component. Approval of this Agreement shall be contingent upon the CITY Commission's determination that the K Street Parking Component is in the public's best interest consistent with the requirements of the aforementioned statutory section.

"Utility Incentive Fund" shall mean a maximum amount of \$82,547, which is based upon the CITY's calculation of a reasonable rate of return to the CITY for the estimated increase in utility revenues from the Project (whose parameters are stated herein) and the City's current utility rate schedules. If the as-built Project parameters differ from what is stated in this Agreement or the City's current rate schedule(s) changes, the Utility Incentive Fund amount paid by the CITY to the Developer will be revised to be an estimate based upon the as-built parameters and the then current rate schedule(s). The CITY's calculations for the Utility Incentive Fund are set forth herein.

"Water and Sewer Public Utility Relocation Incentive" shall mean the lump sum payment to be made by the CITY to the Developer based on certain water and sewer utility relocations the Developer will be required pay for and perform as part of the Work for the Project.

2.4 Physical Condition after Development Agreement Execution.

The CITY and CRA agree that, after the execution of this Agreement, the CITY and CRA shall not take any actions that could materially and adversely affect (i) the physical condition of the Property and/or the K Street Property owned by the CITY and/or CRA or (ii) the status of title to the Property and/or K Street Property owned by the City or the CRA (as described in (i) or (ii) of this sentence, each a "material adverse change"). The parties acknowledge that the CRA will demolish, at its own cost, the existing structure on the Property located at 501 Lake Avenue, Lake Worth Beach prior to the Closing Date as set forth in the Critical Path.

Article 3. Site Plan Development.

3.1 Government Approvals. The CITY and CRA hereby acknowledges and agree that the conceptual Site Plan, as shown on Exhibit C, under the described conditions herein, is generally acceptable to the CITY and CRA; provided that any Material Change (as hereinafter defined), shall require the approval of the CRA Board before submission to the CITY as part of the Development Review Application, which approval shall not be unreasonably withheld. The foregoing shall in no way constitute or be construed as the Government Approval of the Site Plan or issuance of a CITY development order, it being expressly acknowledged and agreed by the Developer that the "Site Plan" will require separate submission, review, and approval pursuant to the requirements of

the CITY's Code and requirements of any other Governmental Authorities. As soon as practicable and consistent with the Critical Path(subject to a Force Majeure event), the Developer shall submit to the CITY for its review and approval, the Development Review Application required to obtain the Entitlements and Government Approvals for the Project, which applications and other submittals are consistent with this Agreement and comply with all Applicable Laws. Prior to submittal of the Development Review Application and other submittals required to obtain the Government Approvals, the Developer shall present to the CRA the Site Plan for review. Following such review , the CRA hereby agrees to execute and deliver to the Developer, in the CRA's capacity as the owner of the Property and a portion of the K Street Property, all applications and other submittals required to obtain the Government Approvals. If the Purchase and Sale Agreement or this Agreement is terminated prior to obtaining the Government Approvals, then upon the CITY and CRA's request, Developer shall withdraw all of its pending applications and terminate all agreements which are terminable and/or withdrawable by Developer, with respect to the Government Approvals, which foregoing obligations shall survive termination of this Agreement. No later than the time of Site Plan submittal to the CITY as part of the Development Review Application, the Developer shall complete and submit to the CITY: all design requirements, including the proposed Site Plan prior to submittal; preliminary civil engineering; any other plans and specifications required for the Project to proceed; design elements (excluding logos) for the various buildings within the Project, including definitions of sample architectural styles with representative illustrations; and copies of applications for any Government Approvals required for the development and construction of the Project. Once the CITY approves the foregoing (if they are substantially consistent with the Site Plan attached hereto as Exhibits C), the CITY hereby agrees to execute and deliver to Developer, in the CITY's capacity as the owner of a portion of the K Street Property, all applications and other submittals required to obtain the Government Approvals. Thereafter, the Government Approvals shall proceed in accordance with the CITY's Code and other Applicable Law, Governmental Authorities, and Government Approvals and the representative design elements and style portion of the documents, if approved, will be the Entitlements for the Project.

3.2 Third Party Review To Assist With Government Approvals. The Developer may at its sole discretion and cost in order to expedite the Government Approval process, including construction and inspection phase, request that the CITY engage the services of an outsourced consulting firm to complete the various development reviews in connection with the issuance of the Government Approvals should the CITY so elect to outsource the development review process.

3.3 Site Plan. The CITY hereby acknowledges and agrees that the Developer's Site Plan, as shown on Exhibit C, is the conceptual designs which have been reviewed and no formal approval has been issued by the CITY in its police power/quasi-judicial capacity. The foregoing shall in no way constitute or be construed as the approval or issuance of a CITY development order, it being expressly acknowledged and agreed by the Developer that the "Site Plan" will require separate submission, review, and approval pursuant to the requirements of the CITY's Code and requirements of any other Governmental Authorities.

(a) For purposes of this Agreement, a "Material Change" to the Site Plan, at Exhibit C, means and refers to a requested change, alteration or modification that (i) increases or decreases the total number of residential units by greater than fifteen percent (15%), (ii) decreases the amount

of square footage in the Museum by greater than fifteen percent (15%), (iii) revisions that significantly alters the architectural scheme from that previously approved by the CRA, as determined by the CRA EXECUTIVE DIRECTOR. For the avoidance of doubt, a Material Change hereunder shall refer to a change, alteration or modification of the Site Plan prior to such Site Plan approval by the CITY in its police power/quasi-judicial capacity. Furthermore, Material Change shall not refer to any increase or decrease of the square footage of the K Street Parking Component.

(b) All Material Changes to the Site Plan attached as Exhibit "C" are subject to requirements of the CITY and CRA's review process.

(c) Following issuance of the Entitlements for the Site Plan for the Project by the CITY, the CITY shall endeavor to expeditiously process all requests by the Developer for Material Changes and Permitted Changes (hereinafter defined) consistent with the CITY's Code.

(d) For the purposes of this Agreement, "Permitted Changes" mean revisions or changes that arise as a result of (i) any term or provision in the Florida Building Code, the fire code, or any other Applicable Law, (ii) any unforeseen site conditions which reasonably require a revision or change, or (iii) any life safety issues.

3.4 Timeline; Development, Government Approvals and Permits.

(a) Any Material Change shall require the approval of the CRA Board, which approval shall not be unreasonably withheld. The CRA shall provide its written approval or disapproval (specifying the basis for disapproval and/or comments) to any such plans and specifications as to the existence of Material Changes within ten (10) Business Days of receipt of request for same. If the CRA fails to either approve or disapprove (either with or without conditions) the submitted plans and specifications within fifteen (15) Business Days following written notice to the CRA, then, the plans and specifications submitted shall be deemed approved as to compliance with the elements of this Agreement by the CRA.

(b) However, should the final Site Plan include a Material Change the aforementioned timelines for review shall not apply.

3.5 Critical Path.

(a) The Developer will be responsible for initiating and diligently pursuing the Government Approval applications and Entitlements in accordance with the Critical Path as amended from time to time due to a Force Majeure event, shall serve as the Developer's time frame for performance with respect to obtaining the Government Approvals and Entitlements, to obtaining the Permits for the Project, and constructing the Project, and as applicable, subject to the terms of the Purchase and Sale Agreement and this Agreement.

(b) Notwithstanding any other provisions of this Agreement, the Critical Path may be extended for delays occasioned by the following events: (i) acts of God; (ii) pandemic or other health related occurrence; (iii) terrorism; (iv) once construction begins - extreme weather, a named storm, a hurricane or other tropical event as declared by the National Weather Service, (v) strikes,

lockouts or other labor trouble, (vi) inability to procure material that adversely affect the construction of the Project, (viii) restrictive governmental ordinances, orders, policies, directives, decrees, laws, regulations or any other form of governmental controlling guidance, (ix) riots, insurrections, or war, (x) other reason of like nature not within the control of and not the fault of the party delayed in performance work or doing acts required under this Agreement, (xi) withholding of Government Approvals or restrictions not due to the fault, delay or negligence of the Developer, (xii) unreasonable delay or negligence by the CITY or CRA; (xiii) appeals of governmental approvals or lawsuits by any third party (whether individual or otherwise) instituted to prevent the issuance of any approvals or permits, or otherwise stop construction of the development after commencement; (xiv) unreasonable delay or negligence by the Developer; or (xv) similar events not reasonably foreseeable and beyond the reasonable control of the Party requesting to extend the Critical Path (collectively, "Force Majeure"). Any Party seeking an extension for a Force Majeure event shall send written notice to the other Parties within ten (10) Business Days of the start of the delay, which notice may be sent via email (delivery receipt requested). Failure to provide such notice shall waive the delay until proper notice is provided unless otherwise agreed to by both of the other Parties in writing. The Parties shall work together to maintain the Critical Path.

(c) The CITY shall cooperate with the Developer in processing all necessary Government Approvals and Entitlements to be issued by the CITY, as well as by all other applicable Governmental Authorities. The parties recognize that certain Government Approvals will require the CITY and/or its boards, departments or agencies, acting in their legislative/police power/quasi-judicial capacity, to consider certain governmental actions. The parties further recognize that all such considerations and actions shall be undertaken in accordance with established requirements of Applicable Laws in the exercise of the CITY's jurisdiction.

(d) Time is of the essence for the performance of all obligations under this Agreement consistent with the Critical Path, which may be extended as stated herein. The timeframes set forth herein for the Developer's obligations may be extended in writing by the CITY's City Manager and CRA's Executive Director up to a maximum of 60 calendar days. Beyond 60 calendar days, a written amendment to this Agreement with CITY Commission, CRA Board, and Developer approval shall be required. The Developer shall give the CITY and CRA at least fifteen (15) calendar days' notice prior to the deadline to be extended.

3.6 Failure to Provide Government Approvals. In the event that the CITY and or its boards, departments, or agencies, acting in their legislative/police power/quasi-judicial capacity to consider certain governmental actions, fails to provide Government Approvals and Entitlements necessary to construct the Project, as such time period may be extended as set forth herein after the Developer submitted the Development Review Application in compliance with Applicable Laws and in accordance with the Developer's Site Plan shown on Exhibit C and all applicable timeframes for appeals have been exhausted to the City Commission then, such failure shall entitle the Developer to terminate this Agreement.

Article 4. Development Obligations.

4.1 General Obligations.

(a) Subject to the terms and provisions of this Agreement, in the event the Government Approvals and Entitlements are issued to Developer, then, the Developer shall be responsible for the design, engineering, and permitting of the Project in accordance with the terms of this Agreement. After obtaining all required Permits, , then, the Developer shall be responsible to construct the Project pursuant to the approved Construction Documents and within the time periods required by the Critical Path.

(b) In connection therewith, Developer shall provide or cause to be provided and furnish or cause to be furnished, all materials, supplies, apparatus, appliances, equipment, fixtures, tools, implements and all other facilities provided for in the Construction Documents, and shall provide all labor, supervision, transportation, utilities and all other services, as and when required for or in connection with the construction, furnishing or equipping of, or for inclusion or incorporation in the Project, (collectively, the "Work").

(c) Developer shall cause the design, engineering, permitting, and construction of the Project to be prosecuted with diligence and continuity and will achieve Substantial Completion (as defined herein) and Final Completion of the Work, free and clear of liens or claims for liens for materials supplied and for labor or services performed in connection therewith on or before the Final Completion Date (as hereinafter defined). The Developer shall diligently and in good faith proceed to obtain the issuance of all permanent certificates of occupancy or their equivalent and all other certificates, licenses, consents, and approvals required for the permanent occupancy, use and operation of the Project, all within the time frames required by Applicable Laws and the Critical Path.

(d) For the purposes of this Agreement, "Final Completion" shall mean all Work for the Project shall have been fully completed, in accordance with Construction Documents, (1) all final certificates of occupancy (or their equivalent) all other certificates, licenses, consents and approvals required for the permanent occupancy, use and operation of the Project shall have been issued or obtained from the appropriate Governmental Authorities, and (2) all record drawings (other than as-builts to be delivered to the CITY), electronic files, warranties, and manuals have been delivered to the CITY. Substantial Completion of the Project shall occur not later than the respective "Project Substantial Completion Date" set forth on the Critical Path, subject to a day for day extension for events of Force Majeure.

4.2 K Street Parking Component.

(a) The Developer shall, as a part of the requirements for the Project, construct the K Street Parking Component to support the museum and public parking. The Developer shall cause the design and construction of the K Street Parking Component in accordance with the specifications outlined the City's Parking Feasibility Study, the Entitlements, the Permits, and in accordance with the K Street Parking Component Critical Path Attached hereto as Exhibit B-1 .

(b) The Developer shall provide construction financing for the construction of the K Street Parking Component to the CRA in an amount not to exceed \$3.5 Million at a four (4%)

percent rate of interest for a period of five (5) years. Payments of principal and interest by the CRA shall be made annually based on a five (5) year amortization schedule until paid in full.

(c) The CRA shall issue a capital improvement revenue note providing for the covenant to budget and appropriate amounts necessary for the payments of the \$3.5 Million capital improvement revenue note. The Developer's obligation to provide construction financing in an amount not to exceed \$3.5 Million is contingent upon CRA issuing the Developer a capital improvement note in an amount necessary to repay the loan and the CRA shall covenant to budget and appropriate, each year, monies sufficient to pay the principal and interest on the obligation to the Developer. The City and the CRA shall enter into a loan repayment agreement no later than the CITY's and the CRA's execution of the Construction Agreement for the K Street Parking Component to provide for the CITY's and CRA's respective obligations with respect to the repayment of the capital improvement note.

(d) The CITY, CRA, and the Developer shall execute a Long Term Parking Agreement which shall govern Developer's access, parking fees, special event parking, residential leasing opportunities, and liability for a term of less than 20 years.

(e) The CITY and Developer shall enter the Comprehensive Agreement for the K Street Parking Garage Component and the CITY, CRA, and the Developer shall enter a Construction Agreement for the K Street Parking Component. In addition to the statutory requirements for the Comprehensive Agreement, the aforementioned agreements shall include, but not be limited to, construction cost, critical path, payment schedules, revenue note commitments, and ground lease provisions. The Parties agree that the aforementioned agreements for the K Street Parking Component shall be executed by the Parties no later than the expiration of the Inspection Period. If not (and not due to a Force Majeure event), then the Developer at its discretion may either extend the Inspection Period in accordance with the Purchase and Sale Agreement or terminate this Agreement.

4.3 Construction Contracts. All Developer's contractors and subcontractors on the Project shall be properly licensed and insured and properly skilled in the type of work being done.

4.4 Financing of Project. Except as specifically set forth above for the K Street Parking Component, the parties acknowledge and agree that the Developer will obtain Developer Financing for the construction of the Project. All financing under this provision of the Agreement shall be in conformance with the Purchase and Sale Agreement.

4.5 No General Obligation. Any funding or financing obligation of either the CITY or CRA as contemplated under this Agreement shall not be considered a general obligation of either the CITY or CRA. Neither this Agreement or any other agreement entered into with respect to the Project, nor the obligations imposed upon the CITY or the CRA hereunder shall be or constitute an indebtedness or general obligation of the CITY, the CRA, or other Governmental Authorities within the meaning of any constitutional statutory or charter provisions requiring the CITY, the CRA, or other Governmental Authorities to levy ad valorem taxes nor a lien upon any properties or funds of the CITY, the CRA, or other Governmental Authorities. Developer agrees that the obligations of the CITY and the CRA to provide any funding or to make any payments to

Developer pursuant to this Agreement, or any other agreement related to the Project, shall be subordinate to the obligations of the CITY or the CRA to pay debt service on any bonds or notes issued by the CITY or CRA as contemplated by the CITY's and CRA's approved annual budgets, up to the principal amount of such bonds or notes. Nothing contained herein shall be deemed, construed, or applied to cause any Governmental Authorities, specifically including the CITY or CRA, to waive its right to exercise its governmental power and authority or to consider any request causing the exercise of its governmental powers in any manner other than that which is customary for the exercise of such governmental powers.

Notwithstanding the foregoing, the CRA hereby covenants and agrees to appropriate in its annual budget, by amendment, if necessary, from lawfully available funds in each fiscal year of the CRA, amounts sufficient to pay the principal and interest due on the capital improvement revenue note not to exceed \$3.5 Million at a four (4%) percent rate of interest for a period of five (5) years, as further referenced in Section 4.2 herein. "Lawfully available funds" means all revenues of the CRA derived from any source other than ad valorem taxation on real or personal property and which are legally available to make the payments required under this section, but only after provision has been made by the CRA for the payment, to the extent are not otherwise provided for by ad valorem taxes, of (a) all services necessary for conducting of the governmental obligations of the CRA and (b) all legally mandated services of the CRA. Such covenant and agreement on the part of the CRA to budget and appropriate such amounts of legally available funds shall be cumulative to the extent not paid, and shall continue until such legally available funds in amounts sufficient to make all such required payments shall have been budgeted, appropriated and actually paid.

4.6 Lack of Appropriations. Based upon the timeframes set forth in this Agreement, the City agrees to propose in each applicable fiscal year budget an amount to cover the City's obligations as stated herein commencing with the Fiscal Year 2024-2025 budget; however, the City's funding obligations as stated herein are all subject to the City's annual budgeting and appropriation process. The Owner understands and agrees that the City's funding obligations hereunder are payable exclusively from duly appropriated or otherwise legally available funds and shall not be construed to be debt, liability or obligation within the meaning of any applicable constitutional or statutory limitation or requirement.

4.7 Right of Repurchase. The CRA shall have the right to repurchase the Property in accordance with the Purchase and Sale Agreement and the Memorandum of Agreement to be executed by the CRA and the Developer prior to the conveyance of the CRA Property.

4.8 CITY Obligations. Subject to a Force Majeure event, the CITY shall be responsible for the following obligations:

- (a) The CITY shall vacate all operations on the Property in accordance with the Critical Path.
- (b) Subject to the CITY Commission's legislative approval capacity, the CITY shall complete the Unsolicited Proposal for Qualifying Project Process in accordance with the Critical Path.

- (c) The CITY shall complete the electric utility services upgrades in and around the project, which includes but is not limited to placing utility lines underground along the Arts Alley and the relocation of lines around the site as defined in the Critical Path.
- (d) Enter into a ground lease with the CRA for the K Street Parking Component site in accordance with the Critical Path.
- (e) Enter into a loan repayment agreement with the CRA for the K Street Parking Component.

4.7 CRA Obligations. Subject to a Force Majeure event, the CRA shall be responsible for the following obligations:

- (a) The CRA shall demolish the existing building located at 501 Lake Avenue in accordance with the Critical Path.
- (b) The CRA shall prepare the sites located at 126 South J. Street and 701 and 710 1st Avenue South for the two (2) contributing structures, currently located at 24 South L and 26 South L to be renovated by the CRA in accordance with the Critical Path.
- (c) Enter into a ground lease with the CITY for the K Street Parking Component site in accordance with the Critical Path.
- (d) Enter into a loan repayment agreement with the CITY for the K Street Parking Component.
- (e) Issue a capital improvement revenue note for the construction of the K Street Parking Component in accordance with the Critical Path .

Article 5. Performance of the Work.

5.1 Developer shall commence construction of the Project pursuant to the Critical Path. Following commencement of any Work, Developer shall diligently pursue in good faith the commencement and completion of the Work in order that Final Completion of the Project is achieved no later than the Final Completion date set forth in the Critical Path, subject to a Force Majeure event.

5.2 The Developer agrees that all Work performed under this Agreement shall be (a) performed in accordance with Applicable Laws, including the Florida Building Code; (b) executed in a good and workmanlike manner, free from defects, and that all materials shall be new or made of recycled materials generally accepted and used in the construction industry; (c) undertaken in such a commercially reasonable manner as to minimize, to the extent reasonably practicable, material interference and not materially adversely affect the business or residential operations of the parties and their respective tenants, invitees, customers and/or guests; (d) done in a manner

consistent with industry standards and providing for safety measures for persons and property as is standard within the construction industry;

5.3 **Warranty.** In each Construction Agreement contemplated herein for the Project, the Developer shall provide a warranty of its Developer's Representatives Work for a period of 12-months from the date of Substantial Completion for all faults and defects in the Work and any provided materials and/or equipment (unless otherwise covered under the applicable manufacturer's warranty which must be at least 12-months in duration).

5.4 The Developer agrees that all Work on public property including but not limited to relocation of the structures and the K Street Parking Garage Component will not commence until a public construction bond consistent with section 255.05, Florida Statutes, is secured and recorded in the Official Records in and for Palm Beach County, Florida, with the CITY and/or CRA (as applicable) as obligees thereof.

5.5 **OPPORTUNITIES FOR CITY OF LAKE WORTH BEACH RESIDENTS AND BUSINESSES.** The Developer shall make commercially reasonable efforts consistent with Applicable Law to provide City of Lake Worth Beach residents with opportunities for training and employment in connection with the Project. The Developer shall also make commercially reasonable efforts consistent with Applicable Law to provide City of Lake Worth Beach business concerns with opportunities in connection with the Project, including the utilization of small business, minority/women-owned business enterprises, and veteran-owned business enterprises.

Article 6. Incentives

6.1 Intentionally Omitted.

6.2 **CRA Infrastructure.** In recognition of the additional expense associated with the incorporation of underground parking to minimize the scale of the development for the community g, the public dedication of the arts alley, and the construction of community art space, the Developer shall receive \$2,000,000.00 in infrastructure improvement grants from the CRA as follows:

- | | | |
|----|-------------------|-----------|
| a) | Fiscal year 25/26 | \$500,000 |
| b) | Fiscal year 26/27 | \$500,000 |
| c) | Fiscal year 27/28 | \$500,000 |
| d) | Fiscal year 28/29 | \$500,000 |

6.3 **Water and Sewer Public Utility Relocation Incentive.** The Developer shall receive a one-time, lump sum payment of \$250,000 from the CITY to support water and sewer public utility relocation costs required for the Project (which relocation costs are estimated to cost the Developer \$400,000). The Developer shall be responsible for the water and sewer public utility relocations potentially within the City right of way.

If the Project changes and the water and sewer public utility relocations are not made by the Developer, the CITY and the Developer shall agree to a new amount for the CITY to pay consistent with the water and sewer public utility relocation(s) and the estimated cost of the same actually made by the Developer for the Project. If no water and sewer public utility relocations are made by the Developer for the Project, the CITY shall be relieved of making any such payment to the Developer.

This one-time lump sum payment shall be made by the CITY upon completion when the Project is deemed to have been Placed-In-Service upon written request of the Developer, which written request shall be submitted at least 60-days in advance of the payment due date.

6.4 Utility Rate Incentive. The Developer shall receive, an economic investment incentive from the CITY based on the projected Project revenue streams to the CITY's electrical, water, sewer, and stormwater utilities estimated at \$92,000 based on the following:

- Water Utilities - 0.0999 per sq ft of conditioned space
- Stormwater - \$0.04 per sq ft of conditioned space
- Electric - \$.50 per sq ft of conditioned space

The maximum amount to be paid by the CITY to the Developer is the total Utility Incentive Fund set forth in this Agreement; however, if the Project Parameters change from those set forth in this Agreement and when the Project is deemed to have been Placed-In-Service, the City's actual payment shall be the lesser of the total Utility Incentive Fund set forth in this Agreement or a recalculation of the Utility Incentive Fund based upon the actual As-Built Project Parameters. Upon the Project being Placed-In-Service, the Developer shall submit a written request to the CITY for the disbursement of the Utility Incentive Fund and identify in its request to whom and where payment shall be made by the CITY. Within ninety (90) days of the CITY's receipt of the Developer's written request for the disbursement of the Utility Incentive Fund, the City shall recalculate the Utility Incentive Fund based on the As-Built Project Parameters ("Re-Calculated Amount"). The CITY shall then pay the lesser of the total Utility Incentive Fund as set forth in this Agreement or the Re-Calculated Amount to the Developer.

6.5 Entitlement Fee Waivers.

(a) Developer shall be entitled to certain entitlement fee waivers from the CITY in the estimated amounts listed below but in no event shall the entitlement fee waivers to the Developer be less than the total cost calculated by the CITY for the fees listed below:

Transfer of Development Rights:	\$ 183,000.00
Sustainable Bonus Incentive:	\$ 67,000.00
Land Development Application Fees:	\$ 15,000.00
Affordable Housing Waiver:	\$ 340,080.00

(b) The CITY agrees and acknowledges that the Developer's \$1,000,000 contribution to the K Street Parking Component shall satisfy the full cost of all parking in lieu of parking waiver fees imposed by the CITY.

6.6 Affordable Housing.

Developer agrees to offer eight (8) Residential Units as Artist Lofts. These lofts are inclusive of artist workspace and will be dedicated as affordable at the 80-120% Area Median Income Level as follows: three (3) One Bedroom unit at 80% Area Median Income ("AMI"); two (2) bedroom units at 80% of AMI; and three (3) two bedroom units at 120% of AMI for the Arts community for a period of 15 years. The affordability of the Artist Lofts shall be evidenced by a Land Use Restriction Agreement recorded in the public records of Palm Beach County. In return, the CRA will provide an Affordable Housing Construction Incentive to the Developer in the total amount of \$1,400,000.00 payable at the time of Closing. If the developer adjusts the unit mix of the residential component, the CRA reserves the right to recalculate the affordable housing buydown for the sole purpose of confirming the Affordable Housing Construction Incentive value. If the Affordable Housing Incentive value is less than previous estimates, the developer may adjust the affordable housing unit mix to equal a total amount of \$1,400,000 in Affordable Housing Incentive Value.

(a) The CRA shall partner with the Developer to screen and pre-qualify artists for the program. If the CRA is unable to identify qualified candidates to occupy the units within 12 months of operation, Developer shall have the option of returning the units to market rate rentals. Upon notification that the Developer intends to exercise its right to offer the units at market rate, the Developer shall reimburse the CRA for the full value of what was paid to the Developer for the units that shall be returned to market rate status.

(b) Post Lease Up Provision: After a period of twenty-four (24) months from the issuance of the certificate of occupancy for the Artist Lofts, the Developer may exercise its rights to offer the units as market rate should the CRA be unable to provide qualified candidates to occupy vacated units after a five (5) month vacancy period. Upon notification that the Developer intends to exercise its right to offer the units at market rate, the Developer shall reimburse the CRA for the remaining value of what was paid to the Developer for the units that shall be returned to market rate status. The remaining value shall be reduced by \$11,667 per year.

6.7 Community Art Space. Developer shall provide 2,100 SF of Community Art space along the Art Alley which shall be open to the public and available as a community gathering space for the arts. This space shall be programed and activated in partnership with the CRA and Developer. The Developer shall have the flexibility to adjust the square footage of this space up to fifteen (15%) percent at its sole discretion.

6.8 Impact Fees. City and CRA shall support and reasonably assist the Developer in obtaining from the Palm Beach County an abatement or significant reduction in impact fees (currently estimated at \$1,092,334).

6.9 Arts Alley Extension Contribution. The City shall dedicate \$340,000 toward the construction of the Arts Alley Extension.

6.10 Museum Parcel Payment in Lieu of Taxes. The CITY and/or the CRA shall enter into a Payment in Lieu of Tax (PILOT) arrangement with the Developer for the Museum Parcel for a period of fifteen years. The PILOT arrangement shall commence in the calendar year 2031, at which time the Developer will pay twenty-five (25%) percent of the total ad valorem tax liability due to the City for a period of five years (2031 through 2035). If the CRA is still in existence the Developer will pay twenty-five (25%) percent of the total ad valorem tax liability due for both the City and the County portion of the annual property tax bill. Beginning in the year 2036, the Developer shall be responsible for the payment of fifty (50%) percent of the total ad valorem tax liability due to the City for a period of ten (10) years (2036 through 2045). If the CRA is still in existence the Developer will pay fifty (50%) percent of the total ad valorem tax liability due for both the City and the County portion of the annual property tax bill. The provisions of this subsection shall survive until 2045.

Article 7. Books and Records.

Upon execution of this Agreement by the Developer, the Developer shall maintain complete and accurate books, records and accounts of all costs and expenses incurred in connection with the Project.

Article 8. Default; Termination.

8.1 Developer Default. An "Event of Default" or "default" entitling CITY or the CRA to its remedies below shall occur by the Developer on the happening of any of the following events:

(a) Failure to Observe Agreement. The Developer shall fail to observe, satisfy or perform any material term, covenant or agreement contained in this Agreement; or

(b) Inaccuracy of Representation and Warranties. Any material representation or warranty made herein by the Developer shall prove to have been incorrect in any material respect as of the date made; or

(c) Abandonment of Project. The abandonment of the Project by Developer, other than as a result of Force Majeure. "Abandonment of the Project" shall be defined unilateral cessation of work by the Developer without justification or prior notification to the CITY and CRA for reasons other than as a result of Force Majeure. The CITY and CRA may not consider the project abandoned until the following conditions are met: (i) the Developer ceases operations without notice for a period of fifteen consecutive days; and (ii) the Developer refuses to resume work after being notified by the City and the CRA after the 16th consecutive day of abandonment.; or

(d) Failure to Complete by Completion Dates. The failure of the Developer to achieve Substantial Completion and/or Final Completion of the entire Project by the date set out in the Critical Path, unless subject to a Force Majeure event; or

(e) Abandonment of Government Approvals. The Developer abandons the diligent prosecution of any of the Government Approvals for the Project, or withdraws applications for the Government Approvals, each without the consent of the CITY and CRA, without amending or re-submitting requests for the Government Approvals within one hundred twenty (120) calendar days; or

(f) Material Adverse Change. The occurrence of a material adverse change in the financial condition of the Developer that materially and adversely impairs the Developer's ability to perform or to cause to be performed its obligations under this Agreement; or

(g) Bankruptcy. The Developer shall generally fail to pay debts as such debts become due or shall admit in writing its or their inability to pay its or their debts as such debts become due or shall make a general assignment for the benefit of creditors; the Developer shall commence any case, proceeding, or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or them or its or their debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian, or other similar official for it or them or for all or any substantial part of its or their property; or any case, proceeding or other action against the Developer shall be commenced seeking to have an order for relief entered against the Developer, as debtor, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of the Developer or their debts under any law relating to insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official for the Developer or for all or any substantial part of their respective properties, and (i) the Developer shall by any act or omission, indicate its consent or approval, of, or acquiescence in such case, proceeding or action, (ii) such case, proceeding or action results, in the entry of an order for relief that is not fully stayed within sixty (60) calendar days after the entry thereof, or (iii) such case, proceeding or action remains undismissed for a period of ninety (90) calendar days or more or is dismissed or suspended only pursuant to Section 305 of the United States Bankruptcy Code or any corresponding provision of any future United States bankruptcy law; or

(h) Attachment/Garnishment. The issuance of any attachment or garnishment against the Developer and the failure to discharge the same (by bond or otherwise) within sixty (60) calendar days from the issuance thereof, and the impact of which shall materially and adversely affect the Developer's ability to perform its obligations hereunder; or

(i) Judgments. One or more judgments, orders or decrees shall be entered against the Developer which materially interfere with Developer's ability to perform under this Agreement, and such judgments, orders, or decrees are not fully covered by effective insurance (less deductibles) or shall not have been vacated, discharged, stayed or bonded pending an appeal within thirty (30) calendar days from the entry of such judgment, order or decree; or

(j) Failure to Close. Should the Developer fail to close on the purchase of Property by the Closing Date, as such Closing Date may be extended by the Purchase and Sale Agreement, unless the CRA under the Purchase and Sale Agreement has defaulted or a condition to Developer's obligations under the Purchase and Sale Agreement has not been satisfied. Nothing

in this sub-section shall be construed as limiting any other provision of this Agreement or the Purchase and Sale Agreement providing an extension of the Closing Date.

8.2 CITY and CRA's Remedies. Upon the occurrence of an Event of Default by the Developer, the CITY or the CRA, as the case may be, shall be entitled to terminate this Agreement and, if the Event of Default occurs prior to the Closing Date, the following additional remedies set forth below:

8.2.1 If Developer fails to materially perform or observe any of the covenants, restrictions, requirements and/or stipulations to be performed and/or observed by Developer hereunder and such failure shall continue without remedy for twenty (20) Calendar Days after written notice thereof from the CITY or CRA to the Developer; provided, however, that if such failure is capable of cure but cannot reasonably be cured within twenty (20) Calendar Days, such failure shall not constitute an Event of Default so long as the Developer provides CITY and CRA with written notice within five (5) calendar days of receipt of the CITY or CRA's default notice advising the CITY or CRA that the default cannot be reasonably cured within twenty (20) Calendar Days and specifying the reasons therefore and, within the twenty (20) Calendar Day period, commences and thereafter is in good faith proceeding diligently and continuously to remedy such failure, but in no event shall any additional time to cure granted hereunder exceed ninety (90) calendar days in the aggregate after Developer's receipt of the original written default notice unless approved by the CITY or CRA. CITY and CRA shall have the right to require the Developer to assign to the CITY and CRA, on a non-exclusive basis, all of Developer's assignable rights in and to the non-privileged plans and specifications produced in conjunction with the Project. The Developer shall deliver to the CITY and CRA within thirty (30) calendar days, an assignment of all of Developer's assignable rights in and to all plans, construction documents, reports, studies, permits, drawings, and designs produced by the Developer and the Developer's contracted professionals as of the date of termination and Developer shall deliver to the CITY and CRA a copy of such documents. CITY and CRA shall not be entitled to punitive damages, or consequential damages, or loss profits damages from Developer, whether the default occurs before or after the occurrence of the Closing.

8.3 CITY or CRA Default. An "Event of Default" or "default" entitling the Developer to its remedies below shall occur by the CITY or CRA upon the happening of any of the following events:

(a) Failure to Observe Agreement. The CITY or CRA shall fail to observe, satisfy or perform any material term, covenant or agreement contained in this Agreement.

(b) Inaccuracy of Representation and Warranties. Any representation or warranty made herein by the CITY or the CRA shall prove to have been incorrect in any material respect as of the date made.

8.4 Developer's Remedies. If CITY or CRA fails to materially perform or observe any of the covenants, restrictions, requirements and/or stipulations to be performed and/or observed by CITY or CRA hereunder, and such failure shall continue unremedied for twenty (20) Calendar Days after written notice thereof from the Developer to the CITY or CRA; provided, however, that if such failure is capable of cure but cannot reasonably be cured within twenty (20) Calendar Days,

such failure shall not constitute an Event of Default, so long as the CITY or CRA provides the Developer with written notice within ten (10) calendar days of receipt of the Developer's default notice advising the Developer that the default cannot be reasonably cured within twenty (20) Calendar Days and specifying the reasons therefore and, within the twenty (20) Calendar Day period, commences and thereafter is in good faith proceeding diligently and continuously to remedy such failure, but in no event shall any additional time to cure granted hereunder exceed ninety (90) calendar days in the aggregate after CITY or CRA'S receipt of the original written default notice. , Developer's remedies for such default shall be the sum of (i) Developer's documented actual and direct damages incurred in furtherance of the Project's development, (ii) Developer's reasonable attorney fees and costs described herein incurred by Developer to collect its actual and direct damages under subsection (i) (above), then, this Agreement shall become null and void, and neither party shall have any claims of whatsoever kind, type, nature or description against the other party.

8.5 In no event shall either party be liable to the other for any indirect, incidental, consequential, special, or punitive damages, including but not limited to loss of profits, revenue, or business opportunities, arising out of or relating to this Agreement, regardless of the form of action, whether in contract, tort (including negligence), strict liability, or otherwise, even if such party has been advised of the possibility of such damages. For the avoidance of doubt, the CITY and CRA are not jointly and severally liable under this Agreement and the default of one such party shall not cause the other party to be in default, provided, however, that termination of this Agreement by Developer as a result of a default of one such party shall entitle Developer to terminate this Agreement as to all parties.

8.5 Cross Termination. The parties agree that notwithstanding anything to the contrary herein a default (after the expiration of any applicable notice and cure period related thereto, if any) by either party under either this Agreement or the Purchase and Sale Agreement shall afford either party the right to terminate this Agreement and/or the Purchase and Sale Agreement.

8.6 Termination. This Agreement (but not the Surviving Obligations) shall terminate upon the occurrence of the earlier of the following events:

- (a) A termination of this Agreement as otherwise may be permitted in accordance with the provisions of this Agreement; or
- (b) Failure of the CITY to provide the Entitlements or Permits as defined herein, necessary to develop the Project.
- (c) The completion of the development and construction of the Project and the remaining obligations of the parties under this Agreement with respect to the Project pursuant to the terms and conditions of this Agreement.

8.7 Effect of Termination. If this Agreement shall terminate prior to Closing, the Developer shall, as soon as practicable, but in no event later than the fifteenth (15) calendar days after a termination notice is given, or such shorter period of time in the event of emergency or a life/safety issue:

(a) Furnish all such information and otherwise cooperate in good faith in order to effectuate an orderly and systematic ending of the Developer's duties and activities hereunder, including, without limitation, the delivery to the CITY and CRA of any written reports required hereunder for any period not covered by prior reports at the time of termination. With regard to the originals of all papers and records pertaining to the Project, the possession of which are retained by the Developer after termination, the Developer shall: (i) reproduce and retain copies of such records as it desires; (ii) deliver the originals to the CITY and CRA; and (iii) not destroy originals without first offering to deliver the same to the CITY and CRA.

(b) Notwithstanding the above in the event of CITY or CRA Default and the Developer elects to terminate this Agreement, Developer shall have no obligation or responsibility to produce documentation referenced in this section.

Article 9. Indemnification.

9.1 Indemnification by the Developer. The Developer agrees to indemnify and hold the CITY and CRA, its Commission members, agents, consultants and employees harmless, to the fullest extent permitted by law, from all liabilities, losses, interest, damages, costs and/or expenses (including, without limitation, reasonable attorneys' fees, whether suit is instituted or not, and if instituted, whether incurred at any trial, appellate or post judgment level), assessed against, levied upon, or collected from, the CITY or CRA arising out of, from, or in any way connected with or arising from any Developer's breach of its obligations under this Agreement. The CITY and/or CRA shall be required to provide notice to the Developer of any liability, loss, damage, interest, or cost and/or expense, which the Developer is required to hold the CITY or CRA harmless in accordance with this provision, within ten (10) days of receipt of by the CITY and/or the CRA of such claim or request for damages, provided, however, that the failure to give such prompt written notice shall not, however, relieve the Developer of its indemnification obligations, except and only to the extent that the Developer forfeits rights or defenses by reason of such failure. Notwithstanding the foregoing, the Developer shall not be required to indemnify the CITY or CRA with respect to any liability, loss, damages, costs or expenses suffered as a direct and proximate result of the negligence, gross negligence and/or willful misconduct of the CITY or CRA or its agents. To the extent this indemnification clause or any other indemnification clause in this Agreement is subject to the provisions of Chapter 725, Florida Statutes, and such does not comply with Chapter 725, Florida Statutes, as such may be amended, such provision shall hereby be interpreted as the parties' intention for the indemnification clauses and to comply with Chapter 725, Florida Statutes, as such may be amended.

9.2 Limitation on Indemnification. Notwithstanding anything in this Article to the contrary, Developer shall not have any obligation to indemnify or defend the CITY or CRA against any claims brought against the CITY or CRA by any third party challenging: (1) the CRA's or CITY's legal authority to sell all or any portion of the Property or enter into this Agreement, (2) the CRA's or CITY's judgment in selling all or any portion of the Property or entering into this Agreement or the terms and provisions of this Agreement, regardless of whether such claim seeks monetary damages or injunctive, declaratory or other relief. In this event of any conflict between this Section and any other provision in this Article, this Section shall control and govern.

9.3 Survival. The provisions of this Article shall survive the expiration or earlier termination of this Agreement.

9.4 Tort Liability. Any tort liability to which the CITY or CRA is exposed under this Agreement will be limited to the extent permitted by applicable law and subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, as may be amended, which statutory limitations will be applied as if the parties had not entered into this Agreement. This Agreement shall not be construed or interpreted as the CITY or CRA's waiver of any of their rights and immunities under Applicable Law or consent to be sued by a third party.

Article 11. Condition of Property.

11.1 CITY and CRA's Existing Studies. The CRA and CITY have previously provided to Developer copies of all existing engineering studies, surveys, maps, and reports in the CITY's possession pertaining to the Property (the "Property Reports"). The CITY and CRA consent to Developer's use of the Property Reports in connection with the development of the Project. Within thirty (30) calendar days after the Effective Date, the CITY and CRA will deliver to a Developer a written list describing all Property Reports and copies of any Property Reports not previously delivered to Developer.

Article 12. Representations and Warranties.

12.1 Developer. The Developer represents and warrants to the CITY and CRA as follows:

(a) That (i) the Developer is a limited liability company duly organized, validly existing and in good standing under the laws of Florida; (ii) the execution, delivery and performance of this Agreement and the consummation of the transactions provided for in this Agreement have been duly authorized and upon execution and delivery by the Developer will constitute the valid and binding agreement of the Developer enforceable in accordance with its terms; and (iii) the execution and delivery of this Agreement and the performance by the Developer hereunder, will not conflict with, or breach or result in a default under, any agreement to which it is bound.

(b) That there are no pending, threatened, judicial, municipal or administrative proceedings, consent decrees or judgments against Developer which would materially and adversely affect Developer's ability to perform its obligations hereunder.

(c) That the Developer has the credit worthiness and financial capacity to reasonably obtain conventionally acceptable financing to complete this Project.

12.2 CITY. The CITY represents and warrants to the Developer that it is a public body corporate and politic of the State of Florida duly organized under the laws of the State of Florida; (ii) the execution, delivery and performance of transactions provided for this Agreement have been

duly authorized and upon execution and delivery by the CITY will constitute the valid and binding agreement of the CITY enforceable in accordance with its terms; and (iii) the execution and delivery of this Agreement and the performance by the CITY hereunder, will not conflict with, or breach or result in a default under any agreement to which it is bound.

12.3 CRA. The CRA represents and warrants to the Developer that it is a public body corporate and politic of the State of Florida duly organized under the laws of the State of Florida; (ii) the execution, delivery and performance of transactions provided for this Agreement have been duly authorized and upon execution and delivery by the CRA will constitute the valid and binding agreement of the CRA enforceable in accordance with its terms; and (iii) the execution and delivery of this Agreement and the performance by the CRA hereunder, will not conflict with, or breach or result in a default under any agreement to which it is bound.

12.4 Survival. The representative and warranties set forth in this Article shall survive the expiration or earlier termination of this Agreement.

Article 13. No Liens.

13.1 Developer acknowledges and agrees that prior to Closing, the Property is excluded from the definition of "real property" upon which liens may be placed as set forth in Section 713.01(24), Florida Statutes. The Developer shall include a provision substantially similar to this Section in each of its contracts and purchase orders to be performed prior to Closing, requiring contractors, subcontractors, materialmen, vendors and suppliers to waive any claim or entitlement to a mechanic's or materialmen's lien on the Property owned by the CRA upon which the Work or any portion thereof is to be performed and to look solely to the credit of the Developer or its surety or the credit of the contractor or its surety for payment of any sums due in connection with the Work.

13.2 Prior to Closing, the Developer shall not voluntarily permit any laborer's, materialmen's, mechanic's, or other similar lien to be filed or otherwise imposed on any part of the Work, the K Street Property, or the Property on which the Work is performed. If any laborer's, materialmen's, mechanic's, or other similar lien or claim thereof is filed, the Developer shall provide notice thereof to the CITY and the CRA and shall cause such lien to be released and discharged forthwith, or file a bond in lieu thereof, within thirty (30) days.

Article 14. Miscellaneous.

14.1 Notices. All notices, requests, consents, demands, approvals or other communications required or permitted under this Agreement shall be in writing, addressed to the appropriate person at the receiving party, and shall be (as elected by the person giving such notice): (a) hand delivered, (b) delivered by overnight courier by a nationally recognized courier, with all fees prepaid; (c) delivered by Registered or Certified Mail, in each case, return receipt requested and postage prepaid; or (d) delivered by email with "FORMAL NOTICE UNDER DEVELOPMENT AGREEMENT" in the subject line (but only if a party's email address is included in its notice address and a hard copy is delivered via one of the other methods described in (a) through (c), addressed to:

- (a) If to the CITY:
City of Lake Worth Beach, Florida
Jaime Brown , Interim City Manager 1749 3rd Avenue South
Lake Worth Beach, Florida 33460

With copies to:
Torcivia, Donlon, Goddeau, and Rubin, PA
Attn: Christy Goddeau, Esq.
701 Northpoint Parkway, 209
West Palm Beach, FL 33407

- (b) If to the CRA:
Lake Worth Beach Community
Redevelopment Agency
Joan Oliva, Executive Director
1121 Lucerne Avenue
Lake Worth Beach, FL 33460

With copies to:
Weiss, Serota, Helfman, Cole, and Bierman
Attn: David N. Tolces, Esq.
2255 Glades Road, Suite 200 E
Boca Raton, FL 33431

- (c) If to the Developer:
Sunshine Lake Worth Development, LLC
16711 Collins Avenue
Sunny Isles Beach, FL 33160

With copies to:

R. Miller Consulting Group
ATTN: Renee Miller
reneem@rmcglc.com
Phone: 786-253-8436

Goren, Cherof, Doody and Ezrol, PA
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, FL 33308
Attn: Donald J. Doody, Esq.
Email: ddoody@gorencherof.com

Each such notice shall be deemed delivered: (i) if delivered by hand, the date the receipt is signed; (ii) if sent by overnight courier, on the courier's confirmation of delivery date, (iii) if sent by Registered or Certified Mail, upon receipt as indicated by the date on the signed return receipt; (iv) if sent by email, the date the notice was emailed (but only if a party's email address is included in its notice address and a hard copy is delivered via one of the other methods described in (i) - (iii) above); or (v) if the notice is rejected or refused at a physical notice address shown above, or to such other address as either party may designate by notice to the other party from time to time (as long as such rejection or refusal of delivery occurs on a business day).

14.2 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute one and the same instrument.

14.3 Assignment. The Developer may not assign this Agreement or any of its rights and obligations hereunder, in whole or in part, without the prior written consent of the CITY and CRA.

14.4 Project Representatives. The CITY hereby appoints the CITY Manager to serve as its representative. The CITY Manager shall have the right and authority to provide all consents and approvals, and take other actions, required hereunder on behalf of the CITY; provided, however the CITY Manager shall have the right at any time to obtain the approval of the CITY Commission to the extent required by Applicable Laws, where specifically required under this Agreement, or when deemed necessary in the CITY Manager's sole discretion. The CRA hereby appoints the CRA Executive Director to serve as its representative. The CRA Executive Director shall have the right and authority to provide all consents and approvals, and take other actions, required hereunder on behalf of the CRA; provided, however the CRA Executive Director shall obtain the consent of the CRA Board to the extent required by Applicable Laws or where specifically required under this Agreement. The Developer hereby appoints David Kastner, Esq., to serve as its representative. The parties may change their respective designated representative(s) at any time by providing written notice thereof to the other party.

14.5 No Permit. This Agreement is not and shall not be construed as a development agreement under Chapter 163, Florida Statutes, nor a development permit, Government Approval or authorization to commence development.

14.6 Governing Law. The nature, validity and effect of this Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida and venue shall lay exclusively in Palm Beach County, Florida.

14.7 Captions. Captions are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

14.8 Entire Agreement and Amendment. This Agreement constitutes the entire agreement between the parties hereto related to the development and construction of the Project as of the Effective Date and no modification hereof shall be effective unless made by a supplemental agreement in writing executed by all of the parties hereto.

14.9 No Joint Venture. The Developer shall not be deemed to be a partner or a joint venturer with the CITY and CRA, and the Developer shall not have any obligation or liability, in tort or in contract, with respect to the Property, either by virtue of this Agreement or otherwise, except as may be set forth to the contrary herein. The Developer shall not have nor claim any entitlement to the CITY or the CRA's immunities under Applicable Law.

14.10 Severability. If any provision of this Agreement, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

14.11 Successors. Except as herein otherwise specifically provided, this Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns.

14.12 Pronouns. Whenever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in either the masculine, the feminine or the neuter gender shall include the masculine, feminine and neuter.

14.14 Civil Rights Compliance. The Developer warrants and represents that it shall not discriminate against any of its employees or prospective employees on the basis of race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

14.15 Further Assurances. The parties to this Agreement have negotiated in good faith. It is the intent and agreement of the parties that they shall cooperate with each other in good faith to effectuate the purposes and intent of, and to satisfy their obligations under, this Agreement in order to secure to themselves the mutual benefits created under this Agreement; and, in that regard, the parties shall execute such further documents as may be reasonably necessary to effectuate the provisions of this Agreement.

14.16 Equitable Remedies. In the event of a breach or threatened breach of this Agreement by any party, the remedy at law in favor of the other party will be inadequate and such other party, in addition to any and all other rights which may be available, shall accordingly have the right of injunction in the event of any threatened breach of this Agreement by any party.

14.17 Third Party Rights. The provisions of this Agreement are for the exclusive benefit of the parties to this Agreement and no other party (including without limitation, any creditor of the CITY, CRA or the Developer) shall have any right or claim against the CITY, CRA or the Developer by reason of those provisions or be entitled to enforce any of those provisions against the CITY, CRA or the Developer.

14.18 Survival. All covenants, agreements, representations and warranties made herein or otherwise made in writing by any party pursuant hereto shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

14.19 Remedies Cumulative; No Waiver. The rights and remedies given in this Agreement and by law to a non-defaulting party shall be deemed cumulative, and the exercise of one of such remedies shall not operate to bar the exercise of any other rights and remedies reserved to a non-defaulting party under the provisions of this Agreement or given to a non-defaulting party by law.

14.20 No Waiver. One or more waivers of the breach of any provision of this Agreement by any party shall not be construed as a waiver of a subsequent breach of the same or any other provision, nor shall any delay or omission by a non-defaulting party to seek a remedy for any breach of this Agreement or to exercise the rights accruing to a non-defaulting party of its remedies and rights with respect to such breach.

14.21 Signage. Subject to the reasonable approval of the CITY and CRA and in accordance with Applicable Laws, the Developer shall have the right to place one or more appropriate signs upon the Property.

14.22 Construction. This Agreement shall be interpreted without regard to any presumption or rule requiring construction against the party causing this Agreement to be drafted.

14.23 Compliance. In the performance of all parties' obligations under this Agreement, each party shall perform its obligations in accordance with all Applicable Laws.

14.24 WAIVER OF JURY TRIAL. The parties to this Agreement hereby knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in respect to any action, proceeding, lawsuit or counterclaim based upon the contract, arising out of, under, or in connection with the matters to be accomplished in this Agreement, or any course of conduct, course of dealing, statements (whether verbal or written) or the actions or inactions of any party.

14.25 CONFLICT OF INTEREST. The Developer represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with its performance required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, and Palm Beach County's Code of Ethics. Developer further represents that no person having any such conflicting interest shall be employed for said performance. Developer shall promptly notify the CITY and CRA, in writing, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence Developer's judgment or quality of performance being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that Developer may undertake and request an opinion of the CITY and CRA as to whether the association, interest or circumstance would, in the opinion of the CITY and CRA, constitute a conflict of interest if entered into by Developer. The CITY and CRA agree to notify Developer of their opinion(s) within thirty (30) days of receipt of notification by the Developer. If, in the opinion of the CITY and/or CRA, the prospective business association, interest or circumstance would not constitute a conflict of interest by Developer, the CITY and CRA shall so state in the notification and the Developer may, at its option, enter into said association, interest or circumstance.

14.26 PUBLIC ENTITY CRIMES. As provided in section 287.133, Florida Statutes, by entering into this Agreement or performing any of its obligations and tasks in furtherance hereof, Developer certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida

Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by section 287.133 (3)(a), Florida Statutes. Developer is under a continuing obligation for the term of this Agreement to immediately notify the City of any violation of this provision.

14.27. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL. Palm Beach County has established the Office of Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes, but is not limited to, the power to review past, present and proposed City contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the City and its agents in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a breach of this Agreement and may result in termination of this Agreement or other sanctions or penalties as set forth in the Palm Beach County Code.

14.28 PUBLIC RECORDS. The Developer shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, to the extent applicable to any public records related to or arising from this Agreement.

14.29 CONFIDENTIAL INFORMATION. If during the term of this Agreement, any party is provided access to any records or other information that is confidential or proprietary in nature, the other party shall maintain the confidentiality of such information consistent with Florida's Public Records laws including, but not limited to, any building plans or GIS information provided to or by the Developer or the Developer's Representatives. The Developer shall ensure the Developer's Representatives are also contractually required to maintain the confidentiality of such information.

Article 15. Safety and Protection.

15.1 Developer shall be responsible for initiating, maintaining and supervising commercially reasonable safety precautions and programs in connection with the Work. Developer shall take all necessary safety precautions (required by Applicable Laws), and shall take commercially reasonable industry practices and precautions, to prevent damage, injury or loss to:

- (a) all persons on the Property or K Street Property or who may be affected by the construction;
- (b) all Work and materials and equipment to be incorporated in the Project, whether in storage on or off the Property or K Street Property; and
- (c) other property at the Property or K Street Property or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadway, structures, utilities and underground facilities (i.e., the Force Main) not designated for removal, relocation or replacement in the course of construction.

15.2 Developer shall comply with Applicable Laws of Governmental Authorities having jurisdiction for safety or persons or property to protect them from damage, injury or loss; and shall erect and maintain commercially reasonable safeguards for such safety and protection, taking into consideration the effect on the Project. Developer's duties and responsibilities for safety and for protection of the construction shall continue until Final Completion.

15.3 Developer shall act in a commercially reasonable manner to protect and prevent damage to all components of the Work, and any existing facilities or improvements, including but

not limited to the protection thereof from damage by the elements, theft, or vandalism. During the course of the Work, the Developer shall remain responsible for the risk of loss of the Work and shall promptly remedy, repair and replace all damage and loss (other than damage or loss insured under required insurance) to the Work caused in whole or in part by the Developer, the general contractor, a contractor, subcontractor, or anyone directly or indirectly employed or controlled by any of them, or by anyone for whose acts they may be liable and for which the Developer is responsible.

15.4 Developer shall cause its general contractor to be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the site in accordance with Applicable Laws.

Article 16. CITY's Representative.

16.1 The parties acknowledge and agree that the CITY and CRA may engage in one or more consultants to assist the CITY and CRA in the administration of this Agreement and the Project. A Developer agrees to reasonably cooperate with any such consultants engaged by the CITY and CRA.

[This Space is Intentionally Blank; Signature Pages to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Development Agreement to be duly executed by their duly authorized officer where applicable and sealed as of the date first above written.

DEVELOPER:

SUNSHINE LAKE WORTH DEVELOPMENT, LLC,
a Florida limited liability company

By: _____
Arthur Wiener, Manager

Date: _____, 2024

CITY:

CITY OF LAKE WORTH BEACH, FLORIDA,
a Florida municipal corporation

Attest:

By: _____
MAYOR

By: _____
CITY Clerk

Date: _____

Approved as to form and legal sufficiency:

Approved for financial sufficiency

By: _____
CITY Attorney

By: _____
Financial Services Director

CRA:

LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY

Attest:

By: _____
CHAIR

By: _____
Board Clerk

Date: _____

Approved as to form and legal sufficiency:

By: _____
CRA Attorney

EXHIBIT A

Legal Descriptions for the Project Site:

Exhibit "A"

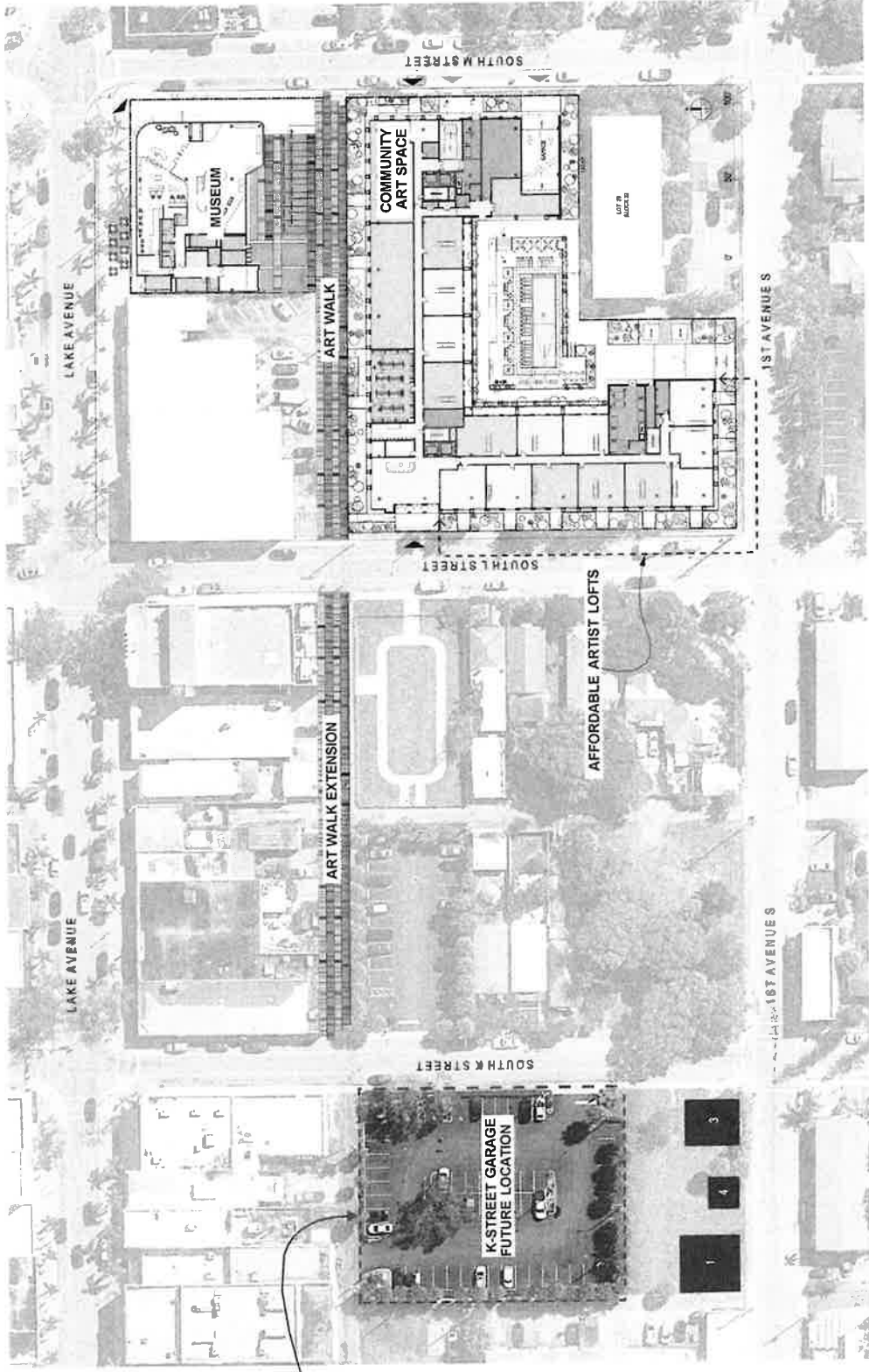
PCN #	Address	Size/acres	Zoning	Land Use
38-43-44-21-15-023-0090	16 S L ST	0.16	MU-E	DMU
38-43-44-21-15-023-0220	13 S M ST	0.08	MU-E	DMU
38-43-44-21-15-023-0060	20 S L ST	0.23	MU-E	DMU
38-43-44-21-15-023-0230	17 S M ST	0.16	MU-E	DMU
38-43-44-21-15-023-0250	23 S M ST	0.23	MU-E	DMU
38-43-44-21-15-023-0050	24 S L ST	0.08	MU-E	DMU
38-43-44-21-15-023-0030	26 S L ST	0.16	MU-E	DMU
38-43-44-21-15-023-0020	30 S L ST	0.08	MU-E	DMU
38-43-44-21-15-023-0010	32 S L ST	0.08	MU-E	DMU
38-43-44-21-15-023-0191	501 LAKE AVE.	0.1866	DT	DMU
38-43-44-21-15-023-0170	509 LAKE AVE.	0.1722	DT	DMU

EXHIBIT B - DEVELOPMENT AGREEMENT

Critical Path

1	Joint Workshop CRA and City Commission
2	CRA Approval of Development Agreement and PSA
3	City Commission Approval of the Development Agreement and the P3 Process First Hearing
4	City Commission Final Hearing of the P3 Process
5	90 days from Contract Execution: Inspection Period expires
6	90 Days from Contract Execution Deadline for the City, CRA, and Developer to Execute Construction Agreement for K Street lots, and Contributing Structure Relocation Agreement , Long term Maint. agreement for Arts alley, and Long Term Parking Agreement
7	W/in 30 days from the expiration of the Inspection Period: Developer will file its Development Review Application with the City
8	W/in 6 months of Development Review Application Date: DRC APPROVAL/Historic Preservation Board/City Commission approval of all necessary entitlements - Developer shall use commercially reasonable efforts to obtain the Government Approvals
9	Deadline for the City to Vacate 501 Lake Avenue
10	Deadline for the Demolition of 501 Lake Avenue by CRA
11	City Deadline to complete electric utility upgrades
12	W/in 8 Months from Government Approval: Developer to obtain all permits for construction
13	W/in 30 Days of Obtaining all Permits : Developers Deadline to provide Proof of Financing provided to CRA
14	W/in 60 Days of Obtaining all Permits is Developers Deadline to Close on the parcels
15	W/in 90 Days from Closing: Commence Construction
16	W/in 90 Days from Closing- Deadline for Contributing Structure Relocation
17	12 months from Closing : Museum Substantial Completion -Temporary Certificate of Occupancy
18	24 months from Closing: Substantial Completion of Residential -Temporary Certificate of Occupancy
19	26 months from Closing: Final Completion of Residential- Certificate of Occupancy

SITE PLAN AERIAL OVERLAY



MUSEUM PROGRAM:
 MUSEUM: +/- 33Ksf
MUSEUM REQUIRED PARKING: 66 CARS
 66 PROVIDED
 PROVIDED ON SITE (ALLEY + STREET): 15
PARKING AT K-STREET GARAGE: +/- 51

RESIDENTIAL PROGRAM:
 RESIDENTIAL (+/- 129Ksf) + PARKING (45Ksf) +
 AMENITY (7Ksf) = 181Ksf
 110 units total

RESI REQUIRED PARKING: 180 CARS
 184 PROVIDED (W/ CREDIT)
 PROVIDED ON SITE CELLAR: 117 CARS
 STREET PARKING: 27
 BICYCLE PARKING PROVIDED



CONTRIBUTING BUILDINGS*
*NOTE: #1A STRUCTURE TO BE LOCKED AT 100 SOUTH 1ST STREET