

#16

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF POMPANO BEACH, POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY AND SONATA APARTMENTS, LTD. TO BUILD A 121-UNIT MIXED USE, MIXED INCOME HOUSING DEVELOPMENT WITH APPROXIMATELY 3500 SQ. FT. OF RETAIL SPACE ("SONATA PROJECT") ON UNIMPROVED VACANT LAND OWNED BY THE CITY LOCATED WEST OF DIXIE HIGHWAY BETWEEN NW 6TH STREET AND NW 8TH COURT, TO PROVIDE FINANCIAL ASSISTANCE IN THE FORM OF A \$783,250 LOAN WITH RECAPTURE PROVISIONS AND TO ACCEPT THE DECLARATION OF COVENANT AND RESTRICTIONS; APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A LEASE BETWEEN THE CITY OF POMPANO BEACH AND SONATA APARTMENTS, LTD. RELATING TO THE CONSTRUCTION AND OPERATION OF THE SONATA PROJECT; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That a Development Agreement between the City of Pompano Beach, Pompano Beach Community Redevelopment Agency and Sonata Apartments, Ltd. to build a 121-unit mixed use, mixed income housing development with approximately 3500 square feet of retail space ("Sonata Project") on unimproved vacant land owned by the City located west of Dixie Highway between NW 6th Street and NW 8th Court is approved, a copy of the Agreement is attached and incorporated by reference as if set forth in full.

SECTION 2. That the proper City officials are authorized to execute the Development Agreement between the City of Pompano Beach, Pompano Beach Community Redevelopment Agency and Sonata Apartments, Ltd., together with such documents necessary to effectuate the Development Agreement, in substantial conformity to the copy attached, and subject to the final approval of the City Attorney; to provide financial assistance in the form of a \$783,250 loan with recapture provisions; and to accept the Declaration of Covenants and Restrictions.

SECTION 3. That a Lease between the City of Pompano Beach and Sonata Apartments, Ltd. relating to the construction and operation of the Sonata Project is approved, a copy of the Lease is attached and incorporated by reference as if set forth in full.

SECTION 4. That the proper City officials are authorized to execute the Lease between the City of Pompano Beach and Sonata Apartments, Ltd., together with such documents necessary to effectuate the Lease, in substantial conformity to the copy attached and subject to the final approval of the City Attorney.

SECTION 5. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 25th day of May, 2021.



REX HARDIN, MAYOR

ATTEST:



ASCELETA HAMMOND, CITY CLERK

JES:jrm
5/18/21
l:reso/2021-192

#16

GROUND LEASE

THIS GROUND LEASE ("Lease") is made on this 25 day of May, 2021 ("Commencement Date"), by and between CITY OF POMPANNO BEACH, a Florida municipal corporation, whose address is 100 W. Atlantic Boulevard, Pompano Beach, Florida 33060 (the "City" or "Landlord"), and SONATA APARTMENTS, LTD., a Florida limited partnership, whose address is 2100 Hollywood Blvd., Hollywood, Florida 33020 (the "Tenant"), collectively referred to as "the Parties."

WITNESSETH:

WHEREAS, the City is the owner of certain real property located in Broward County, more particularly described in Exhibit A, attached and made a part of this Lease (the "Land", the "Demised Property" or the "Premises"); and

WHEREAS, the Land is currently unimproved and contains, in large part, drainage facilities and the western portions of Dixie Highway, a major corridor within the City; and

WHEREAS, the City desires to promote neighborhood-oriented development along Dixie Highway, including a mix of housing, shopping, dining, and employment opportunities, particularly development of mixed income multifamily residential and commercial mixed use buildings adjacent to existing residential developments, increased connections between single-family residential neighborhoods and higher intensity uses with pedestrian emphasis that supports such mixed use development, and safe and convenient access to transit; and

WHEREAS, the Tenant desires to lease the Land from City on the terms and conditions set forth below, in order to construct a mixed use and mixed income rental community having approximately (a) 121 mixed income multifamily residential units and (b) 3,500 square feet of commercial space and related improvements (the "Improvements" or "Project"); and

WHEREAS, the City desires to lease the Premises to the Tenant for the development and operation of the Project, which the City finds will spur affordable housing and economic development, attract new businesses and jobs to the City, and generate annual rent and ad valorem taxes for the City, an initiative consistent with the NWCRA Plan and the CRA's overall redevelopment objectives for the NWCRA District; and

WHEREAS, upon the expiration of this Lease, the Tenant will relinquish in favor of the City all of Tenant's right, title and interest in and to the Improvements and to assign to the City its interest as lessor under any and all commercial or retail leases then existing on the Premises, at no cost to the City;

WHEREAS, the Parties desire to enter into this Lease for the purpose of setting forth their respective rights, covenants, obligations, and liabilities with respect to leasing the Premises and Tenant's development obligations with respect to the Project;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises of the

parties contained in this Lease, and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties, intending legally to be bound, covenant and agree as follows:

ARTICLE I DEMISED PROPERTY AND GENERAL TERMS OF LEASE

1.1 Lease of the Demised Property.

(A) Upon and subject to the conditions and limitations set forth in this Lease, for and in consideration of the rents, the covenants and agreements, and the rights reserved to the City, its successors and assigns, and in consideration of the Tenant's covenant to relinquish to the City the Improvements upon the expiration of this Lease, the City agrees, pursuant to the terms of this Lease, and does lease and demise unto the Tenant, and the Tenant does take and hire the Premises, to have and to hold the same for the Term. The City shall deliver exclusive possession of the Premises to the Tenant on the date on which Tenant closes on its construction financing and equity syndication (the "**Possession Date**"), at which time Tenant shall take possession.

(B) EXCEPT AS SET FORTH IN THIS LEASE, THE PREMISES SHALL BE LEASED TO TENANT IN ITS "AS-IS" AND "WHERE-IS" CONDITION, WITH ANY AND ALL FAULTS, AND WITH CITY NOT OFFERING ANY IMPLIED OR EXPRESSED WARRANTY AS TO THE CONDITION OF THE DEMISED PROPERTY OR WHETHER IT IS FIT FOR ANY PARTICULAR PURPOSE.

(C) Tenant shall have the right to develop the Premises in a manner consistent with the Development Agreement and the Conceptual Site Plan, attached and made a part of this Lease as Exhibit B and collectively referred to as "Development Agreement"), and to contract for, or delegate, portions of the development of the Premises to third parties, and to construct, or contract with others to cause construction of, the Improvements contemplated in connection with the development as described in Exhibit B, subject to the terms and conditions of this Lease. Tenant shall have the right to relocate easements and utility lines within the Premises, at Tenant's sole expense, if necessary, for the development of the Premises. Such relocation must be done with the consent and cooperation of the City, not to be unreasonably withheld, conditioned, or delayed, and the applicable utility company or other party in whose favor such easement runs.

1.2 Term of Lease. The term of this Lease shall be effective on the Commencement Date and to have and to hold until the date which is fifty (50) years thereafter ("**Expiration Date**"), unless this Lease is terminated earlier as provided for in this Lease ("**Term**"). If permitted by City Charter, the lease may be extended by exercise of two (2) successive ten (10)-year options to renew this Lease, on the same terms and conditions. Tenant may exercise its option to renew by providing City with written notice of its intent to renew, delivered not later than three (3) months prior to the expiration of the prior term or renewal period. The Project will be subject to the terms and conditions of housing tax credits requirements as set forth in Section 42 of the United States Internal Revenue Code (the "**Code**") and as required by the Florida Housing Finance Corporation. In the event that the Tenant fails to close on the construction financing, including syndication of the housing tax credits, by December 31, 2021 ("**Financial Contingency Period**"), the Parties agree to enter into a termination agreement terminating this Lease, and Tenant appoints the City Manager as its attorney-in-fact solely for the purpose of entering into and recording, where applicable, such termination agreement. Landlord must (i) give notice to the Approved Leasehold

Mortgagee of Tenant's failure to exercise any option to renew or extend the term of the Lease and (ii) provide the Approved Leasehold Mortgagee with the right to exercise any such Lease renewals or extensions, notwithstanding expiration of such rights following the Tenant's failure to do so.

1.3 Expiration or Termination; Surrender. At the expiration or earlier termination of the Term or any renewal period: (a) the Demised Property shall revert to City or its designee as determined by the City; (b) Tenant shall deliver the Demised Property to the City or its designee as maintained in the condition required under this Lease, reasonable wear and tear excepted; (c) all Improvements remaining on the Demised Property (except Tenant's or any subtenant's Personal Property) shall become the property of the City or its designee, at no cost or expense to the City or its designee (such conveyance of the Improvements being referred to herein as the "**Termination Rent**"); and (d) Tenant shall execute such deeds, assignments, bills of sale or other documents or instruments as reasonably required by the City to transfer all of the Project and related items back to City. In the instance of the expiration or earlier termination of the Term or any renewal period, where the leasehold estate is encumbered by a mortgage for the benefit of an Approved Leasehold Mortgagee, the Landlord agrees to (i) give notice to the Approved Leasehold Mortgagee of the expiration or earlier termination of the Term or any renewal period and (ii) provide the Approved Leasehold Mortgagee with the right to exercise any such Lease renewals or extensions.

1.4 City's Rights Upon Holding Over. At the expiration of the Term, or any earlier termination of this Lease, the Tenant shall yield up immediate possession of the Demised Property and the Improvements to the City. In the event that the Tenant fails to do so, then, in addition to such other rights and remedies as the City may have, the Tenant shall pay to the City for the whole time such possession is withheld beyond the date of expiration or termination of this Lease, a sum per day equal to Two Hundred Percent (200%) times 1/365th of the aggregate of the Rent paid or payable to the City for the immediately preceding Calendar Year. Such payment shall not, however, be deemed to grant further possessory rights to the Tenant.

1.5 Title Matters. Tenant shall have the right to order a title insurance commitment on the Premises, within the ninety (90) days following the Commencement Date. In the event the title insurance commitment shall reflect encumbrances or other conditions impairing marketable title ("**Defects**"), then, City, upon notification of the Defects, shall immediately and diligently proceed to cure same and shall have a reasonable time within which to cure the Defects. If, after the exercise of all reasonable diligence, the City is unable to clear the Defects, then Tenant may accept the Defects or Tenant may terminate the Lease and the parties shall be released from further liability.

ARTICLE II RENT

2.1 Rent. Tenant covenants and agrees to pay to the City Fifty Thousand Dollars (\$50,000.00), payable in annual installments of One Thousand Dollars (\$1,000.00), due on the Possession Date and each subsequent year on the anniversary of the Possession Date ("**Rent**"). Tenant may, upon prior approval from City, pay the full amount of Rent for total duration of the fifty (50) year lease term in advance to the City.

2.2 The Rent shall be payable to the City, Department of Finance, Attn: Treasury, 100 W. Atlantic Blvd., Pompano Beach, Florida 33060, or at such other place and to such other person as the City may designate in writing.

2.3 Termination Rent. As provided in Section 1.3 above, upon the expiration of this Lease, Tenant shall convey to the City the Improvements on the Demised Property. Tenant further agrees to convey to the City the buildings and improvements, if any then exist, on the Tenant's real property which is contiguous to the Demised Property and described on Exhibit D attached and made a part of this Lease, in as-is and where-is condition, together with the real property depicted on Exhibit D, subject to such matters as may then encumber it, but not subject to any liens or mortgages, all at no cost to the City.

2.4 Default Interest. If the Rent or other sums due from Tenant to the City are not paid when due and payable, then such unpaid Rent or other sums shall bear interest at highest rate permitted by law (the "**Default Rate**") from and after the date when same became due and payable until the date paid. Such interest payment shall be deemed to be additional Rent and shall not be deemed consent by the City to late payments, nor a waiver of the City's right to insist upon timely payments at any time, nor a waiver of any right or remedies to which the City is entitled as a result of the late payment.

2.5 Late Charge. If any Rent or other sums due from Tenant to the City are not paid when due and payable, and Tenant thereafter fails to cure such default within the applicable cure period (such that an Event of Default occurs), then, on each such occasion, Tenant shall pay to the City a late fee equal to Five Percent (5%) of the past due sum, as compensation to City for the inconvenience of the collection and processing of each such late payment. Such late fee shall be in addition to any interest payable under Section 2.4. Such late fee shall be deemed to be additional Rent and shall not be deemed a consent by the City to late payments, nor a waiver of the City's right to insist upon timely payments at any time, nor a waiver of any rights or remedies to which the City is entitled as a result of the late payment.

2.6 Rent to Be Without Deduction; Net Lease.

(A) City shall receive the Rent, and all other payments to be made by Tenant, free from any charges, assessments, impositions, expenses, defenses, setoffs or deductions whatsoever of any nature, except as may be otherwise specifically provided for in this Lease. City shall not be called upon or be required or responsible to make any expenditure for the maintenance, repair or preservation of all or any portion of the Demised Property.

(B) The Rent shall be absolutely net to City, free of any expense, charge, or other deduction whatsoever as to the Demised Property or the ownership, leasing, operation, management, maintenance, repair, replacement, use or occupation of the Demised Property, or any portion of the Demised Property (including any and all fees and charges payable for the Demised Property and to any association established in connection with the Demised Property). City shall not be required to furnish any service or facility whatsoever to the Demised Property as the Landlord or make any payment of any kind whatsoever or be obligated or liable under this Lease, except as otherwise specifically set forth in this Lease. Tenant assumes the full and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Demised Property and any portion, except as otherwise specifically provided for in this Lease. Tenant shall pay any applicable sales tax, documentary stamp taxes and intangible taxes or any applicable tax now or subsequently imposed which might be payable, owed, claimed, assessed or due in connection with this Lease (including any Rent) and will indemnify, defend, and hold City harmless from and against any claims relating to the payment, imposition or collection of such taxes, including reasonable attorneys' fees incurred by

City. City shall not be responsible for any loss or damage to any property of Tenant or any subtenant, franchisee, concessionaire or other user or occupant of all or any portion of the Demised Property.

(C) Except as otherwise specifically provided in this Lease, (i) this Lease shall not terminate nor shall Tenant have any right to terminate this Lease; (ii) Tenant shall not for any reason whatsoever be entitled to any abatement, deduction, deferment, suspension, or reduction of, or setoff, defense, or counterclaim against, any rent, charge, or other sums payable by Tenant under this Lease; (iii) except as otherwise specifically provided in this Lease, the respective obligations of City and Tenant shall not be affected by reason of damage to or destruction of all or any portion of the Demised Property from whatever cause, any taking by condemnation, eminent domain or agreement between City and those authorized to exercise such rights, the lawful or unlawful prohibition of Tenant's use of all or any portion of the Demised Property, any default or breach of any warranty by City under this Lease or any other agreement between City and Tenant, or for any other cause whether similar or dissimilar to the foregoing. It is the intention of the Parties that the obligations of City and Tenant under this Lease shall be separate and independent covenants and agreements, and that the Rent and all other charges shall continue to be payable in all events unless the obligations to pay shall be terminated under the express provisions of this Lease. Tenant covenants and agrees that it shall remain obligated under this Lease in accordance with its terms, and that it will not take any action (except as expressly provided in this Lease) to terminate, cancel, rescind, or void this Lease for any reason whatsoever, including, any bankruptcy, insolvency, reorganization, composition, liquidation, dissolution, or other proceedings affecting City or any assignee of, or successor to, City.

(D) Tenant shall pay Rent to City in lawful United States currency. Unless otherwise expressly provided, all monetary obligations of Tenant to City under this Lease, of any type or nature, other than Rent, shall be denominated as additional rent. Except as otherwise provided, all additional rent payments are due ten days after delivery of an invoice. City shall have the same rights and remedies for defaults in the payment of additional rent as provided in this Lease for defaults in the payment of Rent. Tenant shall pay to City any sales, use, or other tax (excluding state and federal income tax) now or subsequently imposed on any Rent due under this Lease. All Rent shall be paid to City without demand, setoff, or deduction whatsoever, except as specifically provided in this Lease, at City's Notice address, or at such other place as City designates in writing to Tenant. Tenant's obligations to pay Rent are covenants independent of the City's obligations under this Lease.

2.7 Tenant shall pay any real estate taxes and personal property taxes and assessments assessed, levied, confirmed or imposed on the Premises during the term of this Lease whether or not now customary or within the contemplation of the Parties. The Tenant will pay all real estate transfer taxes that are required in connection with this Lease.

ARTICLE III

DEVELOPMENT OF LAND AND CONSTRUCTION OF IMPROVEMENTS

3.1 Development of the Demised Property. Tenant shall cause the Project to be constructed on the Demised Property substantially in accordance with Exhibit B, Development Agreement and Conceptual Site Plan, and the terms and conditions of this Lease. Construction

shall commence no later than ninety (90) days after the Tenant has closed on construction loan(s) and obtained the equity investment necessary to finance the cost of construction of the Project ("Construction Commencement Date") or such date upon which the Tenant receives a Notice to Proceed such construction. The Tenant shall substantially complete the construction of the Project within eighteen (18) months of the Construction Commencement Date or date of the Notice to Proceed (the "**Completion Date**"). The foregoing limitation of time for the completion of the Project may be extended by written agreement between the Parties.

3.2 During the course of the construction of the Project, the Tenant shall provide to the City quarterly written status reports on the Project, and such other reports as may reasonably be requested by the City.

3.3 The Project shall be constructed in accordance with requirements of all laws, ordinances, codes, orders, rules and regulations (collectively "**Applicable Laws**") of all governmental entities having jurisdiction over the Project (collectively "**Governmental Authorities**"), including, but not limited to, the City, Broward County, the state of Florida, and the United States Department of Housing and Urban Development.

3.4 The Tenant shall apply for and prosecute, with reasonable diligence, all necessary approvals, permits and licenses required by applicable Governmental Authorities for the construction, development, zoning, use and occupation of the Project. The City agrees to cooperate with and publicly support Tenant's effort to obtain such approvals, permits and licenses, provided that such approvals, permits and licenses shall be obtained at Tenant's sole cost and expense.

3.5 Construction of the Project shall be performed in a good and workmanlike manner and in conformity with all Applicable Laws.

3.6 It is understood that a material inducement for the City entering into this Lease is the expectation, agreement and requirement that the Demised Property, together with adjacent lands owned by Tenant, will include the Improvements, during the entire Term, consisting of approximately (a) 121 mixed income multifamily residential units and (b) 3,500 sq. ft. of commercial space.

3.7 It is the purpose and intent of the Parties that Tenant shall be accorded all benefits and burdens of ownership of the Premises for as long as this Lease shall remain in effect. At all times during the term of this Lease, the Improvements shall be owned by the Tenant and, during the term, the Tenant alone shall be entitled to all of the tax attributes of ownership including, without limitation, the right to claim depreciation or cost recovery deductions, the right to claim housing tax credits described in Section 42 of the Internal Revenue Code and the right to amortize capital costs and to claim any other federal tax benefits attributable to the Improvements.

3.8 Pursuant to Section 250 of the City's Charter, Tenant shall expend approximately Fourteen Million Nine Hundred Thousand Dollars (\$14,900,000.00) on all improvements located on the Premises and shall expend at least fifty percent (50%) of such dollar amount during the first two (2) years of the Lease and shall expend the remainder of such amount during the second two (2) years of the Lease. Tenant's failure to comply with such expenditure timetable shall be deemed an Event of Default and shall entitle City to terminate this Lease.

3.9 Unavoidable Delays. Other than Tenant's obligation to pay Rent due to City or to maintain insurance, the Party obligated to perform under this Lease shall not be required to perform

and shall be entitled to a reasonable extension of time because of its inability to meet an obligation or a time frame or deadline specified in this Lease, where such failure or inability to perform is caused by an Unavoidable Delay. "**Unavoidable Delays**" shall mean delays beyond the control of a Party required to perform, such as delays due to strikes; a natural catastrophe, such as an earthquake, hurricane, flood or tornado, that could not have been prevented; fires; enemy action; civil disturbance; sabotage; restraint by court or public authority; litigation or formal administrative challenges by third parties to the execution or performance of this Lease or the procedures leading to its execution or to the process of entitlement for the Demised Property; pandemic or epidemic or related governmental shutdown or slowdown affecting the Tenant's ability to obtain entitlements, permits, approvals or any required consents, or to assemble a capable workforce for the commencement or completion of Construction; or moratoriums. Notwithstanding anything in this Lease to the contrary, if a Party shall be delayed in the performance of any act required under this Lease by reason of any Unavoidable Delay, and the party then provides notice of the Unavoidable Delay to the other Party within ten days after its occurrence, performance of the act shall be excused for the period of the delay and the period for the performance of the act shall be extended for a reasonable period, in no event to exceed the period equivalent to the period of the delay. Delays or failures to perform resulting from lack of funds or the increased cost of obtaining labor and materials shall not be deemed delays beyond the direct control of a Party.

3.10 Delays and Remedies. If Tenant fails to cause the Commencement of Construction on or before the date which is one hundred twenty (120) days following the Possession Date, subject to Unavoidable Delays, either party shall have the right to terminate this Lease (such event shall not be deemed an Event of Default and City and Tenant shall have no further obligation to each other under this Lease, except as to such matters as expressly survive termination) by delivering written notice to the other party; provided, however, if City's acts or failure to act, or if Unavoidable Delays, were the cause of Tenant's delay to timely Commence Construction, then City shall not have the right to terminate the Lease as provided until the expiration of the extended deadline.

3.11 Tenant's Right to Terminate. If within the Financial Contingency Period, Tenant determines that Tenant is not able to develop the Project substantially as contemplated or as illustrated in the Conceptual Site Plan, then, in addition to any other Tenant rights, Tenant shall have the right to terminate this Lease by giving written notice of termination to City, which notice shall be delivered no later than five (5) Business Days following the expiration of the Financial Contingency Period. In such event, this Lease shall terminate fifteen (15) days following City's receipt of such notice of termination and any and all construction materials located on the Demised Property and not incorporated in the Premises must be removed by Tenant. In the event that Tenant terminates this Lease in accordance with the provisions of this Section: (i) Tenant shall promptly refill and regrade any excavations and repair any damages resulting from or caused by its inspections or by the acts or omissions of Tenant or any of its agents, employees, or contractors, and shall otherwise return the Demised Property (as applicable) to the condition it was in immediately prior to Tenant's inspections; (ii) if requested by City, Tenant shall demolish any partially constructed building or other improvements; (iii) Tenant shall otherwise promptly and diligently restore the Demised Property to a condition substantially equivalent to its condition as of the Lease Commencement Date, and vacate the Demised Property; and (iv) Tenant shall reimburse City for all costs and expenses incurred by City in connection with the execution, delivery and administration of this Lease. Provided that Tenant satisfies its obligations under this

Section, then City will release any and all bonds, including Payment and Performance Bonds, provided in connection with the Improvements, where applicable. Notwithstanding the foregoing, if City does not request that Tenant demolish any partially constructed building or other improvements, Tenant shall cooperate with any requests by City to cause any Construction Contracts to be assigned to City or any entity designated by City. Tenant shall indemnify, defend (with counsel reasonably acceptable to City), and hold City, its employees, agents, and contractors harmless from and against any and all loss, damage, claim, demand, liability, or expense (including attorneys' fees) based on any acts or omissions (including negligence) of Tenant, its engineers, surveyors, consultants, employees, agents, and contractors in connection with Tenant's inspection of the Demised Property, including claims relating to nonpayment for services rendered to Tenant, for construction or mechanics' liens, and for damages to persons or Demised Property, caused in whole or in part by acts or omissions of Tenant, its engineers, surveyors, consultants, employees, agents, and contractors.

3.12 Construction; Delegation; City Joinders. Subject to the terms and conditions of this Lease, Tenant shall have the right and obligation to develop and to construct, or cause construction of, all of the Improvements. Subject to City's prior written approval, the obligations of the Tenant set forth in this Article, and the rights granted to Tenant, may be undertaken or exercised by any subtenant or assignee of Tenant (which subtenant or assignee is approved by City, to the extent required by the terms of this Lease) authorized in writing by Tenant to undertake such obligation or exercise such rights, but no such undertaking or exercise by any such subtenant or assignee relieve Tenant of its responsibility and liability to perform such obligations. Upon the request of Tenant but subject to any required approvals of City pursuant to the terms of this Lease, City, in its capacity as the owner of the Land, through the City Manager or their designee, as often as required, will execute, join in, or consent to, any Permits, applications, approvals, agreements, or other administrative documents necessary for the approval of the Project, the construction of the Improvements and the Public Infrastructure or the undertaking of the Environmental Activities contemplated in this Lease. The Permits, applications, approvals, agreements, or other administrative documents may include, but are not limited to, any Development Requirements and other documents, easement instruments or agreements, including, but not limited to, water and sewer agreements, non-standard improvement agreements, plat applications, agreements and warrants associated with the platting of the Land, estoppels and non-disturbance and attornment agreements, as may be necessary for Tenant to develop and use the Demised Property in accordance with the Plans and Specifications and the Conceptual Site Plan. In furtherance of such activities, and on the condition that City shall incur no liability, cost, or expense whatsoever in connection with such activities, City shall take such actions as necessary to:

(A) allow for the execution, submittal and, if required, the recording of any Permits, agreements, temporary or permanent easements, or any covenants or declaration of restrictions required or requested by the reviewing Governmental Authority, and

(B) accept any conditions related to such Permits, plats, applications, approvals, agreements, or other administrative documents reasonably imposed by the reviewing Governmental Authority; provided that all costs (including the cost of review by City) will be assumed by Tenant. City agrees to use reasonable efforts to review and approve any such requests within twenty-one (21) days of such request from Tenant. If City has not provided Tenant with written notice of its approval within the time period set forth above, City shall be deemed to have refused to consent to the applicable request of Tenant.

3.13 City's Rights as Sovereign. The City retains all its sovereign prerogatives and rights as a City under Applicable Laws, including, but not limited to, matters pertaining to the planning, design, construction, development and operation of the Project. It is expressly understood that, notwithstanding any other provisions of this Lease and City's status as City in this Lease:

(A) The City retains all of its sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a City under Applicable Laws (all of which shall be absolute and unfettered in all respects), and shall in no way be estopped from withholding or refusing to issue any approvals or applications for building, zoning, planning or development under present or future laws and regulations whatever nature applicable to the planning, design, construction and development of the Project or its operation; provided, without diminishing the foregoing, that the City (in its capacity as City) agrees to reasonably cooperate with Tenant in Tenant's efforts to expedite Permits and Entitlements;

(B) The City shall not, by virtue of this Lease or any other document associated with the Project, be obligated to grant Tenant any approvals of applications for building, zoning, planning, development or otherwise under Applicable Laws of whatever nature applicable to the planning, design, construction, development and operation of the Project; and

(C) Notwithstanding and prevailing over any contrary provision in this Lease, any City covenant or obligation that may be contained in this Lease or any other document associated with the Project shall not bind the City Commission, or any other City, county, federal or state department or authority, committee or agency (i.e., any Governmental Agency) to grant or leave in effect any zoning changes, variances, Permits, waivers, contract amendments, or any other approvals that may be granted, withheld, or revoked by the City or other applicable Governmental Authority in the exercise of its police power(s). In no event shall City have any obligations or liabilities to Tenant under this Lease or otherwise on account of City's exercise of its sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a City under Applicable Laws.

3.14 Conformity of Plans. Plans and Specifications and Construction Plans, and all work by Tenant with respect to the Demised Property and Tenant's design, development and operation of the Improvements shall be in conformity with this Lease and Applicable Laws.

3.15 Title to Improvements. Title to the Improvements and material and equipment provided by Tenant that are incorporated into or become a part of the Project (the "**Immovable Fixtures**") shall, upon being added or incorporated in the Premises, automatically vest in Tenant as the case may be, until the expiration or sooner termination of the Term, where title to the Improvements and Immovable Fixtures (specifically excluding the Personal Property of Tenant and any subtenants) shall automatically pass to, vest in, and become the absolute property of the City in fee simple, and free and clear of all encumbrances other than:

(A) The lien of any Impositions assessed but not yet due and payable (for which Tenant shall remain obligated to pay to the extent that they are allocable to the period prior to the termination of this Lease);

(B) Any rights surviving an early termination of this Lease (i.e., prior to the stated expiration date of the Term) which are granted under this Lease or under an applicable Non-Disturbance Agreement (it being understood that any and all rights to possession or occupancy of

the Demised Property or the Improvements or any portion shall in no event extend beyond the stated expiration date of the Term); and

(C) Any permitted title exceptions and any other title matters consented to in writing by the City during the Term, and standard utility easements for services provided to the Project for consumption by residents, such as power, cable television, internet, water and other utility service.

If requested, Tenant will convey the Improvements and Immovable Fixtures to the City by special warranty deed upon the expiration or sooner termination of the Lease.

3.16 Off-Site Public Improvements. Any off-site improvements required to be funded, designed, developed, constructed or contributed by any Applicable Laws (or onsite improvements needed to be expanded) as a result of Tenant's development of the Demised Property (all of which may be considered as part of the Public Infrastructure) shall be funded, designed, developed, constructed or contributed at no cost to the City. City shall reasonably cooperate with Tenant, at no cost or expense to City, in connection with Tenant's efforts to obtain impact fee credits for such Public Infrastructure as completed by Tenant that otherwise qualify for impact fee credits or reimbursements under the applicable Codes of Pompano Beach or Broward County; provided, however, nothing contained in this Lease shall limit Tenant's obligation to pay Impact Fees.

ARTICLE IV RESPONSIBILITY FOR ENVIRONMENTAL CONDITIONS

4.1 The City is not aware of nor has any knowledge that Hazardous Substances are or may be present on the Premises, and the Tenant acknowledges that the City has not performed any environmental testing of the Premises.

4.2 For the purposes of this Lease "**Hazardous Substances**" includes any substances, chemicals, materials or elements that are prohibited, limited or regulated by any and all federal, state or commonwealth, and local laws, regulations, statutes, codes, rules, resolutions, directives, orders, executive orders, consent orders, guidance from regulatory agencies, policy statements, judicial decrees, standards, permits, licenses and ordinances, or any judicial or administrative interpretation of, any of the foregoing, pertaining to the protection of land, water, air, health, safety or the environment whether now or in the future enacted, promulgated or issued (the "**Environmental Laws**"), or any other substances, chemicals, materials or elements that are defined as "**hazardous**" or "**toxic**," or otherwise regulated under the Environmental Laws, or that are known or considered to be harmful to the health or safety of occupants or users of the Premises. The term "**Hazardous Substances**" shall also include, without limitation, any substance, chemical, material, or element (i) defined as a 'hazardous substance' under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USC §§ 9601, et seq.), as amended by the Superfund Amendment and Reauthorization Act of 1986, and as further amended from time to time and regulations promulgated thereunder; (ii) defined as a "**regulated substance**" within the meaning of Subtitle I of the Resource Conservation and Recovery Act (42 USC §6991-6991 i), as amended from time to time and regulations promulgated thereunder; (iii) designated as a "**hazardous substance**" pursuant to Section 311 of the Clean Water Act (33 USC §1321), or listed pursuant to Section 307 of the Clean Water Act (33 USC §1317); (iv) defined as "**hazardous**," "**toxic**," or otherwise regulated under any Environmental Laws adopted by the state in which the Premises are located, or its agencies or political subdivisions; (v) which is petroleum, petroleum products or derivatives or constituents thereof, (vi) which is asbestos or asbestos-

containing materials; (vii) the presence of which requires notification, investigation or remediation under any Environmental Laws or common laws; (viii) the presence of which on the Premises causes or threatens to cause a nuisance upon the Premises or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Premises; (ix) the presence of which on adjacent properties would constitute a trespass by the owner; (x) which is urea formaldehyde foam insulation or urea formaldehyde foam insulation-containing materials; (xi) which is lead-based paint or lead-based paint-containing materials; (xii) which are polychlorinated biphenyls or polychlorinated biphenyl-containing materials; (xiii) which is radon or radon-containing or producing materials; or (xiv) which by any laws of any governmental authority requires special handling in its collection, storage, treatment or disposal. Notwithstanding any contrary provision of this paragraph, the term "**Hazardous Substances**" shall not apply to such substances that would otherwise meet such definition as long as (i) the use of such substance in, on or under the Premises is in compliance with all Environmental Laws and (ii) such substance is used in de minimus quantities incidental to the operation of the Premises. The Parties agree and acknowledge that complete remediation of all environmental conditions or violations of Environmental Laws prior to or during the Lease Term are the obligations of Tenant alone. The City shall have absolutely no obligation, liability, cost or expense whatsoever in connection with any Environmental Condition or violation of Environmental Laws.

4.3 Third Party Liability. Nothing in this Lease shall be construed to limit the responsibility of third parties who are potentially responsible parties ("**PRPs**") for liability which may be imposed against such PRPs for any Environmental Condition. The existence of any such PRPs shall not release Tenant from its responsibility for an Environmental Condition, as between the parties, but the Tenant shall have the right to pursue recovery against such PRPs.

4.4 Tenant Environmental Indemnity. Tenant shall defend, indemnify, and hold harmless the City and its agents, officials, and employees, to the fullest extent permitted by law, from and against all expenses of remediation, disposal or other similar type of clean up or action necessary for compliance with the Environmental Laws, and any and all claims, causes of action, or demands, in law or in equity, including, but not limited to, all lien claims, administrative claims, claims for injunctive relief, claims of property damage, natural resources damages, environmental response and clean-up costs, fines, penalties, and expenses (including, without limitation, attorney fees, consultant fees and expert fees, costs and expenses incurred in investigation and defending against the assertion of such liabilities), which may be sustained, suffered or incurred by City, its agents, officials or employees. The foregoing indemnity shall not extend to losses sustained, suffered or incurred by City, its agents, officials or employees as a result of (a) Environmental Conditions existing on the Land prior to the Commencement Date, or (b) the City's own grossly negligent or willful act or omission.

4.5 Tenant's Breach. If Tenant breaches any of its obligations contained in this Article or fails to notify the City of the release of any hazardous or toxic substances from the Premises, then, in addition to all other rights and remedies available to the City, the City shall have the right, but not the obligation, to initiate a clean-up of the Premises, in which case the City shall be reimbursed by Tenant for, and indemnified by Tenant from, any and all costs, expenses, losses, and liabilities incurred in connection with the clean-up (including all reasonable attorneys' fees) by the City. In the alternative, the City may require Tenant to clean up the Premises and to indemnify fully and hold the City harmless from any and all losses, liabilities, expenses (including but not limited to attorneys' fees), and costs incurred by the City in connection with Tenant's clean

up action. Notwithstanding anything in this Article, Tenant agrees to pay, and shall indemnify defend, and hold the City harmless from and against, any and all losses, claims, liabilities, costs, and expenses (including reasonable attorneys' fees) incurred by the City as a result of any breach by Tenant of its obligations under this Article, and as a result of any contamination of the Premises because of Tenant's, its employees', agents', contractors', licensees' or subcontractors' use of hazardous or toxic substances on the Premises. If the City has reason to believe that a hazardous or toxic substance has been discharged on the Premises by Tenant, its employees, agents, contractors, subcontractors or licensees, the City shall have the right, in its sole discretion, to require Tenant to perform periodically to the City's satisfaction (but not more frequently than annually unless an environmental complaint from applicable governmental authorities shall be then outstanding), at Tenant's expense, an environmental audit and, if deemed necessary by the City, an environmental risk assessment of: (a) the Premises, (b) hazardous substance management practices, and (c) hazardous substance disposal sites used by Tenant. An audit or risk assessment must be prepared and completed by an environmental consultant reasonably satisfactory to the City. Should Tenant fail to perform any such environmental audit or risk assessment within 30 days after the City's request, the City shall have the right to retain an environmental consultant to perform such environmental audit or risk assessment. All costs and expenses incurred by the City in the exercise of such rights shall be secured by this Lease and shall be payable by Tenant upon demand as Rent.

4.6 Brownfields Designation. If applicable, City will cooperate, at no cost to the City, to have the Land designated as a Brownfields site, including but not limited to the signature of all applications, petitions, and other documents required by the Environmental Protection Agency, other federal, state or local agencies and governmental authorities, and any contractors or consultants engaged by Tenant in connection therewith.

ARTICLE V

MAINTENANCE; PROPERTY INSPECTION

5.1 Pre-Construction Maintenance. At all times prior to construction, the Premises shall be maintained in a reasonably neat manner (taking into account the work being performed).

5.2 Maintenance of Construction Site. The Tenant shall maintain its construction site in a safe condition and a reasonably orderly manner and shall, as reasonably necessary, remove all major debris on a regular basis (including debris that has accumulated on adjacent lands, parcels or streets if created by Tenant; it being understood that in no event shall the same be deemed to be permission to store debris on any such adjacent lands, parcels or streets) and store all equipment in a neat manner when not in use.

5.3 Construction Traffic; Coordination. Tenant shall keep driving lanes or extension roads and pedestrian access walkways located on or near the Premises free from storage of equipment, building materials and dirt.

5.4 Avoidance of Nuisance. To the extent practical in connection with the Project, Tenant shall take such precautions as may be reasonably necessary to minimize the impact of noise, dust, truck traffic, nuisances and other consequences of construction activities. The City may, at Tenant's sole cost and expense, install a barrier or fence around attractive nuisances if

Tenant fails to do so within three (3) days after the City's demand. Such construction fence may be relocated by the Tenant upon abatement of the nuisances from time to time, at Tenant's expense.

5.5 Waste. Tenant covenants not to allow any waste (as defined by any Applicable Law) with respect to the Demised Property or the Improvements or any part. The provisions of this Section shall not apply to any demolition or disfigurement required in connection with repairs, renovations, upgrading or new construction in accordance with the terms of this Lease, or to the deposit of clean fill at the Demised Property or the removal of fill from the Demised Property for such purposes.

5.6 Inspection of Property.

(A) Right of Inspection. The City, its agents, employees and authorized representatives may enter the Demised Property at any time in response to an emergency, and at reasonable times upon reasonable prior written notice, as City deems necessary to, incident to, or connected with the performance of City's duties and obligations or in the exercise of its rights and functions, including, without limitation, to inspect the operation, sanitation, safety, maintenance and use of the same, or any portions of the same, and to assure City that Tenant is in full compliance with its obligations under this Lease (but City shall not assume any responsibility for the performance of any of Tenant's obligations under the Lease nor any liability arising from the improper performance under the Lease). In furtherance and not in limitation of the foregoing, City and its agents, employees and authorized representatives shall have the right of access to the Demised Property, upon reasonable prior written notice, to conduct from time to time an inspection or audit of the Demised Property or the Improvements, and Tenant agrees to cooperate in the conduct of such investigation or audit.

(B) Compliance. If any inspection or audit detects a violation of Tenant's obligation to comply and to keep the Premises or Improvements in compliance with the requirements of this Lease, then Tenant shall bear the cost and take whatever action is reasonably necessary to comply, and bring the Demised Property and the Improvements into compliance, with this Lease; and any reasonable fee or cost incurred by the City for such investigation or audit shall be borne by the Tenant and shall be paid by Tenant as additional Rent under this Lease on demand by the City.

(C) Action by City. If the Tenant fails to keep the Premises or the Improvements in compliance with the requirements of this Lease (including, without limitation, the requirement that the Premises and the Improvements be in compliance in all material respects with the ADA) and an Event of Default has occurred and is continuing, then the City, upon reasonable prior written notice to the Tenant, may take whatever action is reasonably necessary to bring the Premises and the Improvements into compliance, to the extent required by Applicable Laws. The Tenant agrees to provide the City access to the Premises and the Improvements and pay, as additional Rent, all costs reasonably incurred by the City in bringing the Premises and the Improvements into such compliance. The City, however, shall have no obligation to bring the Premises or the Improvements into compliance and nothing in this Lease shall be construed as creating such an obligation on the City.

(D) Minimizing Interference with Business Operations. Any inspection or audit described in this Section shall be done in such a manner so as to reasonably minimize any interference with any business operations on the Premises.

ARTICLE VI INSURANCE AND INDEMNIFICATION

6.1 At all times during the Lease Term, the Tenant shall, at the Tenant's sole cost and expense, but for the benefit of the City, maintain the insurance prescribed in Exhibit C, attached and made a part of this Lease.

6.2 Policies Obtained by Independent Contractors. Tenant may cause its independent contractors to provide some or all of the insurance coverages required. To the extent that such independent contractors carry such coverages, Tenant shall not be required to carry such coverages, so long as the coverages obtained by Tenant and such independent contractors together satisfy the requirements of this Article. City, Tenant and any Approved Leasehold Mortgagees shall be named as additional insureds as to any such coverages obtained by Tenant's independent contractors.

6.3 Delivery of Insurance Policies. All public liability and worker's compensation policies shall be retained by Tenant. Subject to the rights of any Approved Leasehold Mortgagee, all other policies of insurance required to be furnished pursuant to this Article shall be held jointly by City and Tenant. Insurance company certificates evidencing the existence of all of these policies of insurance shall be delivered to City.

6.4 Required Policy Provisions. All policies of insurance required to be provided and obtained pursuant to this Article shall provide that they shall not be amended or canceled on less than thirty (30) days' prior written notice to City and all insureds and beneficiaries of the policies; provided, however, that if thirty (30) days' notice is ever commercially unavailable, then the required number of days' notice shall be reduced to such number as is commercially available. All such policies shall contain waiver of subrogation rights endorsements as required below. City shall have no obligation to pay premiums or make contributions to the insuring company or any other Person or satisfy any deductible.

6.5 Delivery. On or before the Possession Date and then not less than thirty (30) days prior to the expiration date of any policy required to be carried pursuant to this Article, Tenant shall deliver to City and any Approved Leasehold Mortgagee the applicable respective policies and insurance company certificates evidencing all policies of insurance and renewals required to be furnished. Receipt of any documentation of insurance by City or by any of its representatives which indicates less coverage than required shall not constitute a waiver by City of Tenant's obligation to fulfill the insurance requirements herein.

6.6 City's Right to Obtain. If Tenant fails to pay insurance premiums when due or to comply with other insurance requirements set forth in this Lease, City shall have the right, at its option, to order insurance policies and to advance such sums as are required to maintain or procure such insurance, and to the extent of the money so advanced, City shall be entitled to reimbursement by Tenant upon demand. Unless there would ensue a lapse of coverage, City shall, before making any such advance, provide Tenant with ten (10) days' prior written notice and the opportunity to obtain the required policies.

6.7 Insurer to Be Approved; Premium Receipts. All policies of insurance of the character described in this Article shall be effected under policies issued by insurers permitted to do business in the State of Florida and rated in Best's Insurance Guide, or any successor thereto (or, if there is none, an organization having a national reputation for rating insurance companies) as having a general policyholder rating of "**A**" and a financial rating of at least "**VII**". On written request by City, Tenant shall provide photocopies of receipts showing the payment of premiums for all insurance policies required to be maintained by this Lease.

6.8 Tenant Waiver. Tenant expressly, knowingly, and voluntarily waives and releases any right of recovery that it may have against the City for loss or damage to its property, and property of third parties in the care, custody, and control of Tenant, and loss of business (specifically including business interruption by Tenant) directly or by way of subrogation or otherwise as a result of the acts or omissions of the City specifically including the negligence of City and the intentional misconduct of the City, to the extent any such claims are covered by the property, rental income, business income, or extra expense insurance carried or required to be carried under the terms of this Lease (whether or not actually carried by either party), or other property insurance that Tenant may carry at the time of an occurrence or under a so-called "**special perils**" or "**special form causes of loss**" property insurance policy or under a so-called "**contents**" insurance policy (whether or not actually carried). Tenant shall each, on or before the earlier of the Lease Execution Date or the date on which Tenant first enters the Demised Property for any purpose, obtain and keep in full force and effect at all times thereafter a waiver of subrogation from its insurer concerning the commercial general liability, commercial automobile liability, workers' compensation, employer's liability, property, rental income, and business interruption insurance maintained by it for the Project and the property located in the Demised Property. This section shall control over any other provisions of this Lease in conflict with it and shall survive the expiration or sooner termination of this Lease.

6.9 Endorsements. Tenant shall cause its insurer(s) to issue appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with the Demised Property.

6.10 Indemnification and Duty to Defend.

(A) Tenant shall defend, indemnify and hold harmless City and its officers, employees, staff, agents and instrumentalities (the "**City Indemnified Parties**") from any and all liability, losses or damages, including attorneys' fees and costs of defense, including, without limitation, any of same resulting from a challenge to this Lease or this transaction, which City or any other City Indemnified Parties may incur as a result of any claims, demands, suits, causes of actions or proceedings of any kind or nature whatsoever, whether foreseen or unforeseen, arising out of, relating to or resulting from, the performance or non-performance by Tenant (or its employees, agents, servants, partners, principals or subcontractors) of any obligations of the Tenant under this Lease, other than any liability, loss or damage caused by the gross negligence or willful breach of Lease by City or any other City Indemnified Parties (collectively, a "**Claim**"). Tenant shall pay all Claims and shall investigate and defend all Claims in the name of City Indemnified Parties, where applicable, including any and all appellate proceedings, and shall pay all reasonable costs, judgments, and attorneys' fees which may issue. This Section shall not be construed to restrict, limit or modify Tenant's insurance obligations under this Lease. Tenant's

compliance with the insurance requirements under this Lease shall not restrict, limit, or modify Tenant's obligations under this Section.

(B) City shall control any litigation or potential litigation involving the defense of any Claim, including the selection by Tenant of a single counsel to represent Tenant and City Indemnified Parties. Notwithstanding the foregoing, if there is a conflict between the positions of Tenant and City Indemnified Parties in conducting the defense of such action, or if there are legal defenses available to City Indemnified Parties different from or in addition to those available to Tenant, or if Tenant fails to comply with its obligations under this Article, then City Indemnified Parties shall be entitled to select counsel, reasonably acceptable to Tenant, to conduct the defense of the Claim and Tenant shall pay for the reasonable legal fees and related out-of-pocket expenses of such City Indemnified Parties; provided, however, that Tenant shall not be required to pay the legal fees for more than one law firm for all City Indemnified Parties in connection with any Claim. City Indemnified Parties shall fully cooperate with Tenant in the defense of the Claim. Tenant shall have the right to compromise or settle any Claim without the consent of City Indemnified Parties if the compromise or settlement of the Claim does not require City Indemnified Parties to admit any liability or incur any financial liability, each with respect to the Claim.

6.11 Liability for Damage or Injury. City shall not be liable for any damage or injury which may be sustained by any party or person, or to any personal property, located on the Demised Property, other than the damage or injury caused solely by the gross negligence or willful breach of Lease by City or any City Indemnified Parties, and all of which is subject to the conditions and limitations of Section 768.28, Florida Statutes and any other Applicable Laws; provided, however, that in no event shall City have any liability for a breach of Environmental Laws unless such violation shall be due to City's gross negligence or willful breach of this Lease. Nothing in this Lease shall be construed as a waiver or limitation of the conditions and limitations of such statute.

6.12 Tenant shall indemnify City against any claim, loss, injury, death or damage to persons or property which at any time may be suffered or sustained by Tenant or by any person who may at any time be using or occupying or visiting the Premises or be in, on, or about the Premises, whether the loss, injury, death or damage shall be caused by or in any way result from or arise out of any act, omission or negligence of Tenant or of any occupant, sublessee, visitor or user of any portion of the Premises, or shall result from or be caused by any other matter or thing. Tenant waives all claims against City for damages to the Improvements that are on or will later be placed or built on the Premises and to the property of Tenant in, on or about the Premises, and for injuries to persons or property in or about the Premises, from any cause arising at any time. Nothing in this provision shall apply to loss, injury, death or damage arising by reason of the negligence or misconduct of the City, its agents or employees.

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

ARTICLE VII LEGAL COMPLIANCE

7.1 Compliance. Tenant shall throughout the Lease Term, at Tenant's sole expense, promptly comply in all material respects with all Applicable Laws now in effect or that may hereafter be adopted by any Governmental Agency. Specifically, but without limitation, Tenant shall construct and maintain the Improvements to accommodate the disabled and comply in all

material respects with the applicable requirements of the Americans with Disabilities Act of 1990, as amended, as well as other Applicable Laws pertaining to handicapped access, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities.

7.2 Notice. Tenant agrees to give City prompt notice of the receipt by Tenant of any written complaints related to any material violation of any Applicable Law and of the commencement of any proceedings or investigations which relate to compliance with any Applicable Law.

7.3 Right to Contest Compliance. Tenant shall have the right in good faith to contest by appropriate legal proceeding and without cost or expense to City, the validity of any Applicable Law. If compliance with any Applicable Law may legally be held in abeyance (i) without the incidence of any lien, charge or liability of any kind against the title to the Demised Property, the Improvements or the Demised Premises (unless Tenant transfers such lien to bond or delivers an appropriate indemnity to City), and (ii) without subjecting Tenant or City to any liability of whatsoever nature for failure so to comply, Tenant may postpone compliance until the final determination of any proceedings, provided that all proceedings shall be prosecuted with all due diligence and dispatch.

7.4 Compliance with Insurance Requirements. Tenant shall observe and comply in all material respects with the requirements of all policies of public liability, fire and other insurance in force with respect to the Improvements.

7.5 Special Compliance Provisions. Upon receiving written notice from any Approved Leasehold Mortgagee of any material default under a mortgage for the benefit of such Approved Leasehold Mortgagee, Tenant shall use diligent efforts to cure such default in the manner and to the extent required by such mortgage. Notwithstanding the foregoing, a default under a mortgage for the benefit of the Approved Leasehold Mortgage is not a default under this Lease.

ARTICLE VIII

UTILITIES; REPAIR AND RELOCATION OF UTILITIES

8.1 Tenant agrees that any and all utility accounts with respect to the Demised Property shall be in the name of Tenant. From and after the Lease Commencement Date, under no circumstance whatsoever, shall City be responsible for any utilities on the Demised Property, including, but not limited to, the installation, maintenance, initial cost or fee or any on-going charges or fees. Tenant agrees to pay any and all such utilities relating to the Demised Property in a timely manner, so as to avoid any Encumbrance on the Demised Property. Tenant, at its sole cost and expense and with the prior written approval of the appropriate utility, agrees to maintain and repair, replace and relocate as necessary, utility facilities within the Demised Property required for the operation of the Demised Property, and all existing and future Improvements, subject to the following conditions:

8.2 Such activity does not materially or adversely interfere with City's operations on any property outside the boundaries of the Demised Property; and

8.3 Tenant complies with the provisions of all Permits which have been issued and are affected by such repair and relocation.

8.4 Tenant agrees to grant to City and any public utility company, pursuant to separate instruments, non-exclusive perpetual easements for the installation, operation, maintenance, repair, replacement, relocation, and removal of utility lines and facilities (together with access incidental to such activities) such as water lines, fire lines, gas mains, electrical power lines, telephone lines, storm and sanitary sewers and other utility lines and facilities (collectively, "**Utility Facilities**"), and such other easements as City or such public utility companies may reasonably require from time to time, and shall provide notice to City, as described in this Agreement, prior to making such grants. All such easements shall be over, under and across: (i) those portions of the Demised Property shown on the approved Plans and Specifications; or (ii) such other locations on the Demised Property as may be requested by City or such public utility companies from time to time, so long as such locations are reasonably acceptable to Tenant, considering, among other things, whether such locations cause unreasonable interference with the construction, use and operation of the Project or undue expense to Tenant. The instruments granting such easements shall provide, among other things, that the grantee(s) shall not exercise their rights in such a manner as would cause unreasonable interference with the construction, use and operation of the Project.

ARTICLE IX SIGNAGE

Tenant shall have the exclusive right to construct, operate, and display onsite and offsite premise signage on the interior, exterior or other portions of the Demised Property as Tenant deems necessary and desirable so long as such signage complies with Applicable Laws and is approved by the City in advance.

ARTICLE X REPAIRS AND MAINTENANCE DURING LEASE TERM

10.1 Repairs. City shall have no maintenance obligation concerning the Demised Property and no obligation to make any Repairs or replacements, in, on, or to the Demised Property. Tenant assumes the full and sole responsibility for the condition, operation, repair, replacement, and maintenance of the Demised Property, including all improvements, throughout the Lease Term. Tenant shall maintain the Demised Property and all improvements and buildings in good repair and in a clean, attractive, first-class condition. Tenant shall not commit or allow to be committed any waste on any portion of the Demised Property. Tenant's maintenance is to include the following:

(A) Maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability and restriping, repairing and replacing of paved and parking areas;

(B) Removing all papers, mud and sand, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;

(C) Placing, keeping in repair and replacing any necessary appropriate directional signs, markers and lines;

(D) Operating, keeping in repair and replacing, where necessary, such artificial lighting facilities as shall be reasonably required;

(E) Maintaining all perimeter and exterior building walls including but not limited to all retaining walls in a good condition and state of repair; and

(F) Maintaining, mowing, weeding, trimming and watering all landscaped areas and making such replacements of shrubs and other landscaping as is necessary.

(G) The term "**Repairs**" shall mean all replacements, renewals, alterations, additions and betterments required by Applicable Laws, or by Tenant. All Repairs made by Tenant shall be at least substantially similar in quality and class to the original work.

10.2 Removal of Dangerous Condition. Promptly after receiving written notice from City or any other Person of any dangerous condition from time to time existing on the Demised Property, Tenant shall, at Tenant's sole cost and expense, do or cause to be done all things necessary to remove such condition, including, but not limited to, taking appropriate measures to prevent or repair any erosion, collapse or other unstable condition on the Demised Property.

10.3 Insurance. Tenant shall not permit anything to be done upon the Demised Property or the Improvements which would invalidate or prevent the procurement of all insurance policies required.

10.4 No City Repair or Maintenance Obligations. Nothing contained in the Lease shall impose on City the obligation to make any repairs or expend any monies for the maintenance of the Demised Property, or the renewal, replacement or repair of the Improvements; provided, however that if Tenant fails to do any of the foregoing in accordance with the terms of Lease, then City, upon reasonable prior written notice to Tenant, may elect, in its sole discretion, to perform or cause the same to be performed on Tenant's behalf, and all of the costs and expenses reasonably incurred by City in connection with the same shall be deemed to be additional Rent due from Tenant to City.

ARTICLE XI CHANGES AND ALTERATIONS TO BUILDINGS BY TENANT

11.1 Tenant's Right. Tenant shall have the right at any time or from time to time during the Term of this Lease, at its sole cost and expense, to expand, rebuild, or reconstruct the Improvements, and to raze existing buildings; provided, however, that:

(A) The method, schedule and Plans and Specifications for razing any existing building and, if applicable, replacing such building with a new building(s) are submitted to City for its approval at least sixty (60) days prior to the commencement of any razing (unless action is required to comply with building and safety codes, in which Tenant will provide City with prior written notice that is reasonable under the circumstances);

(B) The rebuilding, alteration, reconstruction or razing complies with Applicable Laws, does not violate any other provisions of this Lease, and shall be conducted in the same manner as required by this Lease for the original Improvements, and in accordance with such conditions, including completion date, are as reasonably required by City; and

(C) Tenant shall obtain all approvals, Permits and authorizations required under Applicable Laws.

(D) Notwithstanding the foregoing, none of the following shall require City's review or approval:

(i) any normal and periodic maintenance, operation, and repair of the Improvements; or

(ii) any non-structural interior reconfigurations or non-material alterations made to the Improvements; or

(iii) any repair or reconstruction to any Improvement damaged by casualty, which repair or reconstruction is completed in accordance with this Lease; or

(iv) any modifications, construction, replacements, or repair reasonably anticipated by Tenant to cost less than \$250,000 (which number shall be adjusted annually to account for changes in the CPI); or

(v) any modifications, construction, replacement, or repair of Improvements consistent with the Conceptual Development Site Plan approved in writing by City.

ARTICLE XII DISCHARGE OF OBLIGATIONS; NO LIENS

12.1 During the Term of this Lease, Tenant will discharge or cause to be discharged any and all obligations incurred by Tenant that give rise to any non-consensual liens on the Demised Property, it being understood and agreed that Tenant shall have the right to withhold any payment to discharge such lien (or to transfer any such lien to a bond in accordance with Applicable Laws) so long as it is in good faith disputing liability for such lien or the lien amount, provided (a) such contest of liability or amount operates as a stay of all sale, entry, foreclosure, or other collection proceedings in regard to such obligations, or disputed payments are escrowed while the parties negotiate the dispute (pursuant to written escrow agreement to which the lienor is a party), (b) such action does not result in City incurring any expense or liability that Tenant does not agree to reimburse, and (c) such action does not result in a lien or other encumbrance being recorded against the Demised Property. In the event Tenant withholds any payment as described in this Lease and as a result a lien is imposed upon Tenant's leasehold interest in the Demised Property which is not transferred to bond within ten (10) days of the imposition, it shall give written notice to City of such action and the basis, and City shall reasonably consent to an extension or deny same detailing the specific reasons for same.

12.2 The interest of City in the Demised Property shall not be subject in any way to any liens, including construction liens, for improvements to or other work performed in the Demised Property by or on behalf of Tenant. This exculpation is made with express reference to Section 713.10, Florida Statutes. Tenant represents to City that any improvements that might be made by Tenant to the Demised Property are not required to be made under the terms of this Lease and that any improvements which may be made by Tenant do not constitute the "pith of the lease" under applicable Florida case law. Tenant shall notify every contractor making improvements to the Demised Property that the interest of the City in the Demised Property shall not be subject to liens.

12.3 If any lien is filed against the Demised Property for work or materials claimed to have been furnished to Tenant, Tenant shall cause it to be discharged of record or properly transferred to a bond under Section 713.24, Florida Statutes, within ten days after notice to Tenant.

Further, Tenant shall indemnify, defend, and save City harmless from and against any damage or loss, including reasonable attorneys' fees, incurred by City as a result of any liens or other claims arising out of or related to work performed in the Demised Property by or on behalf of Tenant.

ARTICLE XIII PROHIBITIONS ON USE OF DEMISED PROPERTY

13.1 Tenant shall not construct, otherwise develop, or use or allow the use on the Demised Property, for anything that is inconsistent with the terms and conditions of this Lease; provided, however, that subject to compliance with this Lease and City approvals, nothing in this Lease will prohibit Tenant from developing the Project with Improvements in the manner contemplated by the Conceptual Site Plan, as may be amended.

13.2 The Demised Property shall not knowingly be used for any unlawful or illegal business, use or purpose, or for any business, use or purpose that constitutes a legal nuisance of any kind (public or private); or any purpose which violates the approvals of applicable Governmental Agencies.

ARTICLE XIV LIMITATIONS OF LIABILITY

14.1 Limitation of Liability of City. City shall not be liable to Tenant for any incidental, consequential, special or punitive loss or damage whatsoever.

14.2 Limitation of Liability of Tenant. Tenant shall not be liable to City for any incidental, consequential, special or punitive loss or damage whatsoever.

ARTICLE XV DAMAGE AND DESTRUCTION

15.1 Tenant's Duty to Restore. Subject to the provisions below, if at any time during the Term of this Lease, the Demised Property, the Project or any part shall be damaged or destroyed by fire or other casualty covered within the insurance designation of fire and extended coverage as same is customarily written in the State of Florida, Tenant, at its sole cost and expense, if so requested by City, regardless of whether the insurance proceeds related to such casualty are sufficient to pay for such restoration, repair or reconstruction, shall, using good faith, commence reasonable and continuous diligence, to repair, alter, restore, replace or rebuild the same as nearly as reasonably possible to its value, conditions and character which existed immediately prior to such damage or destruction, subject to such changes or alterations as Tenant may elect to make in conformity with the provisions of this Lease, modern construction techniques and methods, and reasonably approved by City. Provided Tenant otherwise complies with the terms of this Lease and obtains City's written approval, it may construct Improvements which are larger, smaller or different in design, and which represent a use comparable to prior use or as are allowed by this Lease and by Applicable Laws. Notwithstanding the foregoing, if Tenant's leasehold estate is encumbered by a mortgage from an Approved Leasehold Mortgagee, then the application of any insurance proceeds shall be governed by the applicable requirements of Approved Leasehold Mortgagee.

15.2 Loss Payees of Tenant-Maintained Property Insurance. With respect to all policies of property insurance required to be maintained by Tenant in accordance with this Lease, (a) City shall be named as a loss payee as its interest may appear (and if an Approved Leasehold Mortgagee

then exists, the Approved Leasehold Mortgagee shall also be named as the loss payee), and (b) the loss shall be payable to Tenant, City and any Approved Leasehold Mortgagee under a standard mortgage endorsement. The City shall not unreasonably withhold its consent to a release of the proceeds of any fire or other casualty insurance for any loss which shall occur during the Term of this Lease for repair or rebuilding (when the Improvements are to be repaired or rebuilt as provided in this Lease); provided that Approved Leasehold Mortgagee's agreement relative to insured losses and use of proceeds shall be subject to the terms of the mortgage for the benefit of Approved Leasehold Mortgagee or the security for Tenant's Financing (as applicable). Any proceeds remaining after completion of rebuilding or repair under this Article or after a pay down of Tenant's indebtedness to Approved Leasehold Mortgagee, as applicable, shall be paid to Tenant.

ARTICLE XVI EMINENT DOMAIN

16.1 Taking of Demised Property. If at any time during the Term of this Lease, the power of eminent domain shall be exercised by any federal or state sovereign or their proper delegates, by condemnation proceeding (a "**Taking**"), to acquire the entire Demised Property (a "**Total Taking**"), such Total Taking shall be deemed to have caused this Lease (and the Option to renew, whether or not exercised) to terminate and expire on the date of such Total Taking. Tenant shall have the right to recover a portion of the award for a Total Taking equal to the lesser of fair market value or the unrecouped cost of the subject Improvements and out of pocket development expenses (excluding any expenses incurred by Tenant in connection with Environmental Work) and City shall be entitled to recover a portion of the award for Total Taking equal to the balance of the award. All Rents and other payments required to be paid by Tenant under this Lease shall be paid up to the date of such Total Taking, which shall be the date on which actual possession of the Demised Property or a portion, as the case may be, is acquired by any lawful power or authority pursuant to the Taking or the date on which title vests, whichever is earlier. Tenant and City shall, in all other respects, keep, observe and perform all the terms of this Lease up to the date of such Total Taking.

16.2 Proceeds of Taking. In the event following any such Total Taking, this Lease is terminated, or in the event following a Taking of less than the whole of the Demised Property (a "**Partial Taking**") this Lease is terminated, the proceeds of any such Taking (whole or partial) shall be distributed as described in this Article. If the value of the respective interests of City and Tenant shall be determined according to the foregoing provisions of this Article in the proceeding pursuant to which the Demised Property shall have been taken, the values so determined shall be conclusive upon City and Tenant. If such values shall not have been separately determined in such proceeding, such values shall be fixed by agreement mutually acceptable to City and Tenant, or if they are unable to agree, by an apportionment hearing within the condemnation proceeding. In any type of proposed Taking that results under this Article, City and Tenant, in their respective capacities, can each seek to recover from the condemning authority their respective attorney's fees and costs in the manner provided for under Applicable Law, including under Chapters 73 and 74 of the Florida Statutes, and any related laws.

16.3 Partial Taking; Termination of Lease. If, in the event of a Taking of less than the entire Demised Property and in the good faith, reasonable judgment of both City and Tenant, (i) the remaining portion of the Demised Property not so taken cannot be adequately restored, repaired or reconstructed so as to constitute a complete architectural unit of substantially the same

usefulness, design, construction, and commercial feasibility, as immediately before such Taking, or (ii) the award for such Partial Taking is insufficient to pay for such restoration, repair or reconstruction, or (iii) the Partial Taking results in making it impossible or unfeasible to reconstruct, restore, repair or rebuild a new building on that portion of the Project, then City or Tenant shall have the right, to be exercised by written notices to the other within one hundred twenty (120) days after the date of Partial Taking (or the date of the award, whichever is later), to terminate this Lease on a date to be specified in such notice, which date shall not be earlier than the date of such Partial Taking, in which case Tenant shall pay and shall satisfy all Rents and other payments due and accrued under the Lease up to the date of such termination and shall perform all of the obligations of Tenant under the Lease to such date, and thereupon this Lease and its Term demised shall cease and terminate.

16.4 Partial Taking; Continuation of Lease. If, following a Partial Taking, this Lease is not terminated as above provided then, (i) this Lease shall terminate as to the portion of the Demised Property taken in such condemnation proceedings; (ii) as to that portion of the Demised Property not taken, Tenant shall use its portion of the award arising from the Partial Taking or insurance) to make an adequate restoration, repair or reconstruction or to rebuild a new building upon the portion of the Demised Property not affected by the Taking, and (iii) Tenant's share of the award shall be determined in accordance with this Article. Such award to Tenant may be used by Tenant for its reconstruction, repair or rebuilding. Any excess award after (or not used for) such reconstruction, repair or rebuilding, shall be retained by City and Tenant in accordance with their respective interests. If the part of the award so paid to Tenant is insufficient to pay for such restoration, repair or reconstruction, but Tenant does not terminate the Lease pursuant to this Section, Tenant shall be responsible for the remaining cost of whatever restoration, repair and reconstruction required to complete the same in accordance with the applicable provisions of this Article (as if same were applicable to such restoration, repair or reconstruction) free from mechanics' or materialmen's liens and shall at all times save City free and harmless from any and all such liens. If the Parties elect not to terminate this Lease, then the Rent and other amounts otherwise payable under the Lease by Tenant shall be partially abated on an equitable basis.

16.5 Temporary Taking. If the whole or any part of the Demised Property or of Tenant's interest under this Lease be taken or condemned by any competent authority for its or their temporary use or occupancy exceeding nine (9) months following the Completion of Construction, Tenant may elect to terminate the remaining Term, failing which this Lease shall not terminate, and Tenant shall continue (i) to pay, in the manner and at the times specified, the Rent, and all other charges payable by Tenant though partially abated to the extent any portion of the Demised Property is unavailable for use by Tenant (such abatement to be determined on an equitable basis), and (ii) except only to the extent that Tenant either may be prevented from so doing pursuant to the terms of the order of the condemning authority or is unable to do so given the nature of the temporary Taking, to perform and observe all of the other terms, covenants, conditions and all obligations upon the part of Tenant to be performed and observed, as though such Taking had not occurred. Tenant covenants that, upon a temporary Taking, to the extent Tenant has not elected to terminate the Lease as provided in this Section, and prior to the expiration of the term of this Lease, it may, at its sole cost and expense, restore the Demised Property, as nearly as may be reasonably possible, to the condition in which the same were immediately prior to such Taking.

16.6 Additional Takings. In case of a second or any additional Partial Taking(s) from time to time, the provisions above shall apply to each such Partial Taking. In the event any federal

or state sovereign or their proper delegates with the power of eminent domain appropriates or condemns all or a portion of the Demised Property and City is a beneficiary of such Taking, the award shall be divided in accordance with the provisions of this Article.

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

ARTICLE XVII EVENTS OF DEFAULT

17.1 Events of Default. Each of the following shall be an event of default under this Lease:

(A) Tenant fails to make any payment of Rent or other monies payable to City under this Lease when and as the same shall become due and payable and such default shall continue for a period of five (5) days after written notice from City to Tenant (a "**Monetary Default**"); or

(B) Tenant fails to maintain any of the insurance coverage or pay any of the premiums required, and such occurrence or failure continues for a period of fifteen (15) days after notice is given to Tenant by City; or

(C) Tenant fails to keep, observe or perform any other covenant or agreement of this Lease, and does not cure such failure within thirty (30) days after written notice from City to Tenant; provided, however, if the nature of the alleged breach is not susceptible of cure with due diligence and in good faith within the thirty (30) day period, Tenant shall have such additional time as shall be reasonably necessary and as approved by City, so long as it continues to prosecute the cure of such default with due diligence and in good faith; or

(D) Tenant is dissolved (other than an administrative dissolution which is cured within thirty (30) days) without City having permitted a successor to the rights under this Agreement; or

(E) Any representation made by the Tenant proves to be incorrect in any material respect when made; or

(F) Tenant becomes bankrupt or insolvent or makes a general assignment for the benefit of creditors or takes the benefit of any insolvency act, or if any debtor proceedings be taken by or against Tenant or any guarantor or surety; or

(G) a receiver or trustee in bankruptcy is appointed for the Tenant's property and the appointment is not vacated and set aside within sixty days from the date of the appointment; or

(H) Tenant, before the expiration of the Lease Term, and without the written consent of City, vacates the Demised Property or abandons possession of the Demised Property; or

(I) the leasehold estate granted to Tenant by this Lease is taken on execution or other legal process. Monetary Defaults and Nonmonetary Defaults are sometimes both referred to in this Lease as an "**Event of Default.**"

17.2 Remedies. Upon occurrence of any Monetary Default or Nonmonetary Default, City may exercise all or any of the following remedies:

(A) terminate this Lease by giving Tenant written notice of termination, in which event this Lease shall terminate on the date specified in such notice and all rights of Tenant under this Lease shall expire and terminate as of such date, Tenant shall remain liable for all obligations under this Lease up to the date of such termination and Tenant shall surrender the Demised Property to City on the date specified in such notice;

(B) terminate this Lease as provided in the immediately preceding subsection and recover from Tenant all damages City may incur by reason of Tenant's default and any sums required under this Lease;

(C) without terminating this Lease, and without notice to Tenant, City may in its own name, but as agent for Tenant enter into and take possession of the Demised Property and relet the Demised Property, or a portion, as agent of Tenant, upon any terms and conditions as City may deem necessary or desirable (City shall have no obligation to attempt to relet the Demised Property or any part). Upon any such reletting, all rentals received by City from such reletting shall be applied first to the costs incurred by City in accomplishing any such reletting, and thereafter shall be applied to the Rent owed by Tenant to City during the remainder of the term of this Lease and Tenant shall pay any deficiency between the remaining Rent due and the amount received by such reletting as and when due;

(D) pursue any of the remedies set forth for a default under the Lease; or

(E) pursue such other remedies as are available at law or in equity.

17.3 Additional Rights of City after Termination. After termination of this Lease by City due to an Event of Default, Tenant shall be liable to City for Rent through the end of the then applicable Term, along with any other any monetary obligations owing to City by Tenant and Impositions that accrued prior to the termination of this Lease and which were not paid by Tenant. City shall in no way be responsible or liable for any failure to relet the Demised Property or any part or for any failure to collect any rent due for any such reletting.

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

17.5 City Default. The provisions of this Section shall apply if any of the following shall happen (a "**City Default**"): if default shall be made by City in failing to keep, observe or perform any of the duties imposed upon City pursuant to the terms of this Lease and such default shall continue for a period of thirty (30) days after written notice from Tenant to City setting forth with reasonable specificity the nature of the alleged breach, provided, however, if the nature default or contingency is not susceptible of cure with due diligence and in good faith within the thirty (30) day period, City shall have such additional time as shall be reasonable necessary cure such default so long as it continues to prosecute the cure of such default with due diligence and in good faith.

17.6 Limitation of Remedies; Exculpation. Tenant waives all claims against City under this Lease based on or for the loss of business or profits or other consequential damages or for punitive or special damages of any kind, regardless of the cause, and, except as specifically provided in this Lease, Tenant waives all rights to terminate this Lease. None of City's officers, employees, agents, representatives, officials, directors, shareholders, partners, or affiliates shall ever have any personal liability to Tenant under this Lease. Tenant shall look solely to City's interest in the Project for the satisfaction of any right or remedy of Tenant under this Lease, or for the collection of any judgment. No act or omission of City or its officers, employees, agents, representatives, officials, directors, shareholders, partners, or affiliates shall constitute an actual or constructive eviction of Tenant unless City shall have first received notice of Tenant's claim and shall have failed to cure it after having been afforded a reasonable time to do so, which in no event shall be less than thirty days.

17.7 Presumption of Abandonment. It shall be conclusively presumed that Tenant has abandoned the Demised Property if Tenant fails to keep the Demised Property open for business during regular business hours for ten consecutive days while in Monetary Default. The grace periods set forth in this Article shall not apply to the application of this presumption. In the event of an abandonment, City shall have the right to immediately retake possession of the Demised Property without legal process.

ARTICLE XVIII LEASEHOLD MORTGAGES

18. Right to Encumber the Project.

(A) Right to Encumber. Tenant shall have the right to mortgage or encumber its leasehold interest without the prior consent of Landlord. Such mortgages or encumbrances shall be expressly subject to the terms, covenants and conditions of this Lease, and at all times shall be inferior and subject to the prior right, title and interest of Landlord as security for the performance of the terms and conditions of this Lease. Landlord shall reasonably consider such amendments to this Lease as may be reasonably requested by any leasehold mortgagee, provided that such amendments do not increase, or in the sole opinion of the Landlord, unreasonably alter the obligations of Landlord under this Lease, and that Landlord's fee estate shall not be subject to such leasehold mortgage. No mortgage under this Lease shall be binding upon Landlord in the enforcement of Landlord's rights under this Lease. The granting of a mortgage against all or part of the leasehold estate in the Demised Premises shall not operate to make the Approved Leasehold Mortgagee liable for performance of any of the covenants or obligations of Tenant under this Lease.

(B) Notice to Landlord of Mortgage. A notice of each mortgage for the benefit of an Approved Leasehold Mortgagee shall be delivered to Landlord specifying the name and address of such mortgagee to which notices shall be sent. Landlord shall be furnished a copy of each recorded mortgage or encumbrance.

(C) Notices to Approve Leasehold Mortgagees. No notice of default or notice of failure to cure a default shall be deemed to have been given by Landlord to Tenant unless and until a copy has been given to each Approved Leasehold Mortgagee who shall have been identified pursuant to Subsection (B) above, prior to Landlord's issuance of such notice. Approved Leasehold Mortgagee shall have reasonable additional time and opportunity to cure any default, including, in the case of a default that can be cured by the Approved Leasehold Mortgagee only by obtaining possession, a sufficient period of time for the Approved Leasehold Mortgagee to obtain possession of the Demised Property. Such additional time and opportunity to cure, beyond such time provided to the Tenant for such cure and as otherwise provided in this Lease, shall be approved by the City and CRA following such request from the Approved Leasehold Mortgagee, as described below. Landlord agrees to accept performance and compliance by any Approved Leasehold Mortgagee of and with any of the terms of this Lease with the same force and effect as though kept, observed or performed by Tenant. Nothing contained in this Lease shall be construed as imposing any obligation upon any Approved Leasehold Mortgagee to so perform or comply on behalf of Tenant.

(D) New Mortgagee Lease After Default of Tenant.

(i) If, within thirty (30) days after the mailing of any notice of termination or such later date as is thirty (30) days following the expiration of the cure period, if any afforded Tenant (the "**Mortgagee Cure Period**"), any Approved Leasehold Mortgagee shall pay, or arrange to the satisfaction of Landlord for the payment of any and all expenses, costs, and fees, including attorneys' fees, incurred by Landlord in preparation for terminating this Lease, in acquiring possession of the Demised Premises, and incident to the preparation, printing, execution, delivery and recording of such new lease. Then, upon the written request of such mortgagee made any time prior to the expiration of the Mortgagee Cure Period, Landlord and such Mortgagee making such request shall, within thirty (30) days after such request, execute a new lease of the Demised Premises for the remainder of the term of this Lease and on the same terms and conditions, and with the same priority over any encumbrances created at any time by Landlord, its successors and assigns which Tenant has or had by virtue of this Lease; provided, however, that in addition to the above payments such mortgagee shall have paid to Landlord a sum of money equal all expenses, including attorneys' fees, incident to the preparation, printing, execution, delivery and recording of such new lease. Such priority shall exist by virtue of the notice created by this Lease to any transferee of Landlord or person receiving an encumbrance from Landlord, and the priority shall be self-operative and shall not require any future act by Landlord. Tenant under any such new lease shall have the same right, title and interest in and to and all obligations accruing thereafter under this Lease with respect to the applicable portion of the Demised Premises as Tenant has under this Lease.

(ii) If, within the Mortgagee Cure Period, more than one (1) request for a new lease shall have been received by Landlord for the Demised Premises, priority shall be given (regardless of the order in which such requests shall be made or received) to the Approved

Leasehold Mortgagee making such a request in order of their priority of interest in the Demised Premises.

(iii) Except as expressly stated, Landlord shall have no obligation to deliver physical possession of the Demised Premises to any Approved Leasehold Mortgagee. Landlord agrees, however, at the cost and expense of any mortgagee that enters into a new lease with Landlord pursuant to the terms of this Lease, to cooperate in the prosecution of judicial proceedings to evict the then defaulting Tenant.

(iv) The provisions of this Section 18(D) shall survive any termination of this Lease.

(E) Leasehold in Reversion and Assignment in Lieu of Foreclosure.

(i) Tenant's right to mortgage and otherwise encumber this Lease and the leasehold estate in whole or in part shall include the right to require a lease in reversion, which lease in reversion shall become effective upon the termination of this Lease, and shall have the same terms and provisions, including expiration date, as this Lease. The Approved Leasehold Mortgagee shall have the unrestricted right to take this Lease by lease in reversion or by assignment in lieu of foreclosure and to sell it either after foreclosure or after taking the assignment or becoming tenant under the lease in reversion, all must be consented by Landlord, which consent shall not be unreasonably withheld. The Approved Leasehold Mortgagee and its successors and assigns shall not be liable for Tenant's obligations until such a time as it becomes the new tenant, either by lease in reversion, foreclosure or assignment and then only for the period of its ownership or possession of the leasehold estate.

(ii) In such instance, Landlord shall give any Approved Leasehold Mortgagee not less than thirty (30) days written notice prior to exercising Landlord's rights under this Lease to continue the development of the Project. Whether or not such notice is given, if Approved Leasehold Mortgagee exercises its rights under its loan documents and in accordance with the terms of this Lease to complete development of the Project, the Approved Leasehold Mortgagee shall be bound by the same terms and provisions, including expiration date, as this Lease, unless otherwise modified with the consent of the Landlord; notwithstanding, upon the request of the Approved Leasehold Mortgagee, and notice to Landlord, that an extension is required to (a) institute and complete foreclosure proceedings or otherwise acquire possession or control of the Demised Property, or (b) complete the Project, the Completion Date (but not the expiration date) shall be extended for a time period not to exceed the time remaining between the Commencement Date and the date which is four (4) years thereafter (the "Extension Period"). At the Landlord's election, if the City Charter authorizes, further extension may be granted to the Approved Leasehold Mortgagee to (a) institute and complete foreclosure proceedings or otherwise acquire possession and/or control of the Demised Property, or (b) complete the Project, so long as Approved Leasehold Mortgagee continues to diligently and in good faith acquire possession or control of the Demised Property, and thereafter complete the development of the Project.

ARTICLE XIX TENANT'S INVESTOR

19. Tenant's Investor Limited Partner. On or about the Possession Date, the Tenant's equity investor, TCC Sonata Apartments LLC, a Georgia limited liability company (together with its successors and assigns in such capacity, the "**Investor**") will be admitted as a limited partner of the Tenant.

(A) **Cure Rights.** Notwithstanding anything to the contrary contained in this Lease, Landlord shall not exercise any of its remedies hereunder without having given notice of the Event of Default or other breach or default to the Investor (following the admission of the Investor) simultaneously with the giving of notice to Tenant. The Investor shall have the same cure period after the giving of a notice as provided to Tenant, plus an additional period of thirty (30) days. If the Investor elects to cure the Event of Default or other breach or default, Landlord agrees to accept such performance as though the same had been done or performed by Tenant.

(B) **Investor.** Notwithstanding anything to the contrary contained in this Lease, following the admission of the Investor, the Investor shall be deemed a third-party beneficiary of the provisions of this Section for the sole and exclusive purpose of entitling the Investor to exercise its rights to notice and cure, as expressly stated herein. The foregoing right of the Investor to be a third-party beneficiary under the Lease shall be the only right of Investor (express or implied) to be a third-party beneficiary hereunder.

(C) **New General Partner.** Notwithstanding anything to the contrary contained in this Lease, Landlord agrees that it will take no action to effect a termination of the Lease by reason of any Event of Default or any other breach or default without first giving to the Investor reasonable time, not to exceed thirty (30) days, to replace Tenant's general partner and cause the new general partner to cure the Event of Default or other breach or default; provided, however, that as a condition of such forbearance, Landlord must receive notice from the Investor of the substitution of a new general partner of Tenant within thirty (30) days following Landlord's notice to Tenant and the Investor of the Event of Default or other breach or default, and Tenant, following such substitution or admission of the general partner, shall thereupon proceed with due diligence to cure such Event of Default or other breach or default as soon as reasonably possible. In no event, however, shall Landlord be required to engage in the forbearance described in this Section for a period longer than three (3) months, regardless of the due diligence of the Investor or the new general partner.

(D) **Tax Credit Compliance Period.** For the 15-year tax credit compliance period, the Landlord and the Tenant shall not agree between themselves to any material amendment, modification or supplement to this Lease negatively impacting tax credit compliance without the prior written consent of the Investor, which consent will not be unreasonably delayed, conditioned or withheld.

ARTICLE XX
CITY'S RIGHT TO PERFORM TENANT'S COVENANTS;
REIMBURSEMENT OF CITY FOR AMOUNTS SO EXPENDED

20.1 Performance of Tenant's Covenants to Pay Money. Tenant covenants that, if it shall at any time default in the payment of any Impositions pursuant to this Lease, or shall fail to make any other payment to any third party required to be paid under this Lease, and any such failure shall continue for thirty (30) days after written notice by City to Tenant ("**Notice of Non-Payment of Imposition**"), then City may, but shall not be obligated to, and without further notice to or demand upon Tenant and without waiving or releasing Tenant from any obligations of Tenant set forth in this Lease, pay any such Imposition or make any other payment which Tenant has improperly failed to pay as set forth in the Notice of Non-Payment of Imposition. No such action shall be taken, however, if Tenant is duly contesting the payment of same as permitted by the provisions of this Lease, including, but not necessarily limited to, contests.

20.2 City's Right to Cure Tenant's Default. Notwithstanding anything in this Lease to the contrary, if there shall be any default by Tenant, beyond notice and any applicable cure period, under this Lease (including, but not limited to, any default involving Tenant's failure to keep the Improvements in good condition and repair, to make any renewals or replacements or to remove any dangerous condition, all in accordance with any applicable requirements set forth in this Lease), then upon prior written notice to Tenant, City may, but shall have no obligation to, cure any such default in addition to any and all of City's other remedies under this Lease.

20.3 Reimbursement of City and Tenant. All sums advanced by City pursuant to any provisions of this Lease, and all necessary and incidental costs, expenses and reasonable attorneys' fees in connection with the performance of any acts described in this Lease, together with interest at the Default Rate from the date of the making of such advances to the date reimbursed to City by or behalf of Tenant, shall be deemed additional Rent, and shall be promptly paid by Tenant, in the respective amounts so advanced, to City. Such reimbursement shall be made on demand, or, at the option of City, may be added to any Rent then due or becoming due under this Lease, and Tenant covenants to pay the sum or sums with interest as provided above. In the event of nonpayment of such reimbursement, City shall have, in addition to any other right or remedy of City, the same rights and remedies as in the case of default by Tenant in the payment of any installment of Rent.

ARTICLE XXI
NOTICES AND DEMANDS

21.1 A notice, demand, or other communication under the Agreement by either party to the other shall be given or delivered sufficiently if it is in writing and delivered personally, sent via facsimile or dispatched by registered or certified mail, postage prepaid to the representatives named below or, with respect to either party, is addressed or delivered personally at such other address as that party, from time to time may designate in writing and forward to the other party.

If to the CITY:	City Manager 100 W. Atlantic Boulevard, 4 th Floor Pompano Beach, Florida 33060 954-786-4601 Phone Greg.harrison@copbfl.com
-----------------	--

If to the CRA: CRA Director
501 Dr. MLK Blvd, Suite 1
Pompano Beach, Florida 33060
954-545-7769 Phone
Nguyen.Tran@copbfl.com

If to Developer: Sonata Apartments, Ltd.
2100 Hollywood Boulevard
Hollywood, FL 33020
305-443-8288
Lenny.wolfe@cornerstonegrp.com

With copy to: TCC Sonata Apartments LLC
c/o Truist Community Capital, LLC
303 Peachtree Street, N.E., Suite 2200
Mail Code GA-ATL-0243
Atlanta, GA 30308
Attn: Asset Management – Sonata Apartments

21.2 Such Notices shall be deemed served or given on (i) the date received, if received by 5:00 p.m. on a Business day; otherwise, on the next Business Day, (ii) the date delivery of such Notice was refused or unclaimed, or (iii) the date noted on the return receipt or delivery receipt as the date delivery was determined impossible to accomplish because of an unnoticed change of address.

ARTICLE XXII QUIET ENJOYMENT

22. Tenant, upon paying all Rent, and other monies provided for and performing in accordance with the terms, agreements, and provisions of this Lease, shall peaceably and quietly have, hold and enjoy the Demised Property during the Term of this Lease without material interruption, disturbance, hindrance or molestation by City or by anyone claiming by, through or under City, subject, nevertheless, to the terms, covenants, and conditions of this Lease and all existing or future ground leases, underlying leases, mortgages, or deeds of trust encumbering the Project.

ARTICLE XXIII CERTIFICATES BY CITY AND TENANT

23.1 Tenant Certificates. Tenant agrees, at any time and from time to time, upon not less than thirty (30) days prior written notice by City, but not more often than once each calendar year, to execute, acknowledge and deliver to City a statement in writing (i) setting forth any monies then payable under the Lease, if then known; (ii) certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the Lease is in full force and effect as modified and stating the modification); (iii) certifying the dates to which the Rent payments and

other monies have been paid; and (iv) stating (to the best of Tenant's knowledge) whether or not City is in default in keeping, observing or performing any of the terms of this Lease, and, if in default, specifying each such default (limited to those defaults of which Tenant has knowledge).

23.2 City Certificates. City agrees, at any time and from time to time, upon not less than thirty (30) days prior written notice by Tenant or by an Approved Leasehold Mortgagee, but not more often than once each calendar year, to furnish a statement in writing, in form and substance attached and made a part of this Lease, (i) setting forth, among other things, any payments then payable under the Lease, if then known; (ii) certifying that this Lease is unmodified and in full force and effect (or if there shall have been modifications that the Lease is in full force and effect as modified and stating the modifications); (iii) certifying the dates to which the Rent payments and other monies have been paid; (iv) stating whether or not, to the best of City's knowledge, Tenant is in default in keeping, observing and performing any of the terms of this Lease, and, if Tenant shall be in default, specifying each such default of which City may have knowledge; and (v) such other matters as Tenant may reasonably request.

ARTICLE XXIV CONSTRUCTION OF TERMS AND MISCELLANEOUS

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

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

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

24.4 Recording. At any time on or after the Possession Date, a Memorandum of this Lease may be recorded by either Party among the Public Records of Broward County, Florida, at the sole cost of the Party filing the document.

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

24.6 Consents. Whenever in this Lease the consent or approval of City is required, such consent or approval may be made by the City Manager or his/her designee on behalf of City only to the extent: (i) this Lease does not specify otherwise; (ii) City Commission approval or consent is not required pursuant to the terms of this Lease or any Applicable Law; and (iii) such does not amend this Lease in any material respect or increase City's actual or potential obligations or liabilities. No such request shall require a fee from the Party requesting same. Any consent or approval by City to such a request shall not be effective unless it is in writing; and shall apply only

to the specific act or transaction so approved or consented to and shall not relieve Tenant of the obligation of obtaining City's prior written consent or approval to any future similar act or transaction. In no event shall City's failure to respond to any request for consent or approval by City be deemed to constitute such consent or approval, in whole or in part.

24.7 Entire Agreement. This Lease, together with the Exhibits, contains the entire agreement between the Parties and shall not be modified or amended in any manner except by an instrument in writing executed by the Parties, subject to consent by the Pompano Beach Community Redevelopment Agency and Approved Leasehold Mortgagees.

24.8 Successors and Assigns. The terms contained shall bind and inure to the benefit of City, its successors and assigns, and Tenant, its permitted successors and assigns (including but not limited to Approved Leasehold Mortgagee, as appropriate and applicable), except as may be otherwise provided in this Lease.

24.9 Holidays. It is agreed and declared that whenever the day on which a payment due under the terms of this Lease, or the last day on which a response is due to a notice, or the last day of a cure period, falls on a day which is a Legal Holiday, or on a Saturday or Sunday, such due date or cure period expiration date shall be postponed to the next following Business Day.

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

24.11 Brokers. City and Tenant represent and agree that no real estate broker or other person is entitled to claim a commission as a result of the execution and delivery of this Lease. Both the City and the Tenant will indemnify, defend, and hold the other harmless from and against any loss, liability and expense (including attorneys' fees and court costs) arising out of claims for fees or commissions in connection with this Ground Lease.

24.12 Protest Payments. If at any time a dispute shall arise as to any amount or sum of money to be paid by Tenant to City under the provisions of this Lease, Tenant shall nevertheless continue to make payments to City. Tenant shall have the right to make payment "**under protest**", provided Tenant so contemporaneously advises City it is doing so, and articulates with specificity the nature of the dispute, and such payment shall not be regarded as a voluntary payment, and there shall survive the right on the part of Tenant to seek the recovery of such sum, and if it should be adjudged that there was no legal obligation on Tenant to pay such sum or any part thereof, Tenant shall be entitled to recover such sum or so much as it was not legally required to pay under the provisions of this Lease, together with statutory interest on the amount returned to Tenant for the period commencing on the date such payment is received by City until the date such sum is returned to Tenant (such amount of interest being referred to as "**Interest**"); and if at any time a dispute shall arise between the Parties as to any work to be performed by either of them under the provisions of this Lease, the Party against whom the obligation to perform the work is asserted may perform such work and pay the cost "**under protest**" and the performance of such work shall in no event be regarded as a voluntary performance and there shall survive the right upon the part of Tenant or City to seek the recovery of the cost of such work, and if it shall be adjudged that there was no legal obligation on the part of Tenant or City to perform the same or any part, Tenant or City shall be entitled to recover the cost of such work or the cost of so much as Tenant or City was not legally required to perform under the provisions of this Lease, together with Interest, as calculated.

24.13 Governing Law; Venue. This Lease, including any exhibits or amendments, if any, and all related matters (whether in contract, statute, tort or otherwise), shall be governed by and construed in accordance with the laws of the State of Florida, without application of its conflict of law principles. Any claim, dispute, proceeding, or cause of action, arising out of or in any way relating to this Lease, or the Parties' relationship shall be decided by the laws of the State of Florida. The Parties agree that venue for any of the foregoing shall lie exclusively in the courts located in Broward County, Florida.

24.14 Time is of the Essence. Time is of the essence.

24.15 Section References. All references to an "**Article**", "**Section**", "**Subsection**", "**paragraph**", "**subparagraph**", or "**clause**" shall be deemed to refer to the applicable "**Article**", "**Section**", "**Subsection**", "**paragraph**", "**subparagraph**" or "**clause**" of this Lease, unless there is a specific reference to another document.

24.16 Costs and Attorney's Fees. Each of the Parties shall bear its own costs and attorneys' fees in connection with the execution of this Lease, provided, however, in the event of any foreclosure or other proceeding pursuant to any Approved Leasehold Mortgage or other lien against the Demised Property incurred by Tenant, City shall be entitled to recover from Tenant City's costs and attorneys' fees reasonably incurred in the protection of City's interests, whether or not City is made a party to such proceeding. Notwithstanding the foregoing, nothing contained in this Lease shall in any way limit any other provision of this Lease entitling City to recover attorneys' fees and costs from Tenant nor City's ability to collect and recover attorneys' fees and costs in any action or other proceeding relating to City's enforcement or termination of this Lease. The terms of this provision shall survive the termination of this Lease.

24.17 RADON. 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 A TIME PERIOD. 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 DEPARTMENT.

24.18 Bankruptcy Relief and Protection Provisions.

(A) The meaning of "**adequate assurance of future performance**" as used in Section 365 of the Bankruptcy Code shall include at least the following: (1a) the posting of a security deposit in a sum equal to Five Thousand Dollars (\$5,000); (2a) that the Tenant, if it is seeking to assume this Lease without assigning it, or the proposed assignee, has sufficient financial wherewithal to discharge its obligations under this Lease and has a net worth, experience, and reputation that is not less than the net worth, experience, and reputation that Tenant had on the Lease Commencement Date; and (3a) that the conditions to City's consent to a transfer as set forth in this Lease have all been met. If, under the provisions of the Bankruptcy Code, Tenant assumes this Lease and proposes to assign it to any Person whom shall have made a bona fide offer to accept an assignment of this Lease on terms acceptable to Tenant, then notice of the proposed assignment setting forth: (1b) the name and address of the proposed assignee, (2b) all of the terms and conditions of the proposed assignment, and (3b) the adequate assurance to be provided City to assure the proposed assignee's future performance under this Lease, shall be given to City by Tenant no later than twenty (20) days after receipt by Tenant, but in any event no later than ten

(10) days before the date that Tenant shall make application to a court of competent jurisdiction for authority and approval to enter into the assumption and assignment, and City shall have the prior right and option, to be exercised by notice to Tenant given at any time before the relocation date of the proposed assignment, to accept an assignment of this Lease on the same terms and conditions and for the same consideration, if any, as the bona fide offer made by the proposed assignee, less any brokerage commission that may be payable out of the consideration to be paid by the assignee for the assignment of this Lease.

(B) Tenant acknowledges that absent full and timely performance of its obligations under this Lease, City's interest in the Demised Property and this Lease will not be adequately protected. Consequently, if a proceeding under any chapter of the Bankruptcy Code is instituted by or against Tenant, Tenant shall, at all times subsequent to the filing of the case, be in full and complete compliance with the provisions of Section 365(d)(3) of the Bankruptcy Code. If Tenant fails to comply at all times and in all respects with the provisions of Section 365(d)(3) of the Bankruptcy Code, the failure shall constitute "cause" for modification of the automatic stay of Section 362 of the Bankruptcy Code in order to permit City to pursue whatever state law remedies may be available to it, including eviction.

(C) If a proceeding under any chapter of the Bankruptcy Code is instituted by or against Tenant, Tenant shall not seek an extension of time within which it must assume or reject this Lease under Section 365(d)(4) of the Bankruptcy Code, and Tenant irrevocably waives and relinquishes any right it may have to seek an extension to the fullest extent permitted by applicable law. Failure of Tenant to assume this Lease within the sixty (60) day time period provided in Section 365(d)(4) of the Bankruptcy Code, without extension of that time period, shall conclusively and irrevocably constitute the Tenant's rejection of this Lease and waiver of any rights of Tenant to assume or assign this Lease.

24.19 Cooperation. The City and Tenant shall take all ministerial actions and proceedings reasonably necessary or appropriate to remedy any apparent invalidity, lack or defect in authorization, or illegality, or to cure any other defect, which has been asserted or threatened, except with respect to the City, the City shall not be required to take any such action which requires City Commission approval or is deemed by the City to present a conflict of interest or is deemed to be contrary to Applicable Law or which requires the City to incur any liability, cost or expense.

ARTICLE XXV REPRESENTATIONS AND WARRANTIES

25.1 City's Representations. City makes the following representations, covenants and warranties, which shall survive the execution of this Lease and Tenant's taking of possession of the Demised Property:

(A) As of the Lease Execution Date, City has taken all requisite actions to make this Lease binding upon City.

(B) As of the Lease Execution Date, to City's knowledge, no party except Tenant and parties in possession by through or under Tenant has any right to possession of the Demised Property.

(C) The City is not aware of nor has any knowledge of any unpaid special assessments of which the City has received notice for sewer, sidewalk, water, paving, gas, electrical, or utility improvements or other capital expenditures, matured or unmatured, affecting

the Premises. Further, the City is not obligated under any contract, lease or agreement, materially affecting the ownership, use, operation, management, maintenance, or lease of the Premises.

(D) Litigation. There is no action, suit, litigation, or proceeding pending or filed, to the City's knowledge, threatened against the City that could prevent or impair the City's entry into this Lease or performance of its obligations.

(E) As of the Lease Execution Date, there is no mortgage on the fee estate, and Landlord shall not mortgage the fee estate unless there is an express subordination of the Landlord's fee mortgage to the Tenant's interest under this Lease.

The foregoing representations and warranties of City shall be deemed to be restated and affirmed by City as of the Lease Commencement Date without the necessity of City's execution of any document, and City's liability, shall survive the signing of this Lease. Should any of the representations and warranties prove to be incorrect, it shall be City's obligation to cure those warranties and representations, which are set forth at City's expense.

25.2 Tenant's Representations and Warranties. Tenant makes the following representations, covenants and warranties, which shall survive the execution of this Lease and Tenant's taking of possession of the Demised Property:

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

(B) Neither Tenant, any Affiliate of Tenant, or any Person having an equity interest in Tenant, to Tenant's knowledge, any of Tenant's officers, directors, employees or agents is or will at any time be: (i) a Disqualified Person; (ii) in violation of any Anti-Bribery, Anti-Money Laundering and Anti-Terrorism Laws; (iii) acting, directly or indirectly, on behalf of terrorists, terrorist organizations or narcotics traffickers, including those persons or entities that appear on the Annex to the Executive Order, or are included on any Government Lists; (iv) named on a Government List, or acting for or on behalf of any Sanctioned Country; or (v) the target of Sanctions.

(C) The funds or other assets used in connection with this Lease and any committed amounts to this Lease, were not and are not derived from any activities with the governments of, or any individuals or entities located in, any Sanctioned Country or from activities that otherwise contravene any Sanctions, or from any activities that contravene any Anti-Bribery, Anti-Money Laundering and Anti-Terrorism Laws (including funds being derived from any person, entity, country or territory on a Government List or engaged in any unlawful activity defined under Title 18 of the United States Code, Section 1956(c)(7)).

(D) The foregoing representations and warranties of Tenant shall be deemed to be restated and affirmed by Tenant as of the Lease Commencement Date without the necessity of Tenant's execution of any document, and Tenant's liability shall survive the signing of this Lease. Should any of the representations and warranties prove to be incorrect, it shall be Tenant's obligation to cure those warranties and representations, which are set forth at Tenant's expense.

(E) Tenant acknowledges that it has examined the Demised Property, and accepts the Demised Property in its present "**AS-IS, WHERE-IS**" condition and without any

representations or warranties of any kind or nature by City whatsoever, express or implied, as to the Demised Property, its condition, or the accuracy of any information furnished to Tenant. Tenant assumes the sole responsibility for the condition of the Land and the Demised Property in order that Tenant may construct, operate, maintain and manage the Improvements upon the Demised Property; and City shall not be required at any time to make any repairs, replacements, changes (structural or otherwise), additions or alterations to the Demised Property, the Improvements and any other property of any kind demised by this Lease. Tenant expressly acknowledges and agrees that: (i) City makes and has made no warranty or representation whatsoever as to the condition or suitability of any portion of the Demised Property for Tenant's purposes; (ii) City makes and has made no warranty, express or implied, with regard to the accuracy of any information furnished to Tenant, and City shall not be bound by any statement of any broker, employee, agent or other representative of City; (iii) Tenant has made a complete and thorough independent examination and inspection of all portions of the Demised Property utilizing such experts and consultants as Tenant deemed appropriate and, on the basis of its inspection, Tenant is thoroughly familiar with all portions of the Demised Property (including, without limitation, whether or not hazardous or toxic materials are or have been located on or under or generated from any portion of the Demised Property), and all other matters relevant to Tenant; (iv) Tenant has determined that the condition of all portions of the Demised Property is satisfactory to Tenant; and (v) City makes and has made no warranty, express or implied, concerning any portion of the Demised Property, its condition, the use to which it may be put, any environmental matters, or any other thing or matter directly or indirectly related, including, without limitation, the zoning or other land use restrictions affecting the Demised Property, the compliance of the Demised Property or any part of the Demised Property with any governmental requirement, the use or existence, or prior use or existence, of hazardous materials on the Demised Property or the accuracy or completeness of any statement or other matter previously disclosed to Tenant. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES GIVEN TO TENANT IN CONNECTION WITH THIS LEASE OR THE DEMISED PROPERTY. CITY DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY, HABITABILITY, TENANTABILITY, AND FITNESS FOR ANY PARTICULAR PURPOSE. TENANT ASSUMES RESPONSIBILITY AND ALL RISKS RELATING TO LATENT OR OTHER DEFECTS.

25.3 Waiver of Jury Trial. CITY AND TENANT KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER OF THEM OR THEIR REPRESENTATIVES, SUCCESSORS OR ASSIGNS MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LEASE OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT TO BOTH PARTIES IN ACCEPTING THIS LEASE.

25.4 Counterparts. This Ground Lease may be executed in counterparts and all such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

25.5 Termination During Compliance Period. In the event, the City determines, in its sole discretion (but subject to the notice and cure rights of the Investor and Approved Leasehold Mortgagees as set forth in this Lease), that termination of this Ground Lease by reason of any

Event of Default, during the Tax Credit Compliance Period, is the most appropriate action, prior to taking any action to terminate the Lease, the City must first obtain consent for such termination from the Florida Housing Finance Corporation. Notwithstanding, nothing in this Lease shall preclude City from seeking any other rights or remedies available, whether by law or in equity, to it under this Ground Lease with respect to such Event of Default.

25.6 Enforceability. It is intended and agreed that the representations and covenants contained in this Lease shall be binding upon the Parties and their successors in interest and assigns, as covenants running with the land and shall be for the benefit and in favor of, and enforceable by, either City or Tenant.

SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, the parties have executed this Ground Lease as of the date and year first above written.

"CITY":

CITY OF POMPANO BEACH

By: 

REX HARDIN, MAYOR

By: 

GREGORY P. HARRISON
CITY MANAGER


Attest:



ASCELETA HAMMOND
CITY CLERK

(SEAL)

Approved As To Form:



MARK E. BERMAN
CITY ATTORNEY

"TENANT":

SONATA APARTMENTS, LTD.,
a Florida limited partnership

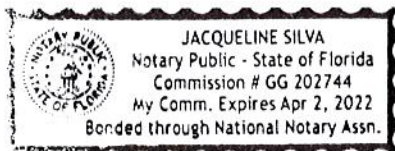
Cornerstone Sonata, LLC, a Florida limited liability
company, its general partner

By: 
Leon J. Wolfe, Vice President

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me (☒) physical presence or () online
notarization this 21 day of May, 2021, by LEON WOLFE, Vice
President of Cornerstone Sonata, LLC, the General Partner of Sonata Apartments, Ltd., on behalf
of Sonata Apartments, Ltd., who is personally known to me.

NOTARY'S SEAL:




NOTARY PUBLIC, STATE OF FLORIDA

Jacqueline Silva

(Name of Acknowledger Typed, Printed or Stamped)

GG 202744

Commission Number

JES:jrm
2/17/21
L:agr/realpropertymgr/2021-325

EXHIBIT A LEGAL DESCRIPTION OF PROPERTY

LEGAL DESCRIPTION:

A PORTION OF PARCELS 105, 108 & 109, FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 86170-2508, ACCORDING TO THE MAP THEREOF AS RECORDED IN RIGHT OF WAY MAP BOOK 13, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 109; THENCE SOUTH 87°56'39" WEST ALONG THE NORTH LINE OF SAID PARCEL 109, 65.83 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 39°03'01" EAST, 47.92 FEET TO A POINT ON LINE LYING 80.00 FEET WEST OF AND PARALLEL WITH THE EAST RIGHT OF WAY LINE FOR DIXIE HIGHWAY AS SHOWN ON SAID RIGHT OF WAY MAP; THENCE SOUTH 13°57'20" WEST, ALONG SAID PARALLEL LINE, 436.49 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 105, ALSO BEING THE NORTH LINE OF PARCEL "A", J.W. PLAT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 112, PAGE 22 OF THE PUBLIC RECORD OF BROWARD COUNTY, FLORIDA; THENCE SOUTH 87°56'39" WEST, ALONG SAID SOUTH LINE 126.77 FEET TO A POINT ON THE EAST LINE OF SUMTER'S ADDITION TO POMPANO FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGE 67 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE NORTH 13°57'20" EAST, ALONG SAID EAST LINE, 476.31 FEET TO NORTHWEST CORNER OF SAID PARCEL 109; THENCE NORTH 87°56'39" EAST, ALONG THE NORTH LINE OF SAID PARCEL 109, 86.95 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA AND CONTAINING 57,276 SQUARE FEET (1.31 ACRES) MORE OR LESS.

SURVEY NOTES:

1. THE LEGAL DESCRIPTION SHOWN HEREON WAS PREPARED BY THE SURVEYOR, BASED ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 86170-2508, AS RECORDED IN RIGHT OF WAY MAP BOOK 13, ON PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
2. KEITH AND ASSOCIATES, INC. CERTIFICATE OF AUTHORIZATION NUMBER IS L.B.#6860.
3. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
4. IT IS A VIOLATION OF RULE 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE TO ALTER THIS SKETCH AND DESCRIPTION WITHOUT THE EXPRESS PRIOR WRITTEN CONSENT OF THE SURVEYOR. ADDITIONS AND DELETIONS MADE TO THE FACE OF THIS SKETCH AND DESCRIPTION WILL MAKE THIS DOCUMENT INVALID.
5. THIS SKETCH AND DESCRIPTION DOES NOT CONSTITUTE A BOUNDARY SURVEY.
6. BEARINGS SHOWN HEREON ARE BASED ON AN ASSUMED BEARING OF SOUTH 13°57'20" WEST ALONG THE EAST LINE OF PARCEL 109, F.D.O.T. RIGHT OF WAY MAP SECTION 86170-2508, AS RECORDED IN RIGHT OF WAY MAP BOOK 13, ON PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
7. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS OF WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
8. THE INTENDED DISPLAY SCALE FOR THIS SKETCH IS 1"= 60' OR SMALLER.

CERTIFICATION:

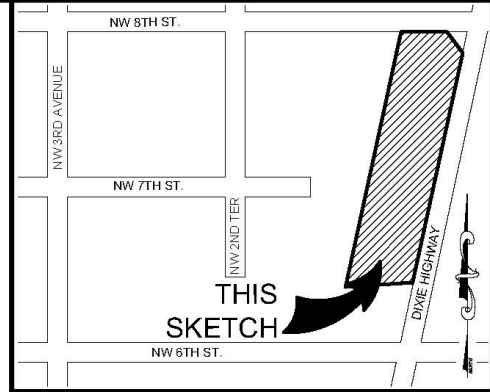
I HEREBY CERTIFY THAT THE ATTACHED SKETCH & DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS DEPICTED TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THE INFORMATION AS WRITTEN UNDER MY DIRECTION ON JUNE 25, 2020 MEETS THE STANDARD OF PRACTICE (FORMERLY RULE 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE), PURSUANT TO SECTION 472.027, FLORIDA STATUTES, SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

KEITH & ASSOCIATES, INC.
CONSULTING ENGINEERS



Timothy H Gray
2020.07.06
09:55:27-04'00'

TIMOTHY H. GRAY
PROFESSIONAL SURVEYOR AND MAPPER
REGISTRATION No. 6604
STATE OF FLORIDA



LOCATION MAP:
NOT TO SCALE

SKETCH & DESCRIPTION

A PORTION OF PARCELS 105, 108, & 109, PER THE F.D.O.T. RIGHT OF WAY MAP SECTION 86170-2508 R.M.B. 13, PG. 39, B.C.R.

CITY OF POMPANO BEACH BROWARD COUNTY



301 EAST ATLANTIC BOULEVARD
POMPANO BEACH, FLORIDA 33060-6643
(954) 788-3400 FAX (954) 788-3500
EMAIL: mail@KEITHteam.com LB NO. 6860

SHEET 1 OF 2

DRAWING NO. 10020.76-SKETCH & DESCRIPTION.dwg

DATE 06/25/20

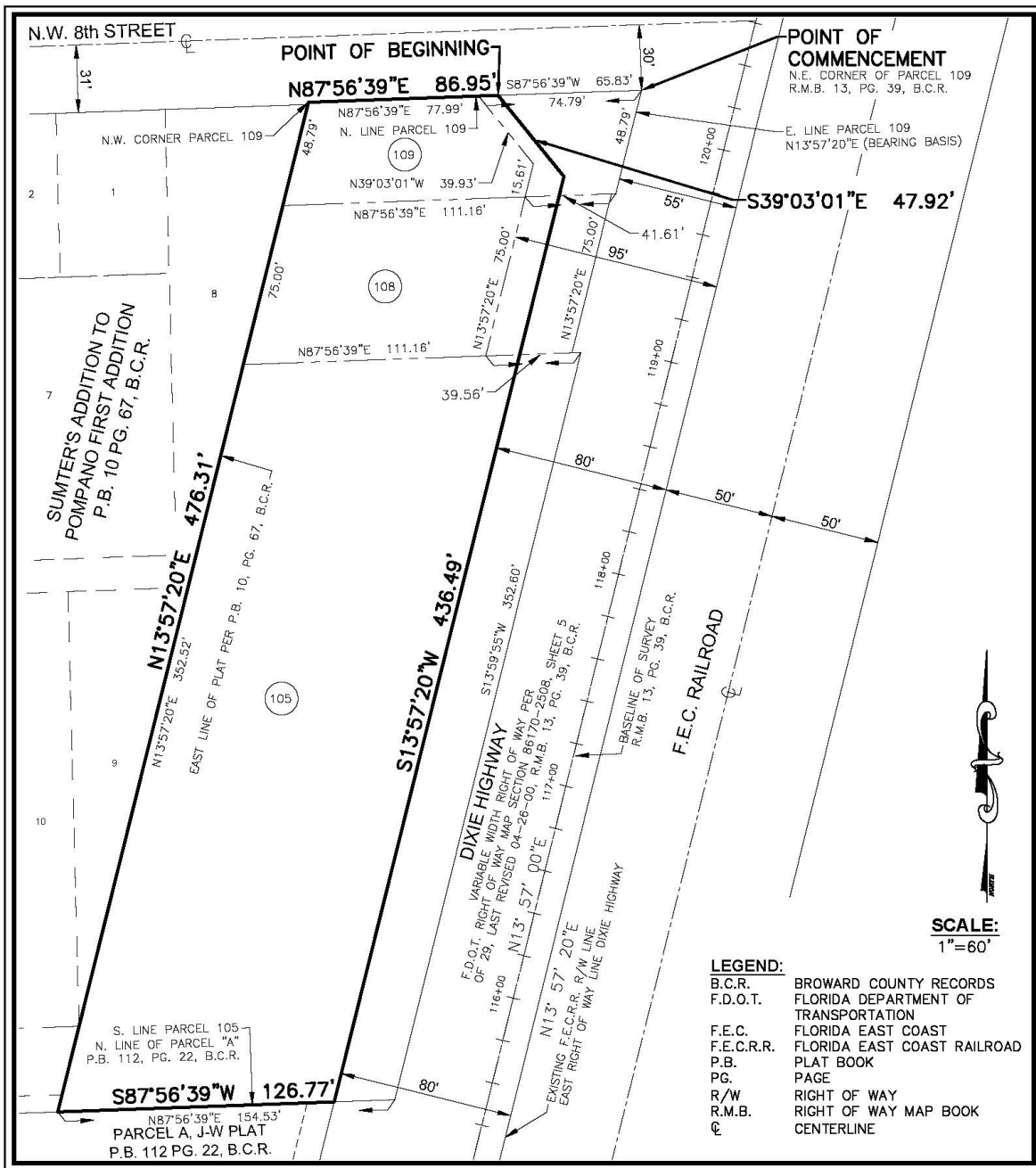
SCALE 1"=60'

FIELD BK. N/A

DWNG. BY DDB

CHK. BY THG

DATE REVISIONS



<div>SKETCH & DESCRIPTION</div> <div>A PORTION OF PARCELS 105, 108, & 109, PER THE F.D.O.T. RIGHT OF WAY MAP SECTION 86170-2508 R.M.B. 13, PG. 39, B.C.R.</div> <div>CITY OF POMPANO BEACH BROWARD COUNTY</div>	<div><div>KEITH</div><div>301 EAST ATLANTIC BOULEVARD POMPANO BEACH, FLORIDA 33060-6643 (954) 788-3400 FAX (954) 788-3500 EMAIL: mail@KEITHteam.com LB NO. 6860</div><div>SHEET <u>2</u> OF <u>2</u></div><div>DRAWING NO. <u>10020.76-SKETCH & DESCRIPTION.dwg</u></div></div>	<div>DATE <u>06/25/20</u></div> <div>SCALE <u>1"=60'</u></div> <div>FIELD BK. <u>N/A</u></div> <div>DWG. BY <u>DDB</u></div> <div>CHK. BY <u>THG</u></div>	<table><tr><th>DATE</th><th>REVISIONS</th></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr></table>	DATE	REVISIONS										
DATE	REVISIONS														

Legal Description Lease Area of Six (6) City Parcels

- (a) BEGINNING ON THE NORTH LINE OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ AND THE WEST LINE OF THE FEC RAILROAD RIGHT OF WAY, WEST 210 FEET, THEN SOUTHWEST 80 FEET, THEN EAST 210 FEET, THEN NORTHEAST 80 FEET TO THE POINT OF BEGINNING OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 42 EAST, LESS THE NORTH 30 FEET OF THE WEST 154.23 FEET FOR NE 8 STREET RIGHT OF WAY.
- (b) BEGINNING 80 FEET SOUTHWESTERLY OF THE INTERSECTION OF THE NORTH LINE OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ AND THE WEST LINE OF THE FEC RAILROAD RIGHT OF WAY, WEST 210 FEET, THEN SOUTHWEST 75 FEET, THEN EAST 210 FEET, THEN NORTHEAST 75 FEET TO THE POINT OF BEGINNING OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 42 EAST, LESS THE EAST 56.98 FEET FOR DIXIE HIGHWAY.
- (c) BEGINNING 155 FEET SOUTH OF THE INTERSECTION OF THE NORTH LINE OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ AND THE WEST LINE OF THE FEC RAILROAD, WEST 210 FEET, THEN SOUTHWEST 75 FEET, THEN EAST 210 FEET, THEN NORTHEAST 75 FEET TO THE POINT OF BEGINNING OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 42 EAST, LESS THE EAST 20 FEET FOR DIXIE HIGHWAY.
- (d) BEGINNING 170 FEET NORTHEAST OF THE SOUTHEAST CORNER FROM THE NORTH $\frac{3}{4}$ OF THE NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ WEST OF RIGHT OF WAY, THENCE RUN NORTHEAST 100 FEET, THENCE WEST 210 FEET, THENCE SOUTHWEST 100 FEET, THENCE EAST 210 FEET TO THE POINT OF BEGINNING OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 42 EAST, LESS THE EAST 55 FEET FOR DIXIE HIGHWAY.
- (e) BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH $\frac{1}{2}$ OF THE SOUTH $\frac{1}{2}$ OF THE NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ AND THE WEST LINE OF THE FEC RAILROAD RIGHT OF WAY, NORTHEAST 110 FEET TO THE POINT OF BEGINNING, THENCE NORTHEASTERLY 60 FEET, THENCE WESTERLY 210 FEET, THENCE SOUTHWESTERLY 60 FEET, THENCE EASTERLY 210 FEET TO THE POINT OF BEGINNING OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 42 EAST.
- (f) BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH $\frac{1}{2}$ OF THE SOUTH $\frac{1}{2}$ OF THE NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ AND THE WEST LINE OF THE FEC RAILROAD RIGHT OF WAY, NORTHEASTERLY 110 FEET, THENCE WEST 210 FEET, THENCE SOUTHWESTERLY 110 FEET, THENCE EAST 210 FEET TO THE POINT OF BEGINNING OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 42 EAST.

ALSO KNOWN AS:

A PORTION OF TRACT 10, PLAT OF THE SUBDIVISION OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK B, PAGE 76, MIAMI-DADE COUNTY PUBLIC RECORDS ALSO BEING PORTIONS OF PARCELS 105, 108 & 109, AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 86170-2508, ACCORDING TO THE MAP THEREOF AS RECORDED IN RIGHT OF WAY MAP BOOK 13, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; SAID PORTIONS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 9, SUMTER'S ADDITION TO TOWN OF POMPANO FIRST ADDITION PLAT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGE 67 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE NORTH $13^{\circ}40'56''$ EAST, ALONG THE EASTERLY LINE OF SAID PLAT BOOK 10, PAGE 67, 443.14 FEET TO A POINT ON A LINE LYING 30.00

FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (S.E.1/4) OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 42 EAST; THENCE NORTH 87°56'12" EAST, ALONG SAID PARALLEL LINE, 86.79 FEET; THENCE SOUTH 39°02'58" EAST, 47.93 FEET TO A POINT TO A POINT ON A LINE LYING 80.00 FEET WESTERLY OF AND PARALLEL WITH THE WESTERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY; THENCE SOUTH 13°57'52" WEST, ALONG SAID PARALLEL LINE, 436.62 FEET TO A POINT ON THE NORTH LINE OF PARCEL "A", "J-W PLAT", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 112, PAGE 22 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE SOUTH 88°08'56" WEST, ALONG SAID NORTH LINE, 124.05 FEET TO THE SOUTHEAST CORNER OF THAT CERTAIN 31-FOOT RIGHT-OF-WAY DEDICATION FOR SEVENTH STREET AS SHOWN ON PLAT BOOK 10, PAGE 67; THENCE NORTH 13°40'56" EAST, ALONG THE EASTERLY LINE OF SAID RIGHT-OF-WAY DEDICATION, 32.17 FEET TO THE POINT OF BEGINNING.

EXHIBIT B **DEVELOPMENT CONCEPTUAL SITE PLAN & DEVELOPMENT AGREEMENT** **(Development Agreement provided as separate attachment)**

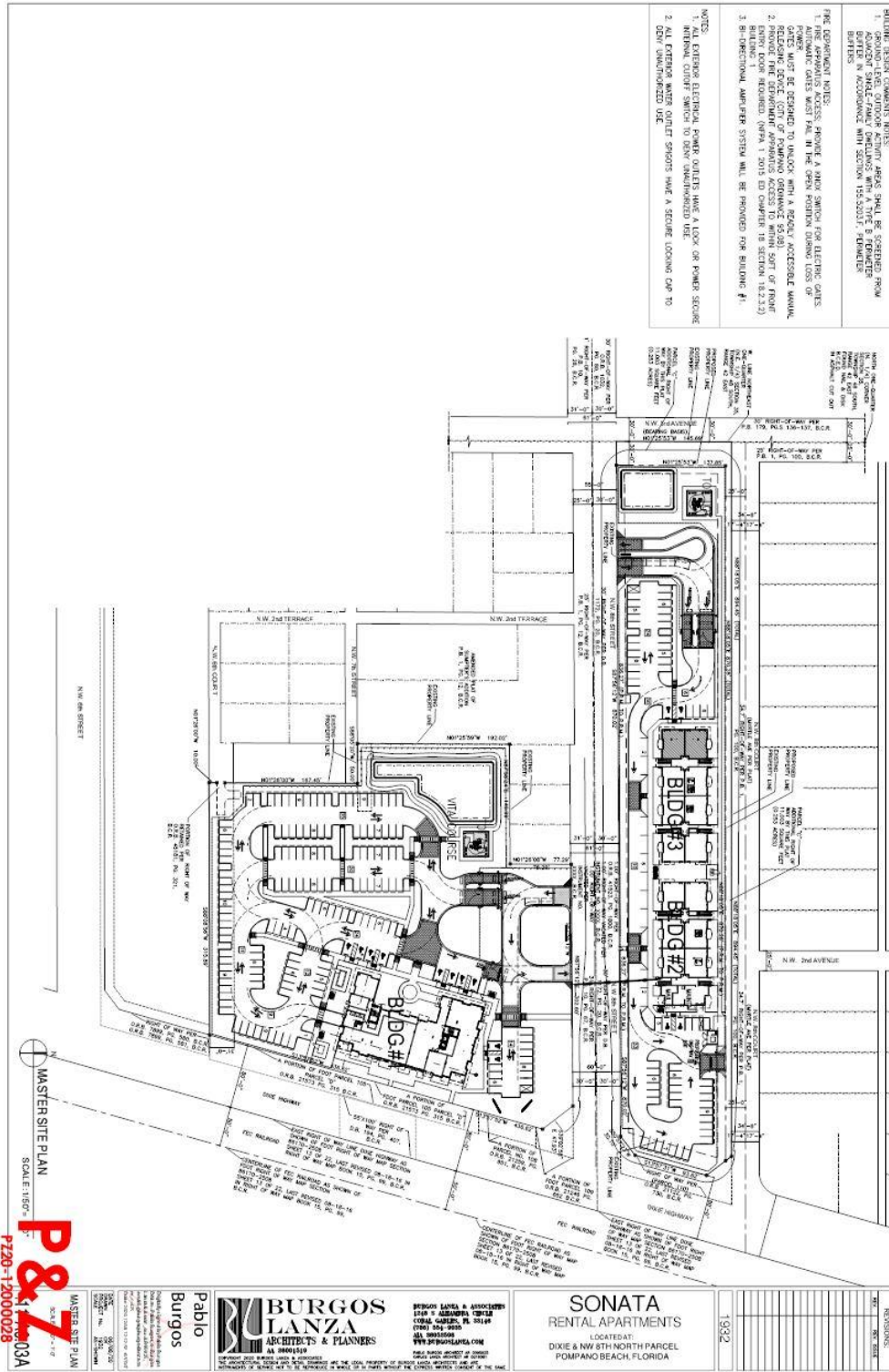


Exhibit "B" to Lease

**Pompano Beach
Community Redevelopment Agency**

and

City of Pompano Beach

**Property Disposition and
Development Agreement**

with

Sonata Apartments, Ltd.

PROPERTY DISPOSITION AND DEVELOPMENT AGREEMENT

THIS PROPERTY DISPOSITION AND DEVELOPMENT AGREEMENT (the “Agreement”), is made and entered into by and between

CITY OF POMPANO BEACH, a Florida municipal corporation, whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida 33060 (“CITY”)

and

POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic, whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida 33060 (the “CRA”),

and

SONATA APARTMENTS, LTD. a Florida limited partnership, whose address is 2100 Hollywood Boulevard, Hollywood, FL 33020 (the “Developer”);

collectively referred to as “the Parties.”

WHEREAS, CITY is the legal owner of six properties located along Dixie Highway, assigned the following Broward County property folio numbers: 484235001210; 484235001220; 484235001230; 484235001240; 484235001250; and 484235001251 (collectively, the “City Property” or “Property”), legally described as provided in Exhibit 1, attached and incorporated in this Agreement; and

WHEREAS, Developer desires to lease the City Property and, along with three parcels adjacent to the City Property that it is currently under contract to purchase (Broward County property folio numbers: 484235110070, 484235000120 and 484235000130), proposes to build a 121 unit mixed-use, mixed-income housing development to be known as the Sonata Apartments, which will include approximately 3500 square feet of retail space (the “Project”); and

WHEREAS, the Parties acknowledge and understand that the Project (i) is critically important to the community’s general welfare and abutting areas; (ii) fosters and develops a mixed-use, mixed-income development within one of the City’s flexibility zones; and that (iii) substantial financing and other public assistance made available by federal, state and local governments makes this Project possible; and

WHEREAS, the Parties recognize there is an existing dry retention area on the City Property which requires relocation in order to complete the Project; and

WHEREAS, the Project and relocation of the dry retention area are redevelopment initiatives consistent with the NWCRA Plan and the CRA’s overall redevelopment objectives for the NWCRA District; and

WHEREAS, the CRA is willing to lend financial assistance to the cost of relocating the dry retention area and additional public infrastructure costs; and

WHEREAS, the CRA is also willing to lease the retail space within the Project for a period of ten years, subject to the Developer's contribution to tenant improvements and the CRA's right to sublease the retail space for the duration of the lease term; and

WHEREAS, the CITY believes the Project can transform the vacant land into a mixed-use, mixed-income housing development that adds to the tax base of the City and contributes positively to local community and helps to stabilize surrounding neighborhoods; and

WHEREAS, the CITY, consistent with its Community Development Block Grant Annual Action Plan, desires to strategically utilize its financial resources to address gaps in affordable housing developments through its Affordable Housing Trust Fund Program and has committed a reduced interest rate loan to the Developer for the Project; and

WHEREAS, the Parties desire to enter into this Agreement to set forth their mutual understandings and obligations regarding development and use of the Property; and

NOW, THEREFORE, in consideration of the conditions, covenants and mutual promises set forth in this Agreement, the Parties agree as follows.

ARTICLE 1 DEFINITIONS

As used in this Agreement the following terms shall have the following meanings. Other terms not defined in this Article shall have the meanings assigned to them elsewhere in this Agreement. Words used in the singular shall include the plural and words in the masculine/feminine/neuter gender shall include words in the masculine/feminine/neuter where the text of this Agreement requires.

Authorized Representative: the person(s) designated and appointed from time to time by either the CITY, the CRA or Developer to represent that entity in administrative matters as opposed to policy matters.

Building and Improvements: new construction of three buildings containing 121 units of mixed-use, mixed-income residential housing development with approximately 3500 square feet of retail space on the ground floor of one of the buildings.

Building Official: the City's official in the City of Pompano Beach Building Department charged with authority under the Florida Building Code to review and approve building plans on behalf of the City and to issue building permits.

Building Permit: refers to the approvals required from the City of Pompano Beach needed to begin construction of the Project.

Certificate of Occupancy or “CO”: wherever either of these terms are used in this Agreement, they shall refer to a temporary or final certificate of occupancy issued by the City pursuant to the Florida Building Code.

Completion Date: November 4, 2022 or, where construction is phased, the date when the CITY issues a final Certificate of Occupancy for the respective Project Phase.

Conceptual Site Plan: the Conceptual Site Plan submitted by the Developer.

Construction Plans: refers to the plans prepared by a licensed architect and/or engineer required for the issuance of the Building Permit.

Construction Financing: any financing provided for all or any portion of the Project.

Contractor: one or more individuals or firms constituting a general contractor properly licensed by the City or other appropriate jurisdiction to the extent required by applicable law to perform contracting services to construct the Buildings and Improvements, bonded and insured to the extent required by applicable law and contract specification.

Contract Administrator: for the CITY, the City Manager or his/her designee; for the CRA, its Executive Director or his/her designee as provided for in writing; for Developer, Leon Wolfe, Jorge Lopez or Mara Mades, as principals of Sonata Apartments, Ltd. or their designee as provided for in writing.

Declaration of Covenants and Restrictions: refers to a land use regulatory agreement that will be recorded in connection with the allocation of tax credits from the Florida Housing Financing Corporation or a similar type of affordability restrictive covenant from any lender or the declaration of covenants and restrictions required by the CRA in Article 7.

Development Approvals: any or all of the following approvals (collectively, the “Development Approvals”):

- a. Site Plan
- b. Building Permits
- c. Drainage Permits
- d. All Site Development Permits
- e. Approvals by other governmental agencies having jurisdiction

Development Drawings: preliminary development plans that include, but are not limited to, a graphic depiction of the residential units and retail space, including floor plans and elevations.

Financing Commitment(s): letters of firm commitment from one or more lenders or tax credit investors providing construction financing evidencing Developer’s capacity to timely perform its obligations under this Agreement in accordance with this Agreement and the Project Schedule. If the Financing Commitments are received from more than one source, they shall

cumulatively provide an adequate amount of total financing and/or equity to comply with the foregoing.

Governmental Authorities: the City, CRA, and any other federal, state, county, municipal or other government department, entity, authority, commission, board, bureau, court, agency or any instrumentality of any of them.

Improvements: improvements on the Property to be constructed with and in support of the Project in accordance with this Agreement, including but not limited to, the residential units, retail space, common areas, paving, lighting, irrigation, landscaping and all other improvements made to the Property.

Lease: means the Ground Lease of the City Property to be entered into between the City and the Developer.

Loan: refers to construction financing for the Project.

Notice of Completion: after Developer's receipt of the Certificate of Occupancy for the Project, the Notice of Completion shall be the CITY's and CRA's written notice to Developer memorializing the CITY and CRA's satisfaction with Developer's completion of the Building and Improvements.

Permitted Delays: all delays or extensions approved by the CITY or the CRA and all delays attributable to an event of force majeure as provided for in Article 37.

Permitted Plans: the collective development plans approved by the City and CRA for the Project, including but not limited to the Site Plan; Landscape Plan; engineering/infrastructure paving, grading and drainage plans; architectural, mechanical and structural drawings and specifications prepared by the Developer and/or its agents, and ultimately approved by the City, in its regulatory capacity, and through which all relevant permits are issued by the City.

Project Budget: the budget prepared by the Developer that shows the anticipated line items and estimated costs for all the line items that Developer expects to incur in connection with development of the Project as described in the Proposal.

Project Lender: refers to the lender or lenders who will provide all financing needed to complete the Project.

Project Schedule: the schedules and time frames given by the Developer to the CITY and the CRA for submittal of applications for approvals and commencement and completion of the Building and Improvements as required by this Agreement.

Project Site: refers to the City Property and the Developer Property as described in Exhibits 1 and 2 to be utilized for construction of the Project in accordance with this Agreement.

Site Plan Approval: the final, unconditional granting of the site plan approval from the Governmental Authorities, including all applicable appeal periods.

Work: the construction and services required under this Agreement, whether completed or partially completed, including all other labor, materials, equipment, goods, products and services provided or to be provided by Developer to fulfill Developer's obligations under this Agreement. The Work shall include the complete design, permitting, financing, and construction of the Project.

ARTICLE 2 REPRESENTATIONS

2.1 Representations of the CITY and the CRA. The CITY and the CRA make the following representations to Developer which the CITY and the CRA acknowledge that Developer has relied upon in entering into this Agreement.

2.1.1 This Agreement is a valid, binding and permissible activity within the power and authority of the CITY and the CRA and does not violate any City Code, City Charter provision, rule, resolution, ordinance, policy, CRA Redevelopment Plan, or agreement of the City or the CRA, or constitute a default of any agreement or contract to which the City or the CRA is a party.

2.1.2 The CITY is leasing the City Property in a physically "as is" condition.

2.1.3 The individuals executing the Agreement on behalf of the CITY and the CRA are duly authorized to take such action, which action shall be, and is, binding upon the CITY and the CRA.

2.1.4 The CITY intends to unify the lease area of the six (6) CITY parcels into one (1) folio.

2.2 Representations of Developer. Developer makes the following representations to the CITY and the CRA which the CITY and the CRA rely upon in entering into this Agreement.

2.2.1 The Developer is a Florida limited partnership, duly organized, existing and in good standing under the laws of the State of Florida with the power and authority to enter into this Agreement.

2.2.2 The execution, delivery, consummation and performance under this Agreement will not violate or cause the Developer to be in default of any provisions of its governing documents or rules and regulations or any other agreement to which Developer is a party or constitute a default thereunder or cause acceleration of any obligation of Developer thereunder.

2.2.3 By execution of this Agreement, the Developer certifies to the CITY and the CRA that the person executing this Agreement, on behalf of the Developer, has been duly authorized by the Developer to enter into, execute and deliver this Agreement and all other documents, certificates, agreements, consents and receipts, and to take any and all other actions of any kind

whatsoever in order to accomplish the purposes and undertakings and such action shall be, and is, binding on Developer.

2.2.4 There are no actions, suits or proceedings pending or threatened against or affecting the Developer or its partners, which Developer is aware of in any court or before or by any federal, state, county or municipal department, commission, board, bureau, agency or other governmental body which would have any material effect on Developer's ability to perform its obligations under this Agreement.

2.2.5 Developer represents that, upon obtaining Financing Commitments as described in this Agreement, it has the ability, skill and resources to complete its obligations under this Agreement.

2.2.6 Developer acknowledges this Agreement has been entered into to construct a mixed-use, mixed income residential housing development consisting of 121 units with approximately 3500 square feet of retail space in the CRA's Northwest CRA District in accordance with the infill housing goals of the CRA's NWCRA community redevelopment Plan (the "NWCRA Plan") and as further described in the Developer's Conceptual Site Plan, prepared and incorporated in City Resolution 2020-43, passed and adopted October 22, 2019, and later amended in P&Z Case No. 20-12000028, heard and approved by the Planning and Zoning Board on January 27, 2021, and as further described in Exhibit 2, attached and incorporated to this Agreement.

2.2.7 Developer also acknowledges and understands that the CITY and the CRA, by entering into this Agreement, are relying on the Developer for the faithful performance of all undertakings and covenants contained in this Agreement.

2.2.8 Developer further acknowledges that its failure to faithfully perform any of the provisions of this Agreement constitutes default on its part, and Developer fully agrees to the CITY's and the CRA's remedies for default as set forth in this Agreement.

2.2.9 Developer agrees that construction of the Building and Improvements on the Project Site shall be substantially completed according to the Project Schedule, but that in no event shall the completion of construction extend beyond January 1, 2024, including Permitted Delays and Force Majeure.

ARTICLE 3

APPLICABILITY OF CONDITIONAL TERM SHEET AND INCORPORATION BY REFERENCE

On July 19, 2020, the CRA Board approved a Conditional Term Sheet outlining its proposed Project. The Term Sheet is attached as Exhibit 3 and incorporated in this Agreement. The Conditional Term Sheet and all Exhibits attached to this Agreement form an integral part of this Agreement and are specifically incorporated in this Agreement by reference. In the event there is a conflict between the Conditional Term Sheet and this Agreement, the express terms and conditions of this Agreement shall prevail and supersede those inconsistent terms in the Conditional Term Sheet.

ARTICLE 4 PROJECT

4.1 The CITY leases to the Developer, and the Developer agrees to lease from CITY, the real property, legally described in Exhibit 1, to design, finance and construct a mixed-use, mixed income residential housing development consisting of 121 units with approximately 3500 square feet of retail space. Of the 121 residential units, 15 units will be rentable at market rate with no income restrictions. Fifty-seven (57) units will be rentable at or below seventy percent (70%) of the Pompano Beach Average Median Income ("AMI") as will be more particularly set forth in the Declaration of Covenants and Restrictions.

4.2 This Agreement is contingent upon the Developer closing on the Construction Financing. If the closing on the Construction Financing has not occurred within twelve (12) months of the Effective Date (as defined in Article 5), this Agreement shall automatically terminate unless, at the request of the Developer and upon written consent of the CITY and the CRA, which consent shall not be unreasonably withheld, this period is extended for an additional six (6) months.

4.3 Project Funding: Developer shall be solely responsible for obtaining all funds necessary to design, construct and market the Buildings and Improvements on the Property as described in this Agreement.

4.4 The Developer will also be responsible for relocating the drainage provided by the existing dry retention pond located on the Property consistent with governing jurisdictions by installing the new Stormtech system. The CRA will reimburse the Developer up to \$420,000 of its costs for relocating the existing dry retention pond and installing the Stormtech system. Once the installation is completed, the Developer will submit an invoice evidencing such costs to the CRA. Following the CRA's verification of such costs and satisfactory completion of the installation, the CRA will reimburse such funds to the Developer.

4.5 The Developer will be solely responsible for maintenance and repairs of the Stormtech system. If the Developer fails to pay for such maintenance and repairs, the CITY shall have the right to pay for such maintenance and repairs and seek reimbursement from the Developer or seek other legal remedy.

4.6 Financial Assistance

4.6.1 The CRA has also agreed to make a deferred payment loan to Developer in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00) ("CRA Loan") in furtherance of the Project's construction, specifically to secure construction financing. The Loan shall be secured by a mortgage and noninterest-bearing promissory note, with the principal balance due and payable, if at all, thirty-five (35) years after Developer receives the final certificate of occupancy for the Project. The Mortgage and Note shall be substantially similar in form as the Mortgage and Note attached and incorporated in this Agreement as Exhibit "5", and shall be executed at Closing. Loan proceeds will be advanced to the Developer in the amount of \$300,000 per year for a period of five years commencing on October 1, 2022, and thereafter on each

consecutive October 1st until disbursed in full. The parties hereto agree that this loan shall be forgiven, in the CRA's discretion, if: (a) a Certificate of Occupancy is issued for the Building and Improvements and (b) if the Developer complies with the provisions of the Declaration of Covenants and Restrictions.

4.6.2 The CITY has agreed to lend the Developer Seven Hundred Eighty-Three Thousand Two Hundred Fifty Dollars (\$783,250) ("City Loan") in furtherance of the Project's construction, specifically to secure construction financing. The Loan shall be secured by a mortgage and promissory note bearing an interest rate of one percent (1%), with the principal balance and interest due and payable thirty-three (33) years after Developer receives the final certificate of occupancy for the Project. The Mortgage and Note shall be substantially similar in form as the Mortgage and Note attached and incorporated in this Agreement as Exhibit "6", and shall be executed at Closing. Loan proceeds will be payable at Closing.

4.6.3 Repayment of City and CRA Funds. The City and CRA Loans shall be repaid to the respective Mortgagee/Lender, at the respective Mortgagee/Lender's election, in the event that the Developer fails to preserve the affordability aspect of the Project as set forth in that Declaration of Covenants and Restrictions (the "Declaration") recorded in favor of the City and CRA that is substantially similar in form as Exhibit "7", attached and incorporated in this Agreement, or fails to comply with its written commitment to develop at least fifteen (15) market rate units.

4.6.4 The Developer agrees to enter into a lease with CRA for the retail space proposed in the Project and agrees to construct and install up to \$150,000 in tenant improvements as directed and required by the CRA. The desired tenant improvements shall be determined, estimated and completed according to the terms of the lease to be executed between the Developer and the CRA and shall be consistent with and in furtherance of this Agreement. Developer agrees that the CRA shall pay rent in the amount of \$10 per square foot for a period of ten (10) years with no rent escalation cost.

ARTICLE 5 TERM

The term of this Agreement shall commence on the date this Agreement is executed by the later of the CITY, the CRA or Developer ("Effective Date") and continue for the term of the Developer's lease with the CITY. During this period, the Developer shall be bound by, and must comply with, the terms and conditions imposed upon the Property by this Agreement and all related documents.

ARTICLE 6 CONDITIONS PRECEDENT

The CITY shall have no obligation to lease the City Property to Developer unless all conditions precedent to such lease have been satisfied, completed or performed. The following are conditions precedent to the CITY's lease of the City Property to Developer:

6.1 Evidence of Financing Commitment(s) For Construction Financing. Developer acknowledges that it has sole responsibility for all Project expenses. This Agreement and lease of the City Property is expressly made contingent upon Developer providing the CITY with evidence satisfactory to the CITY that Developer has Financing Commitments and sufficient equity capital for construction of all the Building and Improvements on the Project Site. The Financing Commitments shall: (i) be in a form and content reasonably acceptable to the CITY and the CRA; (ii) subject to all the terms and conditions of this Agreement; and (iii) provided that Project Lenders give the CITY and the CRA notice of any defaults by the Developer.

6.1.1 Upon Developer delivering the Financing Commitments to the CITY and the CRA, the CITY and the CRA shall respond in writing within ten (10) business days as to the acceptability of such commitment(s) with approval not to be unreasonably withheld, conditioned or delayed. If the Financing Commitments are unacceptable to the CITY and the CRA, the CITY and the CRA shall specify the matters which are unacceptable and provide Developer with a sixty (60) day period to resubmit acceptable Financing Commitments. If the CITY and the CRA fail to respond as specified above, the Financing Commitments shall be deemed acceptable.

6.1.2 In the event the Developer is unable to satisfactorily provide the Financing Commitments on or before January 1, 2022, this Agreement shall automatically and without further notice terminate and be null and void and of no further force and effect, in which event the parties shall be released of all further obligations and liabilities to the other, except those which expressly survive termination.

6.2 Developer shall provide evidence satisfactory to the CITY and the CRA that it has all necessary development approvals.

6.3 Pre-Closing Access to Property for Testing, Inspections and other Examinations. Prior to the CITY's lease of the City Property to Developer, the CITY shall permit Developer's representatives to have access, at all reasonable times, to any part of the Project Site to which the CITY holds title for the purpose of obtaining data and making various tests concerning the Project Site necessary to carry out this Agreement. The data and testing may include, but is not limited to, location and preconstruction surveys; soil borings; tests of on-site infrastructure; or other examinations of the Project Site which require that full possession of the Project Site be given to Developer.

6.3.1 Developer shall be solely responsible for repair of any damage to the Project Site or any property adjacent to the Project Site caused by Developer's pre-closing access to the Project Site for testing, inspections and any other activities conducted by Developer on the Project Site.

6.3.2 Developer shall indemnify and hold the CITY and the CRA harmless as to any and all claims arising from Developer's access to the Project Site under this Article 6. The CITY shall provide Developer copies of available information regarding the Project Site, including site surveys, utility location drawings, soil borings, environmental reports and other similar documentation concerning the Project Site in its possession, but shall not be obligated to obtain, create or draft such documents if such are not within the CITY's possession or control. Notwithstanding the execution and delivery of this Agreement, Developer shall take no possession

of the Project Site, other than the temporary access provided in this Article, until the CITY leases it to Developer in accordance with this Agreement.

ARTICLE 7 MIXED INCOME RESTRICTIONS

7.1 Permitted Use. Developer shall design, construct and market the residential Buildings and Improvements, excluding the retail space, on the Project Site for multi-family residential use in accordance with this Agreement.

7.2 Mixed Income Restrictions. Developer acknowledges and agrees that fifteen (15) of the residential units will be rentable at market rate (unrestricted) at all times. Developer further acknowledges that fifty-seven (57) of the residential units will be rentable at or below seventy percent (70%) of AMI during the term of the Declaration of Covenants and Restrictions.

7.3 Modification to Mixed Income Restrictions. No change in the mixed-income restrictions shall be made until such change has been presented to and formally approved by the CRA and the CITY. In the event of any conflict between the insurance coverages required by this Agreement and Lease, the terms of the Lease shall control.

ARTICLE 8 INSURANCE

8.1 At all times during the Term, the Developer shall, at the Developer's sole cost and expense, but for the benefit of the City and CRA, maintain the insurance prescribed in Exhibit 8, attached and made a part of this Agreement.

8.2 Policies Obtained by Independent Contractors. Developer may cause its independent contractors to provide some or all of the insurance coverages required. To the extent that such independent contractors carry such coverages, Developer shall not be required to carry such coverages, so long as the coverages obtained by Developer and such independent contractors together satisfy the requirements of this Article. City, CRA, Developer and any Approved Leasehold Mortgagees shall be named as additional insureds as to any such coverages obtained by Developer's independent contractors.

8.3 Delivery of Insurance Policies. All public liability and worker's compensation policies shall be retained by Developer. Subject to the rights of any Approved Leasehold Mortgagee, all other policies of insurance required to be furnished pursuant to this Article shall be held jointly by City, CRA and Developer. Insurance company certificates evidencing the existence of all of these policies of insurance shall be delivered to City and/or CRA.

8.4 Required Policy Provisions. All policies of insurance required to be provided and obtained pursuant to this Article shall provide that they shall not be amended or canceled on less than thirty (30) days' prior written notice to City, CRA and all insureds and beneficiaries of the policies; provided, however, that if thirty (30) days' notice is ever commercially unavailable, then the required number of days' notice shall be reduced to such number as is commercially available. All

such policies shall contain waiver of subrogation rights endorsements as required below. City and CRA shall have no obligation to pay premiums or make contributions to the insuring company or any other Person or satisfy any deductible.

8.5 Delivery. No less than thirty (30) days prior to the expiration date of any policy required to be carried pursuant to this Article, Developer shall deliver to City and any Approved Leasehold Mortgagee the applicable respective policies and insurance company certificates evidencing all policies of insurance and renewals required to be furnished. Receipt of any documentation of insurance by City, CRA, or by any of its representatives which indicates less coverage than required shall not constitute a waiver by City or CRA of Developer's obligation to fulfill the insurance requirements.

8.6 City's Right to Obtain. If Developer fails to pay insurance premiums when due or to comply with other insurance requirements set forth in this Agreement, City and CRA shall have the right, at their option, to order insurance policies and to advance such sums as are required to maintain or procure such insurance, and to the extent of the money so advanced, City or CRA shall be entitled to reimbursement by Developer upon demand. Unless there would ensue a lapse of coverage, City or CRA shall, before making any such advance, provide Developer with ten (10) days' prior written notice and the opportunity to obtain the required policies.

8.7 Insurer to Be Approved; Premium Receipts. All policies of insurance of the character described in this Article shall be effected under policies issued by insurers permitted to do business in the State of Florida and rated in Best's Insurance Guide, or any successor thereto (or, if there is none, an organization having a national reputation for rating insurance companies) as having a general policyholder rating of "A" and a financial rating of at least "VII". On written request by City or CRA, Developer shall provide photocopies of receipts showing the payment of premiums for all insurance policies required to be maintained by this Agreement.

8.8 Developer Waiver. Developer expressly, knowingly, and voluntarily waives and releases any right of recovery that it may have against the City or CRA for loss or damage to its property, and property of third parties in the care, custody, and control of Developer, and loss of business (specifically including business interruption by Developer) directly or by way of subrogation or otherwise as a result of the acts or omissions of the City or CRA specifically including the negligence of City or CRA and the intentional misconduct of the City or CRA, to the extent any such claims are covered by the property, rental income, business income, or extra expense insurance carried or required to be carried under the terms of this Agreement (whether or not actually carried by either party), or other property insurance that Developer may carry at the time of an occurrence or under a so-called "special perils" or "special form causes of loss" property insurance policy or under a so-called "contents" insurance policy (whether or not actually carried). Developer shall each, on or before the earlier of the Agreement Execution Date or the date on which Developer first enters the Property for any purpose, obtain and keep in full force and effect at all times thereafter a waiver of subrogation from its insurer concerning the commercial general liability, commercial automobile liability, workers' compensation, employer's liability, property, rental income, and business interruption insurance maintained by it for the Project and the property

located in the Property. This section shall control over any other provisions of this Agreement in conflict with it and shall survive the expiration or sooner termination of this Agreement.

8.9 Endorsements. Developer shall cause its insurer(s) to issue appropriate waiver of subrogation rights endorsements to all policies of insurance carried in connection with the Property.

8.10 Prior to commencement of construction, Developer shall obtain, or cause each of its construction contractors who are acting as general contractors to obtain, payment and performance bonds, insuring the performance of the completion of the Project, acceptable in all respects to the CITY and CRA from a corporate surety authorized to do business in the State of Florida, reasonably acceptable to the CITY and CRA, and naming the CITY and the CRA as dual obligees.

ARTICLE 9 CONTRACT ADMINISTRATOR

9.1 For the purposes of the day-to-day conduct during planning, development, construction and operation of the Project, the Developer's Contract Administrator is Josh Tonnesen, or his/her designee, and Nola Castillo for operations.

9.2 For the purposes of the day-to-day conduct during planning, development, construction and operation of the Project, the CITY's Contract Administrator is its City Manager or his designee.

9.2 For the purposes of the day-to-day conduct during planning, development, construction and operation of the Project, the CRA's Contract Administrator is its Executive Director or his/her designee.

ARTICLE 10 DEVELOPER'S OBLIGATION TO CONSTRUCT BUILDINGS AND IMPROVEMENTS

Developer covenants and agrees to construct the Building and Improvements upon the Project Site in a good and workmanlike manner and in accordance with this Agreement and the construction plans for the Project to be approved by the CITY and the CRA (the "Construction Plans"). Furthermore, with regard to the Building and Improvements, the Developer covenants and agrees with the provisions set forth below.

10.1 Notwithstanding any other provision or term of this Agreement or any Exhibit hereto, the Construction Plans for the Building and Improvements and any and all other work by Developer with regard to the Project shall be designed and prepared in compliance with all relevant federal, state and local laws, rules, regulations, ordinances and Building Code provisions. In addition, the Construction Plans and the actual construction of the Building and Improvements shall fully comply with the provisions set forth in this Agreement.

Developer agrees that the failure of this Agreement to address a particular permit, condition, fee, term or restriction, shall not relieve Developer of the necessity of complying with the law governing said permitting requirements, conditions, fees, terms or restrictions.

10.2 The Building and Improvements shall be constructed and paid for wholly at the expense of the Developer.

10.3 The Construction Plans for the Building and Improvements must be prepared by an architect and engineer who is licensed ("Licensed Architect" and "Licensed Engineer") to practice as such, and who actually practices as such, in the State of Florida.

10.4 The CITY and the CRA agree to subordinate their property interest in such Construction Plans to liens of the Project Lenders contemplated by this Agreement for development and completion of the Project. In the event this Agreement is terminated, the CITY and the CRA shall retain their property interest in the Construction Plans, subject to such subordination.

10.4 The Building and Improvements must be built by a general contractor ("General Contractor") duly licensed under the laws of the State of Florida. The Developer or an affiliate of the Developer may also be the General Contractor if Developer or such affiliate is a duly licensed general contractor.

10.5 A final site plan for the Building and Improvements must be prepared and submitted to the CITY's and the CRA's Contract Administrator for their written approval prior to submittal for development approval by any governmental authority including a Building Permit Application to CITY, as a regulatory agency.

10.6 Modifications to the Conceptual Site Plan must be approved consistent with Chapter 155, City Code, and where exempted, without further review or formal approval by the City Commission or the CRA Board in the following circumstances:

10.6.1 Alterations to proposed or existing buildings or structures which do not result cumulatively in more than 10% modification to the floor area per building or structure as found in the initially approved Site Plan;

10.6.2 Alterations to the interior of any proposed building which do not alter the external appearance of such building;

10.6.3 Minor cosmetic alterations of the external façade of proposed buildings, including new or renovated signage;

10.6.4 Minor alterations or adjustments in the location of proposed structures or site improvements on the Property.

10.6.5 Parking and driveway radius may be adjusted to improve open space;

10.6.6 Building locations may be adjusted or rotated to improve open space;

10.6.7 Sidewalks may be modified to connect to revised building entrances and increase impervious area except that perimeter sidewalks must be maintained. As to the perimeter sidewalks or walkways, Developer may substitute suitable materials such as paver block, asphaltic material, etc., subject to administrative review and approval;

10.6.8 Total caliper inches of replacement trees and the required trees and species mix as shown on the Planning & Zoning approved Site Plan may be increased. Tree species may be modified to meet availability at the time of planting and shall be subject to administrative review and approval;

10.6.9 Interior floor plan design alterations may meet or exceed the square footages stated in the Developer's proposal presented to the CITY and the CRA; and

10.6.10 Minor adjustment or additions to site features.

10.7 Any modification to the Site Plan that does not fit into the criteria identified in Paragraph 10.6.1 through 10.6.10 above shall require approval by the CITY and CRA, and approval consistent with the City Code.

10.8 No modification or adjustment may be made under this Article which results in a modification of the express terms of this Agreement.

10.9 Developer shall submit building plans and specifications to the Contract Administrators for preliminary approval. Upon receiving approval from the Contract Administrators, Developer shall submit the aforementioned plans and specifications to the City's Building Department to facilitate issuance of a building permit (the "Building Permit"). After receipt of the Building Permit, Developer will proceed with and complete construction of the Project in accordance with the terms of this Agreement.

10.10 The Project Site and all Building and Improvements shall be maintained in a clean, sanitary and safe condition by Developer. The Project Site shall be appropriately landscaped and maintained with a mechanical sprinkling system in accordance with City Code. No portion of the Project shall be allowed to become or remain overgrown or unsightly.

10.11 All repairs made by Developer shall be at least similar or equal in quality and class to the original work. Under the terms of this Agreement, Developer shall keep and maintain all portions of the Project under Developer's control in a clean and orderly condition, free of dirt, rubbish and unlawful obstructions. Repairs or maintenance work by Developer shall begin immediately upon Developer's knowledge of the need for such repairs or maintenance or upon written notice by the City or CRA.

ARTICLE 11 CITY AND CRA PARTICIPATION

The CITY's and the CRA's participation in the Project shall be subject to execution of the City lease of the City Property to the Developer and the Developer lease of the retail space to the CRA, satisfactory relocation of the existing dry retention area, completion of the public infrastructure improvements, completion of the Building and Improvements and verification that the mixed-income requirements have been met.

ARTICLE 12 CONDITIONS PRECEDENT TO COMMENCEMENT OF CONSTRUCTION

12.1 Approval of Construction Plans.

12.1.1 Developer shall submit the Construction Plans to the CITY's and the CRA's Contract Administrators for approval concurrently with a building permit application to the City. Within 30 calendar days of receipt of the Construction Plans, the CITY and CRA Contract Administrators shall review the Construction Plans for compliance with this Agreement and in writing either approve ("Notice of Plan Approval for Contract Compliance") or disapprove ("Notice of Plan Disapproval for Contract Compliance") the Construction Plans, providing explanation for any areas of noncompliance. If the CITY's and the CRA's Contract Administrators fail to deliver to the Developer within the 30-day period either of these two Notices, the CITY and the CRA will be deemed to have delivered a "Notice of Plan Approval for Contract Compliance" and the Construction Plans will be deemed to have been approved.

12.1.2 If the CITY and CRA Contract Administrators disapprove the Construction Plans for not being in conformity with this Agreement, the Notice of Plan Disapproval for Contract Compliance shall set forth in detail the reasons for such disapproval. Developer shall submit corrected Construction Plans to the CITY's and the CRA's Contract Administrator which are in accordance with this Agreement within 30 calendar days of receiving the Notice of Plan Disapproval for Contract Compliance. If the CITY's Contract Administrator fails to provide a written response to the Developer within fifteen (15) business days of the City's receipt of the corrected Construction Plans, the CITY and the CRA will be deemed to have delivered a "Notice of Plan Approval for Contract Compliance" and the Construction Plans will be deemed to have been approved.

12.1.3 Intentionally Omitted.

12.1.4 Developer shall provide the CITY's and the CRA's Contract Administrators with written notice that the City has issued the Building Permit or Building Permit Ready Letter within five (5) business days of the issuance and Developer's receipt of the Permit or Letter. If Developer is otherwise in compliance with this Agreement's terms, the CITY's Contract Administrator shall provide Developer with written Notice to Proceed within five (5) business days of receipt of the written notice that the Building Permit or Letter has been issued. In no event shall any construction commence on the Project until the Building Permit has been issued by the City and the Notice to Proceed has been issued by the CITY's Contract Administrator. However, if the CITY's Contract

Administrator fails to provide the Notice to Proceed to the Developer within five (5) business days of the City's receipt of the written notice that the Building Permit has been issued, the CITY and the CRA will be deemed to have delivered a "Notice to Proceed."

12.2 Construction Notice and Commencement Submittals. Developer shall deliver a construction notice to the CITY's Contract Administrator (the "Construction Notice") within sixty (60) calendar days from the date of the Notice to Proceed as provided above. The Construction Notice shall state that the Developer will commence construction of the Building and Improvements within ninety (90) calendar days of such notice and shall provide an estimate of construction costs, an updated construction schedule which critically paths all construction activity for completion of the Building and Improvements on the Property, and evidence of construction contract(s) and insurance as described in this Agreement.

12.3 Estimate of Construction Cost. Simultaneous with submittal of the Construction Notice, Developer shall provide the CITY's and the CRA's Contract Administrators with a revised estimate of the construction costs for the Building and Improvements according to the Construction Plans, including an estimate of all professional fees to be incurred in connection with construction.

12.4 Construction Contract. Simultaneous with submittal of the Construction Notice, Developer shall provide the CITY's and the CRA's Contract Administrators with a copy of Developer's contract with the General Contractor (if a general contractor is retained by Developer) under which the General Contractor has agreed to construct the Building and Improvements in accordance with the Construction Plans and to pay for all labor and materials for the cost of construction. The General Contractor, or if none, the Developer agrees to the provisions set forth below.

12.4.1 The General Contractor or Developer agrees to protect, defend, indemnify and hold harmless the CITY and the CRA and their officers, employees and agents from and against any and all losses, penalties, damages, settlements, costs, charges or other expenses or liabilities of every kind in connection with or arising directly or indirectly out of the Work agreed to or performed but excluding any such occurrence arising out of the gross negligence of the City and/or CRA or resulting from the intentional torts of the CITY or the CRA (the "Indemnification").

12.4.2 Without limiting the foregoing, any and all such claims and suits, relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the Indemnification. The General Contractor or Developer further agrees to investigate, handle, respond to, provide defense for and defend any such claims at their sole expense and agree to bear all other costs and expenses related thereto.

12.4.3 The General Contractor or Developer shall require all of its subcontractors to provide the Indemnification in all contracts and subcontracts entered into and arising out of Work.

12.5 Failure to Satisfy Conditions Precedent. Failure to satisfy the conditions precedent to commencement of construction contained in this Article shall constitute a material default under this Agreement.

ARTICLE 13 CHANGES IN CONSTRUCTION PLANS

Developer may make changes to the originally approved Construction Plans within the limitations imposed by Article 10 and such changes may be approved administratively by the CITY's and the CRA's Contract Administrators without seeking City Commission or CRA Board approval.

ARTICLE 14 CONTINUOUS CONSTRUCTION; PERMITTED DELAYS

14.1 Once construction has commenced, Developer shall diligently and continuously proceed to completion of construction and issuance of a certificate of occupancy without any interruption that exceeds thirty (30) days, unless such interruption is caused by a Permitted Delay. Developer shall, within five (5) days of the beginning of any interruption of construction anticipated to exceed thirty (30) days, request written approval by the CITY and the CRA of a Permitted Delay, which request shall explain the reason for the interruption of construction and the anticipated period of such interruption. Approval of the Permitted Delay shall be in writing and shall include the date on which the Permitted Delay ends, unless further extended in writing by the CITY and the CRA.

14.2 An interruption in construction that exceeds thirty (30) days and is not approved by the CITY and the CRA as a Permitted Delay shall constitute a material default by Developer. Permitted Delays in completing construction of the Building and Improvements shall not constitute a material default by the Developer provided that Developer resumes and continues construction within five (5) business days following the date on which such Permitted Delay ends. Notwithstanding the foregoing, all parties acknowledge that Project Lenders may impose specific requirements on the Developer to cure delays and as such the Developer is obligated to comply with the Project Lenders' delay provisions as set forth under the Project Lenders' loan documents.

ARTICLE 15 CARE AND MAINTENANCE DURING AND AFTER CONSTRUCTION

15.1 During construction of the Building and Improvements, the Developer shall safely maintain the construction site, protect against damage to persons and property by reason of construction activities, and provide adequate security during non-construction periods.

15.2 In the case of damage or loss to the Building and Improvements, Developer shall, as soon as possible after the occurrence of such loss or damage, repair or rebuild them so that the Building and Improvements are of the same general character as the approved construction plans and at least equal in value to the Building and Improvements prior to such loss or damage. Developer shall comply with Article 8 of this Agreement as to insurance requirements and the use of insurance funds for such damage or loss.

15.3 All repairs to the Building and Improvements, except in cases where Permitted Delays are approved, shall be completed within sixty (60) calendar days following the occurrence of the event necessitating such repairs or the City or CRA's notice of such event necessitating a repair. If

rebuilding is required, subject to obtaining any required Building Permits which Developer shall process as expeditiously as possible, rebuilding shall begin within 120 calendar days after such occurrence and in either case shall be completed in a reasonable time provided insurance funds are available. In no event shall commencement of repairs or rebuilding be delayed beyond 180 days from the date of occurrence. The Developer shall pay for all such repairing and rebuilding so that the Property and the Building and Improvements shall be free and clear of all liens of mechanics and materialmen and similar liens arising out of such repair, rebuilding or reconstruction of the Building and Improvements.

ARTICLE 16 COMPLETION OF CONSTRUCTION

The Developer shall complete the construction of all Building and Improvements, except for Permitted Delays, as set forth in the Project Schedule. It is understood and agreed that completion shall mean the final Certificate of Occupancy and the Notice of Completion have been issued on all Building and Improvements. Developer's failure to complete construction of the Building and Improvements within the time frames set forth in the Project Schedule, subject to extension for Permitted Delays, shall constitute a material default in accordance with the provisions of this Agreement.

ARTICLE 17 NOTICE OF COMPLETION

Within five (5) business days after Developer's completion of the Building and Improvements as evidenced by issuance of the Certificate of Occupancy, the CITY and the CRA shall inspect the Building and Improvements for satisfactory completion. If, in their sole but reasonable discretion, the CITY and the CRA find the Building and Improvements have been satisfactorily completed in accordance with this agreement, the CITY shall promptly furnish Developer with a Notice of Completion.

ARTICLE 18 OTHER DUTIES OF THE DEVELOPER

18.1 Access to Work. Developer agrees that, upon two (2) calendar days' notice, representatives of the City, CRA and other applicable regulatory agencies shall have access to the Work performed pursuant to this Agreement, during regular business hours and that the Developer will provide proper facilities for such access and inspection. Any access by a regulatory agency provided by general law is not prohibited or preempted by this Agreement.

18.2 Anti-Kickback Act. Developer shall comply with regulations of the Secretary of Labor of the United States of America made pursuant to the Anti-Kickback Act of June 13, 1934, 40 U.S.C. 276(c) and any amendments or modifications thereto. Developer shall ensure appropriate provisions are inserted in its subcontracts to insure Developer's subcontractors are in compliance with the Anti-Kickback Act; subject, however, to any reasonable limitations, variations, tolerances and exemptions from the requirements of said Anti-Kickback Act as the Secretary of Labor may specifically provide.

18.3 Minority, Women and Lower Income Person Participation.

18.3.1 Developer acknowledges and agrees that with all due diligence and to the extent possible, it will involve the participation of minorities, females and lower income persons in construction and marketing of the Project.

18.3.2 Developer shall use its commercially reasonable efforts to achieve participation of local minority-owned business enterprise ("MBE") and women-owned business enterprise ("WBE") contracting and subcontracting firms. For the purposes of this Article, local MBE or local WBE shall mean MBE/WBE with a principal place of business in Broward County with a preference for WBE/MBE firms from the Pompano Beach area.

18.4 Compliance with Land Use Regulations. Developer shall develop the Project for use in compliance with all applicable land use, land development and zoning regulations and the same shall govern development of the Project for the duration of this Agreement.

ARTICLE 19 EVALUATION, MONITORING REPORTS AND OWNERSHIP OF DOCUMENTS

19.1 Upon request, Developer shall provide the CITY and the CRA, in a format reasonably acceptable to both parties, information, data and reports to be used by the CITY and the CRA in monitoring Developer's performance in carrying out the Project. Developer understands and agrees the CITY and the CRA will carry out periodic monitoring and evaluation activities as it deems necessary and that continuation of this Agreement is dependent upon satisfactory evaluation conclusions. Such evaluation will be based on the terms of this Agreement, comparisons of planned versus actual progress relating to Project scheduling, budgets, construction and marketing.

19.2 All reports, plans, surveys, information, documents, maps and other data procedures developed, prepared, assembled or completed by Developer for the purposes of this Agreement including, but not limited to, as-built surveys, shall be owned by the Developer without restriction, reservation or limitation of its use, and shall be made available by Developer at any time upon request by the CITY or the CRA. Upon completion of all Work contemplated under this Agreement, copies of all of the above data shall be delivered to the CITY representative upon the CITY or the CRA's written request.

ARTICLE 20 DEFAULT AND REMEDIES

20.1 Default by Developer. The following shall constitute an Event of Default under the Agreement:

20.1.1 Failure of Developer to meet the development timelines provided for in the Project Schedule and Budget (Exhibit 4), subject to any amendments executed by the parties which extended the development timelines or modified line items or payments and events of force

majeure, and such default continues for a period of thirty (30) days after written notice from the CITY and the CRA;

20.1.2 Failure of Developer to comply with the material terms, conditions or covenants of this Agreement that Developer is required to observe or perform and such default continues for a period of thirty (30) days after written notice from the CITY and the CRA, except where Permitted Delays are granted by the CITY and CRA and where, in the sole discretion of the CITY and CRA, the Developer is proceeding reasonably and diligently to cure such failure to comply;

20.1.3 This Agreement, the Project or any part of the Building and Improvements are taken upon execution or by other process of law directed against Developer, or are taken upon or subjected to any attachment by any creditor of Developer or claimant against Developer, and such attachment is not discharged within ninety (90) days after its levy;

20.1.4 Developer shall be unable to pay the Developer's debts as the same shall mature;

20.1.5 Developer shall file a voluntary petition in bankruptcy or voluntary petition seeking reorganization or to effect a plan or an arrangement with or for the benefit of Developer's creditors;

20.1.6 Developer shall apply for or consent to the appointment of a receiver, trustee or conservator for any portion of the Developer's property or such appointment shall be made without Developer's consent and shall not be removed within ninety (90) days;

20.1.7 Prior to completing the Building and Improvements, Developer abandons or vacates any portion of the Project for a period of more than thirty (30) consecutive days;

20.1.8 Failure of Developer to perform any other material covenants, agreements, undertakings or terms of this Agreement which are not cured within thirty (30) days of notice from the City and the CRA to the Developer unless such performance requires more than thirty (30) days to cure. In such case, the CITY and the CRA may grant the Developer additional time, but not more than ninety (90) days to cure so long as Developer is diligently attempting to cure; and

20.1.9 If the Developer fails to perform any of the following after reasonable notice and opportunity to cure: construction activities related to the Building and Improvements required to be undertaken by the Developer ("Construction Activities"): (i) failure to give the Construction Notice as set forth in this Agreement; or (ii) failure to complete the Construction Conditions Precedent to Commencement within the time set forth in this Agreement; or (iii) failure to undertake the Commencement of Construction in accordance with this Agreement; or (iv) after Commencement of Construction has begun, failure to timely and continuously pursue construction of the Building and Improvements, except for Permitted Delays; then the CITY and the CRA shall have the right to give Developer written notice of such failure.

20.1.10 A breach or default by Developer of this Agreement shall constitute an Event of Default by the Developer of the Lease between the CITY and the Developer or any affiliate. The Developer agrees to execute and deliver further documents and instruments as may be required by CITY to effectuate the cross-default contemplated in this provision.

Notwithstanding anything to the contrary in this Agreement, and following the effective date of the Lease, the Parties agree that the CITY will take no action to effect a termination of the Lease by reason of any Event of Default or any other breach unless such termination is permitted by the terms and conditions of the Lease, including but not limited to Article XIX and Section 25.5, and then, without giving the Developer's limited partners reasonable time, not to exceed thirty (30) days, to replace Developer's general partner and cause the new general partner to cure the Event of Default or other breach or default; provided, however, that as a condition of such forbearance, CITY and CRA must receive notice from the Developer's limited partner of the substitution of a new general partner of Developer within thirty (30) days following CITY's notice to Developer and its limited partners of the Event of Default or other breach or default, and Developer, following such substitution or admission of the general partner, shall thereupon proceed with due diligence to cure such Event of Default or other breach or default as soon as reasonably possible consistent with the terms and conditions of the Lease.

20.2 Default by CITY and the CRA. The following shall constitute an Event of Default under the Agreement:

20.2.1 Failure of the CITY or the CRA to comply with the material terms, conditions or covenants of this Agreement that the CITY or the CRA is required to observe or perform;

20.3 Remedies in the Event of Default.

20.3.1 General. If the Developer fails to cure an Event of Default within the time provided for such cure, subject to the rights of the Project Lenders to effectuate such cures as may be set forth in separate agreements or as otherwise provided for in this Agreement, the CITY and the CRA shall have the right to terminate this Agreement and seek damages, institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel Developer's specific performance, and, subject to rights held by the Project Lenders, forfeiture of Developer's interest in the Building and Improvements, pursuant to this Agreement and any applicable related documents.

20.3.2 Informal Dispute Resolution Process. The parties desire to minimize the adverse effect and cost of disputes in recognition of the complexities involved in implementing this Development Agreement. As to disputes between the CITY and the CRA and the Developer, the parties agree that in the first instance, their respective Contract Administrators shall endeavor to resolve every dispute amicably and to also define the nature and extent of any disagreement to the extent possible. All parties shall be entitled to have representatives present at any such meeting or conference.

If the parties' Contract Administrators are unable to reach an agreement within five (5) business days after the Notice of Default expires, the parties are encouraged, but not required, to seek the services of a mediator to facilitate dispute resolution. If the parties agree to mediation, the parties shall share the cost of such mediation equally.

However, in no instance is a party prevented from pursuing any available legal remedies through litigation.

20.4 Termination Prior to Lease.

20.4.1 If the CITY does not tender the lease of the City Property or possession thereof, in the manner and by the date provided in this Agreement, and such failure is not cured within ninety (90) days after the Developer provides a written demand to the CITY's Contract Administrator, Developer may terminate this Agreement or seek specific performance against the CITY.

20.4.2 If the Developer fails to timely provide the CITY and the CRA with evidence satisfactory to the CITY and the CRA that Developer has Financing Commitments and sufficient equity capital for construction within the time and in the manner set forth above, then this Agreement shall automatically terminate without further notice and without further extension of time to cure, and become null and void and of no further force and effect, in which event the parties shall be relieved of all further obligations and liabilities one to the other.

20.5 Termination by the CITY and the CRA. Except as may be specifically provided in this Agreement, upon the occurrence of the following condition, this Agreement and any rights of Developer with respect to the CITY and the CRA or the Project Site, shall be terminated at the CITY's and the CRA's option, in which case neither Developer nor the CITY and the CRA shall have any further rights against or liability to the other under this Agreement:

20.5.1 Developer or any successor assigns or attempts to assign this Agreement or any rights contained in this Agreement, or in the Project Site, or there is any change in the ownership or control of the Developer, other than (1) a replacement of the general partner in accordance with Section 19(C) of the Lease with notice to the City given as provided in said Section 19(C) of the Lease, and (2) transfers of limited partner interest in the Developer.

20.6 Reinvesting Title in the CITY upon Default Subsequent to Lease to Developer. If the CITY exercises its rights to terminate the leasehold relationship with the Developer or its successor in interest following a default by the Developer prior to the expiration of the Lease, all rights in the City Property shall reinvest in the CITY.

20.7 It is the intent of this provision, together with other provisions of this Agreement, that in the event of any material default, failure, violation, or other action or inaction by Developer as set forth in this Agreement which Developer fails to timely remedy, all rights in the City Property shall revert to the CITY and the Developer shall convey its leasehold interest and surrender the Project Site peacefully and quietly to the CITY, including the complete or incomplete Building and Improvements and any related equipment located on the Project Site. Developer further agrees to execute and deliver to CITY such instrument or instruments as shall be required by CITY as will properly evidence termination of Developer's rights under this Agreement or its interest in the Project Site.

Accordingly, in the event the CITY elects to exercise the rights described in this Article, the CITY shall have the right to repossess the City Property, the complete or incomplete Building and Improvements and any equipment located thereon. Developer acknowledges and agrees that Developer's interest and any and all rights therein shall terminate and the City Property and the

complete or incomplete Building and Improvements shall be the property of the CITY free and clear of any and all claims, rights, liens or encumbrances by, through or under the Developer, and that such title and all rights and interests of the Developer, and any assigns or successors in interest to and in the City Property shall revert to the CITY provided that under such condition subsequent, the CITY's reversionary interest and any reinvesting of title in the CITY shall always be subject and subordinate to and limited by, and shall not defeat, render invalid or limit in any way the lien of any mortgage, holders of mortgages, Letter of Credit, or Letter of Credit Providers authorized by this Agreement for development and completion of the Project.

20.8 Permitted Delay in Performance for Causes beyond Control of Party.

Neither the CITY nor the CRA nor Developer (or any successor in interest) shall be considered in breach of its obligations with respect to commencing and completing construction of the Building and Improvements in the event of Permitted Delays due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, strikes; walkouts; acts of God; failure or inability to secure materials or labor by reason of priority or similar regulation or enemy action; civil disturbance; fire or other casualty; and global health pandemic.

In the event of the occurrence of any such Permitted Delay, the intent and purpose of this provision is that the time(s) for performance of Developer's obligations with respect to construction and completion of the Building and Improvements shall be extended for the period of the Permitted Delay as determined by the CITY and the CRA, provided that the party seeking the benefit of these provisions shall, within five (5) business days of the beginning of any such delay, notify the other party in writing of the cause or causes and request an extension for the period of the delay.

20.9 Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement, whether provided by law or by the Agreement, shall be cumulative, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party.

20.10 Party in Position of Surety with Respect to Obligations. The Developer, for itself and its successors and assigns, and for all other persons who are or who shall become, whether by express or implied assumption or otherwise, liable upon or subject to any obligation or burden under this Agreement, hereby waives, to the fullest extent permitted by law and equity, any and all claims or defenses otherwise available on the ground of its (or their) being or having become a person in the position of a surety, whether real, personal, or otherwise or whether by agreement or operation of law, including, without limitation, any and all claims and defenses based upon extension of time, indulgence, or modification of terms of contract.

ARTICLE 21 NOTICES AND DEMANDS

21.1 A notice, demand, or other communication under the Agreement by either party to the other shall be given or delivered sufficiently if it is in writing and delivered personally, sent via facsimile or dispatched by registered or certified mail, postage prepaid to the representatives named below or, with respect to either party, is addressed or delivered personally at such other address as that party, from time to time may designate in writing and forward to the other party.

If to the CITY: City Manager
 100 W. Atlantic Boulevard, 4th Floor
 Pompano Beach, Florida 33060
 954-786-4601 Phone
 Greg.harrison@copbfl.com

If to the CRA: CRA Director
 501 Dr. MLK Blvd, Suite 1
 Pompano Beach, Florida 33060
 954-545-7769 Phone
 Nguyen.Tran@copbfl.com

If to Developer: Sonata Apartments, Ltd.
 2100 Hollywood Boulevard
 Hollywood, FL 33020
 305-443-8288
 Lenny.wolfe@cornerstonegrp.com

With copy to: TCC Sonata Apartments LLC
 c/o Truist Community Capital, LLC
 303 Peachtree Street, N.E., Suite 2200
 Mail Code GA-ATL-0243
 Atlanta, GA 30308
 Attn: Asset Management – Sonata Apartments

21.2 Such Notices shall be deemed served or given on (i) the date received, if received by 5:00 p.m. on a Business day; otherwise, on the next Business Day, (ii) the date delivery of such Notice was refused or unclaimed, or (iii) the date noted on the return receipt or delivery receipt as the date delivery was determined impossible to accomplish because of an unnoticed change of address.

ARTICLE 22 DEVELOPER'S INDEMNIFICATION OF CRA AND THE CITY

22.1 The Developer shall protect, defend, indemnify and hold harmless the CITY and the CRA, their officers, employees and agents from and against any and all lawsuits, penalties, damages,

settlements, judgments, decrees, costs, charges, and other expenses including attorney's fees or liabilities of every kind in connection with or arising directly out of the Building and Improvements, operation, or possession of the Project Site by Developer except for any occurrence arising out of or resulting from gross negligence or intentional torts of the CITY or the CRA, their officers, agents and employees.

22.2 The Developer will indemnify and save the CITY and the CRA and the CITY's or the CRA's agents harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, materialmen and furnishers of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the Work.

22.3 Without limiting the foregoing, any and all such claims, suits, and causes of action, relating to: personal injury; death; damage to property; defects in construction; rehabilitation or restoration of the Building and Improvements; actual or alleged infringement of any patent, trademark, copyright, or other tangible or intangible personal or real property right; any actual or alleged violation of any applicable statute, ordinance, administrative order, rule, regulation or decree of any court, are included in the indemnity.

22.4 The Developer further agrees to investigate, handle, respond to, provide defense for, and defend any such claims at Developer's sole expense and agrees to bear all other costs and expenses related thereto, even if the claim(s) is/are groundless, false or fraudulent. The foregoing indemnification shall not be operative as to any claims by Developer for any causes of action the Developer has or may have for breaches or defaults by the CITY and the CRA under this Agreement.

ARTICLE 23

NON-ASSIGNABILITY AND SUBCONTRACTING

23.1 This Agreement is not assignable and Developer agrees it shall not sell, assign, transfer, merge or otherwise convey any of its interests, rights or obligations under this Agreement, in whole or in part, to any other person, corporation or entity.

23.2 In addition, this Agreement and the rights and obligations contained in this Agreement shall not be assignable or transferable by any process or proceeding in court, or by judgment, execution, proceedings in insolvency, bankruptcy or receivership, and in the event of Developer's insolvency or bankruptcy, the CITY and the CRA may at their option terminate and cancel this Agreement as provided for in Article 20.

23.3 Nothing in this Agreement shall be construed to create any personal liability on the part of the CITY and the CRA or their agent(s) nor shall it be construed as granting any rights or benefits under this Agreement to anyone other than the CITY, the CRA and Developer.

ARTICLE 24

ACCOUNTING AND RECORD KEEPING PROCEDURES

24.1 The CITY and the CRA shall have the right, upon reasonable advance notice, to inspect the Project and the Project Site, as well as the right to audit the books, records and accounts of Developer that are related to the Project. Developer shall keep such books, records and accounts as may be necessary in order to record complete and correct entries related to the Project.

24.2 Developer shall be required to record, preserve and make available, at reasonable times for examination by the CITY and the CRA, complete and accurate records for all activities and revenues generated under this Agreement, including all financial records, supporting documentation, statistical records, federal/state tax returns; and any other documents attendant to Developer's provision of goods and services under this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, if applicable, or if the Florida Public Records Act is not applicable, for a minimum period of five years after termination of this Agreement.

24.3 However, if an audit has been initiated and audit findings have not been resolved, the records shall be retained until resolution of the audit findings. Any incomplete or incorrect entry (not promptly corrected) in such books, records and accounts shall be a basis for the CITY's and the CRA's disallowance and recovery of any such payment.

24.4 Public Records. The CITY and the CRA are public agencies subject to Chapter 119, Florida Statutes. The Developer shall comply with Florida's Public Records Laws, as amended. Specifically, the Developer shall:

24.4.1 Keep and maintain public records required by the CITY and the CRA in order to complete the Project.

24.4.2 Upon request from the CITY's and the CRA's custodian of public records, provide the CITY and the CRA with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.

24.4.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and for such period that survives the expiration of this Agreement, if such records have not been transferred to the CITY and the CRA.

24.4.4 Upon completion of the Project, transfer, at no cost to the CITY, all public records in possession of the Developer, or keep and maintain public records required by the CITY and the CRA to complete the Project. If the Developer transfers all public records to the CITY upon completion of the Project, the Developer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Developer keeps and maintains public records upon completion of the Project, the Developer shall meet all applicable requirements for retaining public records. All records stored electronically must be

provided to the CITY and the CRA, upon request from the CITY's custodian of public records in a format that is compatible with the information technology systems of the CITY.

24.4.5 Failure of the Developer to provide all public records to the CITY within a reasonable time may subject Developer to penalties under Section 119.10, Florida Statutes, as amended.

PUBLIC RECORDS CUSTODIAN

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

CITY CLERK
100 W. Atlantic Blvd., Room 253
Pompano Beach, Florida 33060
954-786-4611
asceleta.hammond@copbfl.com

ARTICLE 25 NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AND ADA

25.1 There shall be no discrimination in the use and marketing of the Project Site or any Building or Improvements and Developer, while acting pursuant to this Agreement, shall not discriminate against any worker, employee, patron or member of the public on the basis of race, creed, religion, age, sex, familial status, disability or country of national origin.

25.2 Developer shall not unlawfully discriminate against any person in its activities attendant to the Project and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA), including Titles I and II regarding nondiscrimination on the basis of disability and all applicable regulations, guidelines, and standards. Developer shall also comply with Title I of the ADA regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability.

25.3 Developer's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

25.4 Developer shall take affirmative action to ensure that the qualified renters/lessees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

ARTICLE 26 PUBLIC ENTITY CRIMES ACT

By execution of this Agreement and in accordance with Section 287.133, Florida Statutes, Developer certifies that it is not listed on the convicted vendors list maintained by the State of Florida, Department of General Services.

ARTICLE 27 NO CONTINGENT FEE

27.1 Developer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Developer to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Developer any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the making of this Agreement.

27.2 In the event of Developer's breach or violation of this provision, the CITY and the CRA shall have the right to terminate this Agreement without liability and, at the CITY's and the CRA's sole discretion, to recover the full amount of such fee, commission, percentage, gift or consideration.

ARTICLE 28 WAIVER AND MODIFICATION

28.1 Failure to insist upon strict compliance with any terms, covenants or conditions of this Agreement shall not be deemed a waiver of such, nor shall any waiver or relinquishment of such right or power at any time be taken to be a waiver of any other breach.

28.2 Any party may request changes to modify certain provisions of this Agreement; however, unless otherwise provided for in this Agreement, any such changes must be contained in a written amendment executed by both parties with the same formality as this Agreement. It is further agreed the omission of a term or provision contained in an earlier draft of this Agreement shall have no evidentiary significance regarding the contractual intent of the parties and that no modification, amendment or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document agreed to and executed by authorized representatives of both parties with the same formality as this Agreement.

28.3 All parties acknowledge that Project Lenders may require certain modifications to this Agreement and agree to use their best efforts to effectuate such modifications. Approvals of such modifications shall not be unreasonably withheld or conditioned. If commercially reasonable or customary modifications required by such parties are not effectuated such that funding pursuant to the Financing Commitments is not available from any lender or other financing sources, then Developer may terminate this Agreement upon written notice to the CITY and the CRA and the parties shall be relieved of any further liability under this Agreement, except as otherwise provided.

ARTICLE 29 ABSENCE OF CONFLICTS OF INTEREST

29.1 Developer represents it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with its performance under this Agreement. Developer further represents that no person having any conflicting interest shall be employed or engaged by it for said performance.

29.2 Developer shall promptly notify the CITY and the CRA in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance that may influence or appear to influence Developer's judgment or quality of services being provided under this Agreement. Such notification shall identify the prospective business interest or circumstance and the nature of work that Developer intends to undertake and shall request the CITY's and the CRA's opinion as to whether such association, interest or circumstance would, in the opinion of the CITY and the CRA, constitute a conflict of interest if entered into by Developer.

ARTICLE 30 NO WAIVER OF SOVEREIGN IMMUNITY

Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity as provided by Section 768.28, Florida Statutes, by the CITY or the CRA.

ARTICLE 31 SEVERABILITY

The invalidity of any provision hereof shall in no way affect or invalidate the remainder of this Agreement.

ARTICLE 32 JURISDICTION, VENUE AND WAIVER OF JURY TRIAL

32.1 This Agreement must be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement will be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit will be in

the United States District Court or United States Bankruptcy Court for the Southern District of Florida.

32.2 BY ENTERING INTO THIS AGREEMENT, EACH PARTY EXPRESSLY WAIVES ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

ARTICLE 33 BINDING EFFECT

Upon execution of this Agreement, a copy of this Agreement shall be recorded in the Public Records of Broward County, Florida by the Developer. This Agreement shall be binding upon and enforceable by and against the parties to this Agreement, their successors and assigns.

ARTICLE 34 ATTORNEY'S FEES

In the event of any litigation involving the terms and conditions of this Agreement or otherwise relating to the transaction encompassed by this agreement, it is understood and agreed that the prevailing party in such litigation shall be entitled to recover from the non-prevailing party reasonable attorney and paraprofessional fees, as well as all out-of-pocket costs and expenses incurred by the prevailing party in such litigation through all appellate levels. A court may award fees that exceed the contracted hourly rate amount if the nonprevailing party is ordered to pay attorney's fees and the judge finds that the amount of such ordered fees is reasonable.

ARTICLE 35 NO THIRD PARTY BENEFICIARIES

Developer, the CITY and the CRA acknowledge and agree that this Agreement, and other contracts and agreements pertaining to the Project, will not create any obligation on the part of Developer, the CITY or the CRA to third parties. No person not a party to this Agreement will be a third-party beneficiary or acquire any rights under this Agreement.

ARTICLE 36 APPROVALS

36.1 Whenever CITY or CRA approval is required for any action under this Agreement, either by the City Commission, CRA Board or the Contract Administrators, said approvals shall not be unreasonably withheld, conditioned or delayed.

36.2 Provided the CITY and the CRA do not incur any cost or liability for doing so, the CITY and the CRA shall cooperate with Developer and timely execute any documents necessary to secure Site Plan approval, connection to all utilities, and all required development permits.

ARTICLE 37 FORCE MAJEURE

37.1 Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, tropical storm, hurricane, earthquake, explosion, war, civil disorder, sabotage, accident, flood, acts of God, pandemic, or by any reason of any other matter or condition beyond the control of either party which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall economic hardship or lack of funds be considered an event of Force Majeure.

37.2 If either party is unable to perform or delayed in their performance of any obligations under this Agreement by reason of any event of force majeure, such inability or delay shall be excused at any time during which compliance is prevented by such event and during such period thereafter as may be reasonably necessary for either party to correct the adverse effect of such event of force majeure.

37.3 In order to be entitled to the benefit of this provision, within twenty (20) days after the beginning of any such delay, a party claiming an event of force majeure shall have given the other party written notice of the cause(s) of the event, requested an extension for the period and also diligently proceeded to correct the adverse effect of any force majeure. The parties agree that, as to this Article, time is of the essence.

ARTICLE 38 INDEPENDENT CONTRACTOR

Developer is an independent contractor under this Agreement and services provided by Developer pursuant to this Agreement shall be subject to the supervision of the CITY and the CRA. In performance of its obligations under this Agreement, neither Developer nor its agents shall act as officers, employees or agent of the CITY and the CRA. This Agreement shall not constitute or make the parties a partnership or joint venture.

ARTICLE 39 OWNERSHIP OF DOCUMENTS

Intentionally deleted.

ARTICLE 40 ENTIRE AGREEMENT AND INTERPRETATION

40.1 This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained in this Agreement and both parties agree there are no commitments, agreements or understandings

concerning the subject matter that are not contained in this Agreement. Accordingly, all parties agree no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written.

40.2 This Agreement shall be interpreted as if drafted by all parties equally and each party has had the opportunity to be represented by counsel of their choice. Regardless of which party or party's counsel prepared the original draft and subsequent revisions of this Agreement, CITY, CRA and Developer and their respective counsel have had equal opportunity to contribute to and have contributed to its contents, and this Agreement shall not be deemed to be the product of, and therefore construed against either party.

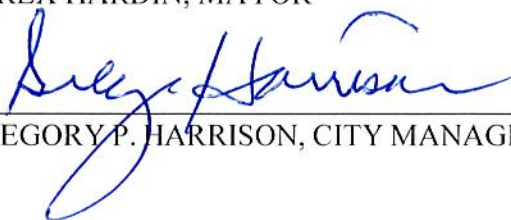
THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF POMPANO BEACH

By: 

REX HARDIN, MAYOR

By: 

GREGORY P. HARRISON, CITY MANAGER

Attest:



ASCELETA HAMMOND, CITY CLERK

(SEAL)

APPROVED AS TO FORM:



MARK E. BERMAN, CITY ATTORNEY

Signed, Sealed and Witnessed
In the Presence of:

**POMPANO BEACH COMMUNITY
REDEVELOPMENT AGENCY**

[Signature]

By: [Signature]
Rex Hardin, Chairman

Print Name: CHRIS CLEMENT

Shelley R. Bartholomew ATTEST:

Print Name: Shelley R. Bartholomew Marsha Carmichael
Marsha Carmichael, Secretary

APPROVED AS TO FORM:

Claudia M. McKenna
Claudia McKenna, CRA Attorney

EXECUTIVE DIRECTOR:

[Signature]

By: Gregory P. Harrison
Gregory P. Harrison, Executive Director

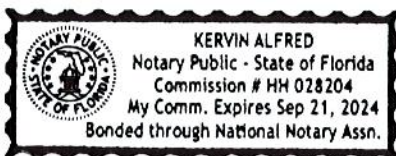
Print Name: CHRIS CLEMENT

[Signature]
Print Name: Kimberly Vazquez

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of ☒ physical presence
or ☐ online notarization, this 26 day of May, 2021 by Rex
Hardin as Chairman, Gregory P. Harrison as Executive Director, and Marsha Carmichael as
Secretary of the Pompano Beach Community Redevelopment Agency, who are personally known
to me.

NOTARY'S SEAL:




[Signature]
NOTARY PUBLIC, STATE OF FLORIDA
Kervin Alfred
(Name of Acknowledger Typed, Printed or Stamped)


Commission Number

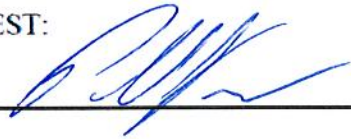
"DEVELOPER":

Signed, Sealed and Witnessed
In the Presence of:


Print Name: Leon J. Wolfe

SONATA APARTMENTS, LTD.
a Florida limited partnership
By: Cornerstone Sonata, LLC, General Partner
By: 
Mara S. Mades, Manager

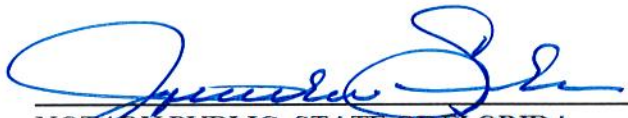

Print Name: Sonia C. Rodriguez

ATTEST:
By: 

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 18 day of May, 2021, by Leon J. Wolfe, as Manager of Cornerstone Sonata, LLC, General Partner of SONATA APARTMENTS, LTD, a Florida limited partnership, on behalf of the limited partnership, who is personally known to me, or who has produced _____, as identification.

NOTARY'S SEAL:


NOTARY PUBLIC, STATE OF FLORIDA
(Signature of Notary Taking Acknowledgement)
Jacqueline Silva
(Name of Acknowledger Typed, Printed or Stamped)
GG 202744
Commission Number

JES:jrm
2/17/21
L:agr/realpropertymgr/2021-326

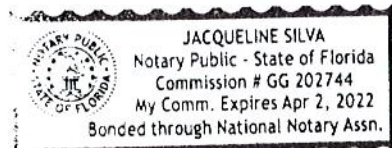


Exhibit 1 – City Property Legal Description & Sketch

LEGAL DESCRIPTION:

A PORTION OF PARCELS 105, 108 & 109, FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 86170-2508, ACCORDING TO THE MAP THEREOF AS RECORDED IN RIGHT OF WAY MAP BOOK 13, PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 109; THENCE SOUTH 87°56'39" WEST ALONG THE NORTH LINE OF SAID PARCEL 109, 65.83 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 39°03'01" EAST, 47.92 FEET TO A POINT ON LINE LYING 80.00 FEET WEST OF AND PARALLEL WITH THE EAST RIGHT OF WAY LINE FOR DIXIE HIGHWAY AS SHOWN ON SAID RIGHT OF WAY MAP; THENCE SOUTH 13°57'20" WEST, ALONG SAID PARALLEL LINE, 436.49 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 105, ALSO BEING THE NORTH LINE OF PARCEL "A", J.W. PLAT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 112, PAGE 22 OF THE PUBLIC RECORD OF BROWARD COUNTY, FLORIDA; THENCE SOUTH 87°56'39" WEST, ALONG SAID SOUTH LINE 126.77 FEET TO A POINT ON THE EAST LINE OF SUMTER'S ADDITION TO POMPANO FIRST ADDITION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGE 67 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE NORTH 13°57'20" EAST, ALONG SAID EAST LINE, 476.31 FEET TO NORTHWEST CORNER OF SAID PARCEL 109; THENCE NORTH 87°56'39" EAST, ALONG THE NORTH LINE OF SAID PARCEL 109, 86.95 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA AND CONTAINING 57,276 SQUARE FEET (1.31 ACRES) MORE OR LESS.

SURVEY NOTES:

1. THE LEGAL DESCRIPTION SHOWN HEREON WAS PREPARED BY THE SURVEYOR, BASED ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 86170-2508, AS RECORDED IN RIGHT OF WAY MAP BOOK 13, ON PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
2. KEITH AND ASSOCIATES, INC. CERTIFICATE OF AUTHORIZATION NUMBER IS L.B.#6860.
3. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
4. IT IS A VIOLATION OF RULE 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE TO ALTER THIS SKETCH AND DESCRIPTION WITHOUT THE EXPRESS PRIOR WRITTEN CONSENT OF THE SURVEYOR. ADDITIONS AND DELETIONS MADE TO THE FACE OF THIS SKETCH AND DESCRIPTION WILL MAKE THIS DOCUMENT INVALID.
5. THIS SKETCH AND DESCRIPTION DOES NOT CONSTITUTE A BOUNDARY SURVEY.
6. BEARINGS SHOWN HEREON ARE BASED ON AN ASSUMED BEARING OF SOUTH 13°57'20" WEST ALONG THE EAST LINE OF PARCEL 109, F.D.O.T. RIGHT OF WAY MAP SECTION 86170-2508, AS RECORDED IN RIGHT OF WAY MAP BOOK 13, ON PAGE 39, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
7. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS OF WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
8. THE INTENDED DISPLAY SCALE FOR THIS SKETCH IS 1"= 60' OR SMALLER.

CERTIFICATION:

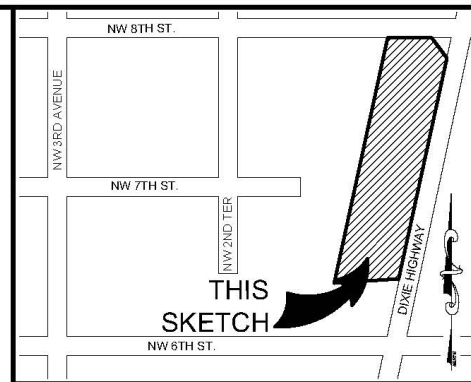
I HEREBY CERTIFY THAT THE ATTACHED SKETCH & DESCRIPTION OF THE HEREON DESCRIBED PROPERTY IS DEPICTED TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THE INFORMATION AS WRITTEN UNDER MY DIRECTION ON JUNE 25, 2020 MEETS THE STANDARD OF PRACTICE (FORMERLY RULE 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE), PURSUANT TO SECTION 472.027, FLORIDA STATUTES, SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

KEITH & ASSOCIATES, INC.
CONSULTING ENGINEERS



Timothy H Gray
2020.07.06
09:55:27-04'00'

TIMOTHY H. GRAY
PROFESSIONAL SURVEYOR AND MAPPER
REGISTRATION No. 6604
STATE OF FLORIDA



LOCATION MAP:
NOT TO SCALE

SKETCH & DESCRIPTION

A PORTION OF PARCELS 105, 108, & 109, PER THE F.D.O.T. RIGHT OF WAY MAP SECTION 86170-2508 R.M.B. 13, PG. 39, B.C.R.

CITY OF POMPANO BEACH BROWARD COUNTY



301 EAST ATLANTIC BOULEVARD
POMPANO BEACH, FLORIDA 33060-6643
(954) 788-3400 FAX (954) 788-3500
EMAIL: mail@KEITHteam.com LB NO. 6860

SHEET 1 OF 2

DRAWING NO. 10020.76-SKETCH & DESCRIPTION.dwg

DATE 06/25/20

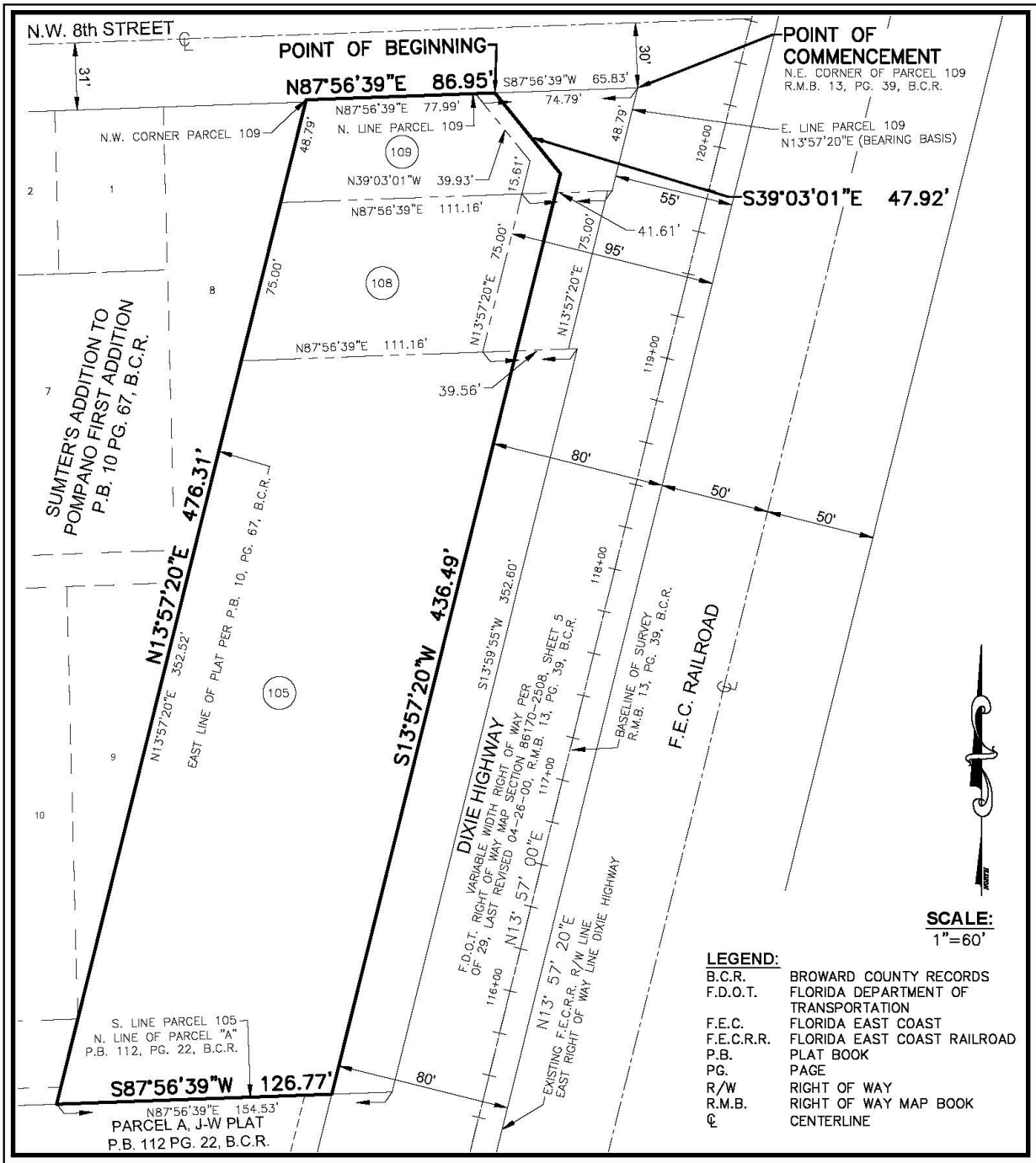
SCALE 1"=60'

FIELD BK. N/A

DWG. BY DDB

CHK. BY THG

DATE REVISIONS



<div>SKETCH & DESCRIPTION</div> <div>A PORTION OF PARCELS 105, 108, & 109, PER THE F.D.O.T. RIGHT OF WAY MAP SECTION 86170-2508 R.M.B. 13, PG. 39, B.C.R.</div> <div>CITY OF POMPANO BEACH BROWARD COUNTY</div>	<div><div>301 EAST ATLANTIC BOULEVARD POMPANO BEACH, FLORIDA 33060-6643 (954) 788-3400 FAX (954) 788-3500 EMAIL: mail@KEITHteam.com LB NO. 6860</div></div> <div>SHEET <u>2</u> OF <u>2</u></div> <div>DRAWING NO. <u>10020.76-SKETCH & DESCRIPTION.dwg</u></div>	<div>DATE <u>06/25/20</u></div> <div>SCALE <u>1"=60'</u></div> <div>FIELD BK. <u>N/A</u></div> <div>DWG. BY <u>DDB</u></div> <div>CHK. BY <u>THG</u></div>	<table><tr><th>DATE</th><th>REVISIONS</th></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr><tr><td> </td><td> </td></tr></table>	DATE	REVISIONS								
DATE	REVISIONS												

Exhibit 2 – Developer’s Conceptual Site Plan

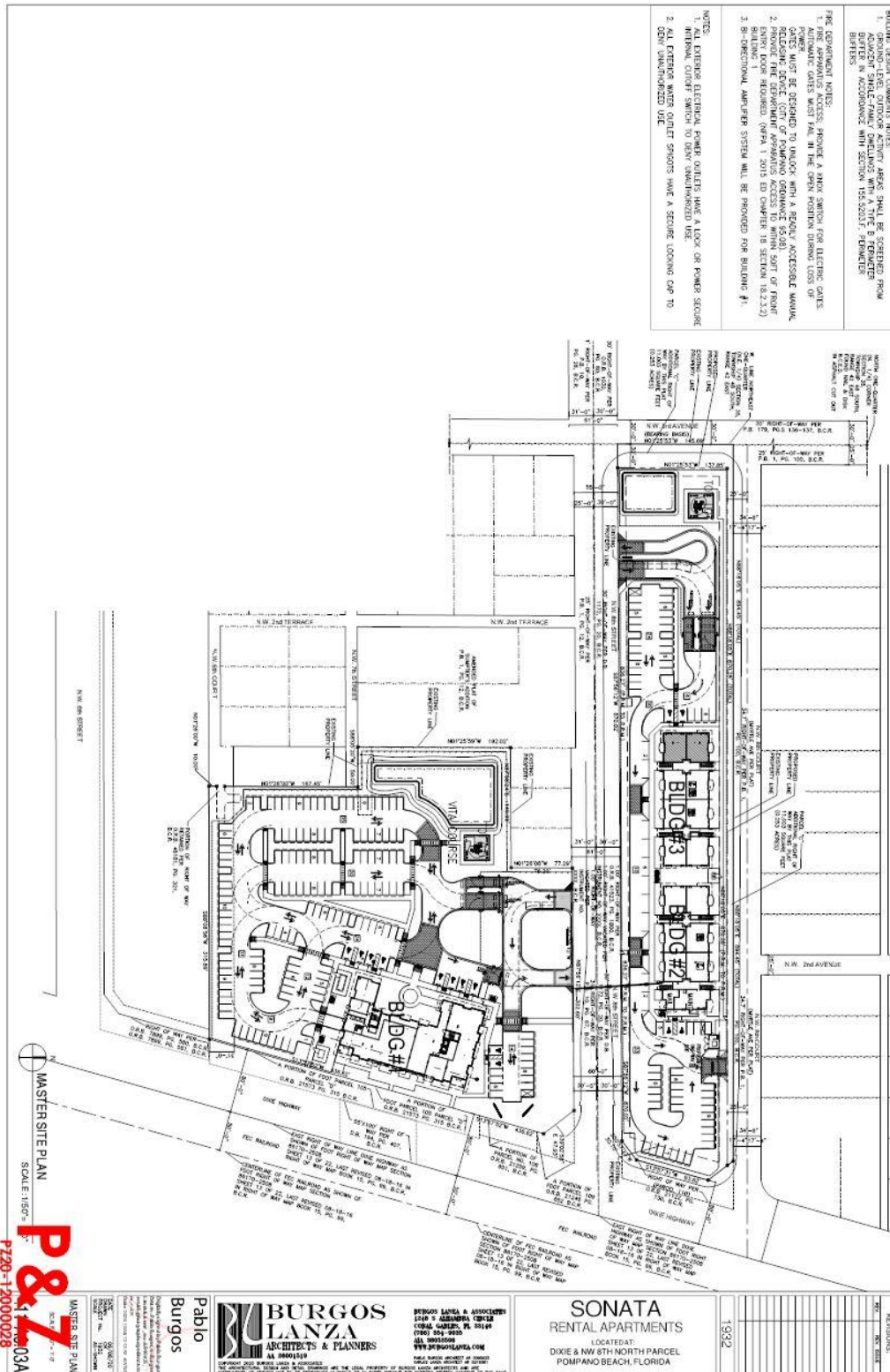


Exhibit 3 – Developer Conditional Term Sheet

Sonata

Date: July 2020

CONDITIONAL TERM SHEET BETWEEN THE POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY ("CRA") AND CORNERSTONE SONATA, LLC ("DEVELOPER") IN ANTICIPATION OF A DEVELOPMENT AGREEMENT REGARDING SONATA APARTMENTS, A MIXED-USE HOUSING DEVELOPMENT (THE "PROJECT")

Upon execution of this Conditional Term Sheet ("Term Sheet"), the parties will, after all conditions have been met by Developer, enter into good-faith negotiations to resolve any remaining questions and produce the necessary binding agreements, including a development agreement, consistent with the terms described below. The CRA and DEVELOPER recognize that any binding agreements will be subject to approval by the CRA. Additional issues not addressed in this Term Sheet may be identified and included in the binding agreements.

This Term Sheet does not bind the parties to specific actions, decisions, or approvals, but rather is a commitment to negotiate in good faith a development agreement consistent with the terms described below. The parties will strive to complete the binding agreements expeditiously as possible. If the parties are not able to complete binding agreements consistent with this Term Sheet after negotiating in good faith, neither party shall be further bound by this Term Sheet.

1. Location: The redevelopment site is generally located at the southwest corner of Dixie Highway and NW 8th Street (the "Subject Site").

2. Ownership: All parcels are either under contract with the Developer or owned by the City of Pompano Beach ("City") to be leased to the Developer and contains the following Broward County Property Folio numbers: 484235110070, 484235001210, 484235001220, 484235001230, 484235001240, 484235001251 and 484235001250.

3. Representations: None.

4. Conditions: Prior to any negotiations between the CRA and the Developer, the Developer shall have satisfied the following conditions:

4.1 Lease with City: The Developer shall obtain a fully executed lease with the City of Pompano Beach ("City") for the following properties: 484235001210, 484235001220, 484235001230, 484235001240, 484235001251 and 484235001250. Such lease shall provide that the existing dry retention area may be relocated by the CRA from its current location along Dixie Highway ("Dixie Highway Drainage") so that the Project can be located along Dixie Highway.

4.2 Site Plan Approval: The Developer shall have received site plan approval for the Project.

5. Deposit: No Deposits have been taken.

6. Dixie Highway Drainage: The CRA will pay, on a reimbursement basis, for the relocation of the dry retention area for Dixie Highway from the current location along Dixie Highway an amount not to exceed \$420,000. The agreed-to cost of moving the dry retention area will be paid by the Developer and reimbursed by the CRA, based upon verifiable receipts. Should the Project require retention capacity in excess of the capacity of the existing dry retention area, the cost of such additional capacity shall be the sole obligation of the Developer (“Project Drainage”).

7. Sources and Uses of Funds: Except otherwise specified herein, Developer shall be solely responsible for securing its financing and other funding sources required for designing, planning, construction and development of the mixed-use development. In addition to relocation of the Dixie Highway Drainage, CRA will lend Developer \$1.5 Million Dollars, payable in the amount of \$300,000 per year for 5 years beginning in FY 2022 for public infrastructure costs.

8. Pre-Development Expenses: The Developer shall be responsible for project pre-development expenses; provided, that, for the avoidance of doubt, the Developer shall have no obligation to reimburse the CRA for any pre-development expenses incurred by the CRA prior to the date of this Term Sheet.

9. Project Development Requirements: The CRA and Developer intend to work together in a collaborative and cooperative manner to develop the mixed-use housing development in a fiscally responsible manner. The Development will be named “Sonata Apartments” and will be designed as a 7-8 story building fronting along Dixie Highway. The ground floor will have +/- 3500 sq. ft. of retail space. The remainder of the ground floor will be used for amenities and offices serving the residential component. Residential units will be on floors 2-7 (or 8). Parking for the retail component will front Dixie Highway, and parking for the residential component may be located behind the building. Of the total units, 45 units will be leased at 70% AMI and 15 units will be market rate units. Upon obtaining a Certificate of Occupancy, the CRA will lease the retail component at \$10/sq. ft. for a period of 10 years. Developer will contribute \$150,000 towards Tenant Improvement (TI) costs.

The Developer shall be responsible for, and shall lead all phases of the planning, environmental review, design, development, and construction of, the mixed-use housing development and related infrastructure including drainage relocation. The CRA shall have the right to provide meaningful input with respect to the Project, which input the Developer shall reasonably consider in good faith. The parties intend that the entire project will be conducted as a cooperative, mutual endeavor in which the parties actively participate and work together with due diligence and in good faith. The parties will put in place and manage a design process for the Project whereby the CRA will have input and will participate in developing a design that achieves the best possible project within the agreed program description based on the proposed project budget. The CRA will be entitled to provide its input, and to the extent required by existing law will have approval rights, with respect

to the design at various stages of the design process, including Site Plan, design development, and construction document phases of the project. Developer proposes the following:

Total Levels (Story):	2-3 (Bldgs. 1&2) and 7-8 (Bldg. 1)
Total Parking Spaces:	72 (Bldgs. 1&2) and 125 (Bldg. 1)
Total Spaces on Street:	6
Total Units:	48 (Bldgs. 1&2) and 73 (Bldg. 1)
Unit Mix:	31 - 1 Bd (Unit A) @ 696 Sq. Ft. 59 - 2 Bd (Unit B) @ 1,024 Sq. Ft. 31 - 3 Bd (Unit C) @ 1,230 Sq. Ft.
Total Commercial/Retail Space:	3,500 Sq. Ft.

10. Schedule: The CRA and Developer shall work cooperatively and make all reasonable efforts to complete the mixed-use development as expeditiously as possible. Developer has submitted a schedule of milestones and estimates starting the following milestones according to the timeframes below:

Receive LIHTC Award:	Received
Submit Building Permits:	10/28/2020
Receive Building Permits:	4/2/2021
Obtain Funding/Closing:	4/2/2021
Construction Start:	4/2/2021
Construction Completion:	7/2022
Leasing Activities:	4/2022
Stabilized Operations:	12/2022

11. Local Participation: Developer will, to the greatest extent possible, perform community outreach to involve local community participation in the design and construction of this project. Outreach efforts may include but not limited to the marketing of and administering of job fairs, development of training and apprenticeship programs, setting hiring goals, etc.

ACCEPTED AND AGREED TO BY:

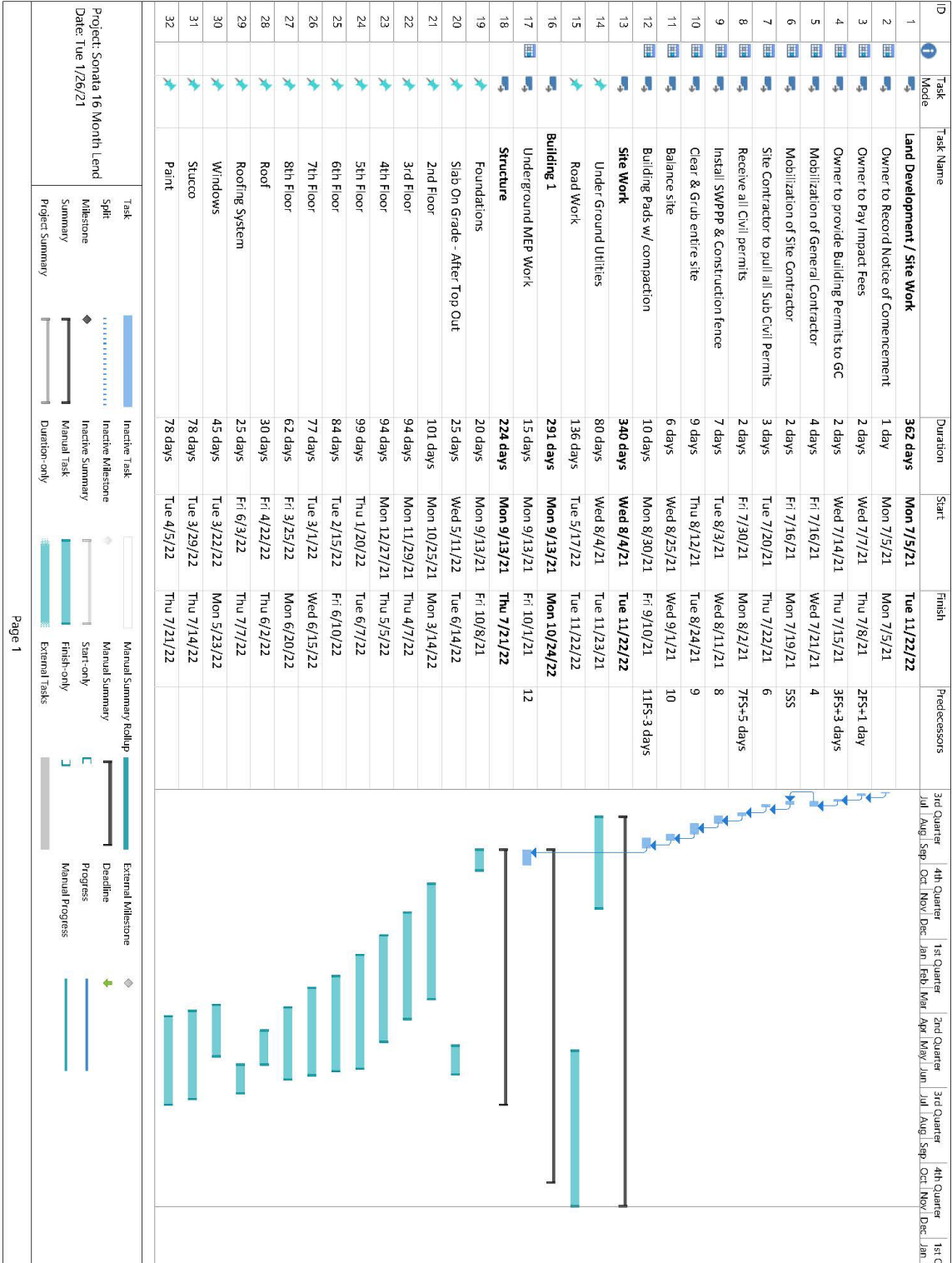
AS TO "DEVELOPER"
Cornerstone Sonata, LLC.

AS TO "CRA"

By: _____
Mara Mades, Managing Member

By: _____
Gregory P. Harrison, Executive Director

Exhibit 4 – Project Schedule & Budget



ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	3rd Quarter Jul Aug Sep	4th Quarter Oct Nov Dec	1st Quarter Jan Feb Mar	2nd Quarter Apr May Jun	3rd Quarter Jul Aug Sep	4th Quarter Oct Nov Dec	1st Q Jan
33		Interior Work	170 days	Tue 3/1/22	Mon 10/24/22								
34		Ground Floor	80 days	Wed 6/8/22	Tue 9/27/22								
35		2nd Floor	110 days	Tue 3/1/22	Mon 8/1/22								
36		3rd Floor	97 days	Fri 3/25/22	Mon 8/8/22								
37		4th Floor	82 days	Fri 4/22/22	Mon 8/15/22								
38		5th Floor	80 days	Tue 5/3/22	Mon 8/22/22								
39		6th Floor	80 days	Tue 5/10/22	Mon 8/29/22								
40		7th Floor	80 days	Tue 5/17/22	Mon 9/5/22								
41		8th Floor	80 days	Tue 5/24/22	Mon 9/12/22								
42		Buck Hoist Units	25 days	Tue 9/20/22	Mon 10/24/22								
43		Elevators	60 days	Fri 6/24/22	Thu 9/15/22								
45		TCO Testing	30 days	Tue 9/6/22	Mon 10/17/22	41FS-5 days							
46		TCO	1 day	Tue 10/18/22	Tue 10/18/22	45							
47		CO	13 days	Wed 10/19/22	Fri 11/4/22	46							
48		Construction of Building #2 & #3	181 days	Wed 2/9/22	Wed 10/19/22								
49		Survey/Layout for buildings Tied to L5 Pour	3 days	Wed 2/9/22	Fri 2/11/22								
50		MEP undergrounds	15 days	Mon 2/14/22	Fri 3/4/22	49							
51		Excavate for Footers & Foundation	4 days	Mon 3/7/22	Thu 3/10/22	50							
52		Shell Construction	60 days	Fri 3/11/22	Thu 6/2/22	51							
53		Light Weight Concrete on Roof	10 days	Fri 6/3/22	Thu 6/16/22	52							
54		Roof Dry in	7 days	Fri 6/17/22	Mon 6/27/22	53							
55		Install Windows & SGDs	14 days	Fri 6/3/22	Wed 6/22/22	52							
56		Stucco Levels 1-Parapet	20 days	Thu 6/23/22	Wed 7/20/22	55							
57		Exterior Prime & Paint	10 days	Thu 7/21/22	Wed 8/3/22	56							
58		Balcony & Stair Rails	14 days	Thu 8/4/22	Tue 8/23/22	57							
59		Roof Complete	10 days	Wed 8/24/22	Tue 9/6/22	58							
60		Interior Construction	45 days	Tue 6/28/22	Mon 8/29/22	54							
61		TCO Testing	30 days	Tue 8/30/22	Mon 10/10/22	60							
62		TCO	1 day	Tue 10/11/22	Tue 10/11/22	61							
63		County to process final documents	5 days	Wed 10/12/22	Tue 10/18/22	62							
64		Certificate of Occupancy	1 day	Wed 10/19/22	Wed 10/19/22	63							

Development Budget

Project Name Sonata
 Number of Units 121
 Project Square Footage 117,756

Uses		Total Cost	Eligible Basis	Non-Eligible	Per Unit	Per SF
Land Acquisition	\$	3,258,000	\$ -	\$ 3,258,000	\$ 26,926	\$ 27.67
Land Carry	\$	-	\$ -	\$ -	\$ -	\$ -
Broker Fee	\$	-	\$ -	\$ -	\$ -	\$ -
Impact Fees Not Refunded	\$	347,278	\$ 347,278	\$ -	\$ 2,870	\$ 2.95
Planning Fees	\$	-	\$ -	\$ -	\$ -	\$ -
W&S Connection Fees	\$	242,000	\$ 242,000	\$ -	\$ 2,000	\$ 2.06
Architect	\$	338,800	\$ 338,800	\$ -	\$ 2,800	\$ 2.88
Engineer	\$	90,750	\$ 90,750	\$ -	\$ 750	\$ 0.77
Surveying & Platting	\$	60,000	\$ 60,000	\$ -	\$ 496	\$ 0.51
Environmental/Soils	\$	36,300	\$ 36,300	\$ -	\$ 300	\$ 0.31
Borrower Legal Counsel	\$	150,000	\$ 30,000	\$ 120,000	\$ 1,240	\$ 1.27
Finance Fees	\$	393,000	\$ 290,000	\$ 103,000	\$ 3,248	\$ 3.34
Builders Risk Insurance	\$	121,000	\$ 121,000	\$ -	\$ 1,000	\$ 1.03
Insurance	\$	48,400	\$ -	\$ 48,400	\$ 400	\$ 0.41
P&P Bond	\$	153,000	\$ 153,000	\$ -	\$ 1,264	\$ 1.30
Taxes	\$	40,000	\$ 8,000	\$ 32,000	\$ 331	\$ 0.34
Title and Recording	\$	157,300	\$ -	\$ 157,300	\$ 1,300	\$ 1.34
Inspection Fee	\$	35,000	\$ 35,000	\$ -	\$ 289	\$ 0.30
Appraisal	\$	10,000	\$ 10,000	\$ -	\$ 83	\$ 0.08
Market Study	\$	5,000	\$ 5,000	\$ -	\$ 41	\$ 0.04
Accounting	\$	45,000	\$ -	\$ 45,000	\$ 372	\$ 0.38
Tax Credit Fees	\$	517,380	\$ -	\$ 517,380	\$ 4,276	\$ 4.39
Marketing w/ Lease Up Reserves	\$	170,000	\$ -	\$ 170,000	\$ 1,405	\$ 1.44
Building Permit Fees	\$	532,400	\$ 532,400	\$ -	\$ 4,400	\$ 4.52
PCA	\$	3,000	\$ 3,000	\$ -	\$ 25	\$ 0.03
Green Building Cert	\$	90,750	\$ 90,750	\$ -	\$ 750	\$ 0.77
Furniture & Fixtures	\$	170,000	\$ 170,000	\$ -	\$ 1,405	\$ 1.44
Construction Interest	75%	\$ 1,972,000	\$ 1,479,000	\$ 493,000	\$ 16,298	\$ 16.75
Construction Cost	\$	23,476,000	\$ 23,361,050	\$ 114,950	\$ 194,017	\$ 199.36
Hard Cost Contingency	5%	\$ 1,173,800	\$ 1,173,800	\$ -	\$ 9,701	\$ 9.97
Soft Cost Contingency	\$ 3,363,358	\$ 167,000	\$ 167,000	\$ -	\$ 1,380	\$ 1.42
Replacement Reserves	\$	-	\$ -	\$ -	\$ -	\$ -
Operating Reserve	3	\$ 354,000	\$ -	\$ 354,000	\$ -	\$ 3.01
Developer Overhead	4.00%	\$ 1,221,000	\$ 1,221,000	\$ -	\$ 10,091	\$ 10.37
Developer Profit	12.00%	\$ 3,663,000	\$ 3,663,000	\$ -	\$ 30,273	\$ 31.11
TOTAL ACQUISITION COST		\$ 3,258,000	\$ -	\$ 3,258,000	\$ 26,926	\$ 27.67
TOTAL DEVELOPMENT COST		\$ 35,783,158	\$ 33,628,128	\$ 2,155,030	\$ 292,803	\$ 303.88
TOTAL USES		\$ 39,041,158	\$ 33,628,128	\$ 5,413,030	\$ 319,729	\$ 331.54

Sources	Total Cost	Eligible Basis	Non-Eligible	Per Unit	Per SF
Tax Credit Equity	27,664,000			228,628	235
First Mortgage Loan	29,000,000			239,669	246
First Mortgage Redemp.	(20,600,000)			(170,248)	(175)
Surtax/SHIP	-			-	-
HOME	-			-	-
SAIL	-			-	-
SAIL ELI	-			-	-
Other	-			-	-
NHTF	-			-	-
Broward Subsidy	-			-	-
Pompano Loan	783,250			6,473	7
CRA	1,500,000			12,397	13
Deferred Developer Fee	693,908			5,735	6
TOTAL SOURCES	\$ 39,041,158	\$ -	\$ -	\$ 322,654	\$ 331.54

Exhibit 5 – CRA Mortgage and Note

Prepared by, and after recording return to:
Brian J. McDonough
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, FL 33130

NOTE TO RECORDER: This Mortgage is given in relation to the financing of housing under Part V of Chapter 420 of the Florida Statutes and is exempt from taxation pursuant to Section 420.513 Florida Statutes.

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the “Mortgage”), is executed and delivered the ____ day of _____, 2021 by SONATA APARTMENTS, LTD., a Florida limited partnership, whose address is 2100 Hollywood Boulevard, Hollywood, FL 33020 (the “Mortgagor”), to the POMPAÑO BEACH COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic, with offices at 100 West Atlantic Boulevard, Pompano Beach, FL 33060 (the “Mortgagee”).

WITNESSETH, that in consideration of the premises and in order to secure the payment of the principal and any other sum payable under, pursuant to or by virtue of the Note or this Mortgage and the performance and observance of all of its provisions and of the Note, the Mortgagor does grant, bargain, sell, alien, remise, release, convey and confirm unto the Mortgagee, all of Mortgagor’s estate, right, title and interest in, to, under and with respect to all of the following described real and personal property, legally described on the attached Exhibit “A”, situate, lying and being in Broward County, Florida.

TOGETHER WITH all structures and improvements now and hereafter erected or located, the rents, and all easements, privileges, hereditaments, appurtenances to the Land or the Improvements or both, rents, royalties, power, mineral, oil and gas rights, water rights, and any incomes and profits of any of the foregoing, all furniture, furnishings, fixtures and equipment, and all additions and replacements, which real property, improvements and personalty shall collectively be referred to as the “Mortgaged Property”.

TO HAVE AND TO HOLD the same, together with all tenements and hereditaments and appurtenances, unto the Mortgagee.

The Mortgagor warrants that Mortgagor has a good and marketable title to an indefeasible fee simple absolute estate in the Mortgaged Property; that the Mortgagor has full power and lawful right to convey the Mortgaged Property; that the Mortgagor covenants that this Mortgage is and

will remain a valid and enforceable mortgage on the Mortgaged Property; that Mortgagor has full power and lawful authority to mortgage the Mortgaged Property in the manner and form done and that Mortgagor will preserve such title and will forever warrant and defend the validity and priority of the Mortgage against the lawful claims of all persons claiming by, through, or under Mortgagor, save Senior Indebtedness as defined below.

PROVIDED ALWAYS, that if the Mortgagor shall pay to the Mortgagee the indebtedness in the principal sum of \$1,500,000.00 evidenced by that certain Promissory Note, of even date, upon the terms provided in the Note, and together with all other sums advanced by Mortgagee to or on behalf of Mortgagor pursuant to the Note or this Mortgage, the final maturity date of this Mortgage being the thirty-fifth (35th) calendar year following the issuance of the last certificate of occupancy for the Project, and shall otherwise perform and comply with and abide by each and every one of the stipulations, agreements, conditions and covenants of the Note and this Mortgage, then this Mortgage and the estate thereby created shall cease and terminate.

THE MORTGAGOR FURTHER COVENANTS AND AGREES AS FOLLOWS:

1. PERFORMANCE OF NOTE, MORTGAGE AND HOUSING COVENANTS.

The Mortgagor shall pay all sums, including principal and interest, where applicable, secured by this Mortgage when due as provided for in the Note, and any renewal, replacement, extension or modification, and in this Mortgage, all such sums to be payable at the address specified in the Note, or at such other place as the holder of such Note may designate in writing. Mortgagor shall perform, comply with and abide by each and every of the agreements, conditions and covenants set forth in the Note and this Mortgage.

2. TAXES AND OTHER CHARGES. The Mortgagor shall pay before any interest, charge or penalty is due, all taxes, assessments, levies, liabilities, obligations, encumbrances, and all other charges or claims of every nature and kind which may be imposed or filed at any time against this Mortgage, the Mortgaged Property or any part or against the interest of the Mortgagee, or which by any present or future law may have priority over the secured indebtedness; provided, however, that if the Mortgagor in good faith and by appropriate legal action shall contest the validity of any such items or the amount, and shall have established on its books or by deposit of cash with the Mortgagee or the holder of any senior lien on the Mortgaged Property a reserve for the payment thereof in such amount as the Mortgagee may require, then the Mortgagor shall not be required to pay the item: (a) while the reserve is maintained; and (b) so long as the contest operates to prevent collection, is maintained and prosecuted with diligence, and shall not have been terminated or discontinued adversely to the Mortgagor. The Mortgagor shall furnish the Mortgagee with annual receipted tax bills evidencing payment within ninety (90) days from their due date.

3. HAZARD INSURANCE. Mortgagor shall keep the improvements now existing or later erected on the Property insured against loss by fire and such other hazards included within the term "extended coverage," and any other hazards including, but not limited to wind or floods for which insurance is required and as Mortgagee may require, in such amounts and for such periods as Mortgagee may require; provided, that Mortgagee shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage.

Unless otherwise required by the Mortgagee all such insurance shall be affected by Standard Fire and Extended Coverage Insurance policies, in amounts not less than necessary to comply with the coinsurance clause percentage of the value applicable to the location and character of the property to be covered. All such insurance shall be carried in companies approved by the Mortgagee and all policies therefore shall be in such form and shall have attached loss payable clauses in favor of the Mortgagee and any other party as shall be satisfactory to the Mortgagee. The insurance carrier providing the insurance shall be chosen by Mortgagor, subject to the Mortgagee's approval; provided that such approval shall not be unreasonably withheld.

All insurance policies and renewals shall be in a form acceptable to the Mortgagee and shall include a standard mortgage clause in favor of and in a form acceptable to the Mortgagee. Mortgagor shall promptly furnish to the Mortgagee all renew notices and all receipts of paid premiums. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and the Mortgagee, and the Mortgagee may make proof of loss if not made promptly by Mortgagor.

Unless the Parties otherwise agree in writing insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible, and the security of this Mortgage is not impaired. If such restoration or repair is not economically feasible, or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor or if Mortgagor fails to respond to the Mortgagee within thirty (30) days after notice by the Mortgagee to Mortgagor that the insurance carrier offers to settle a claim for insurance benefits, the Mortgagee is authorized to collect and apply insurance proceeds at the Mortgagee's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

During such repair and restoration period, the Mortgagee shall have the right to hold such insurance proceeds until the Mortgagee has had an opportunity to inspect such Property to ensure the work has been completed to the Mortgagee's satisfaction, provided that such inspection shall be undertaken promptly.

If the Property is acquired by the Mortgagee, all right, title, and interest of Mortgagor in and to any insurance policies and, in and to the proceeds (to the extent of the sums secured by this Mortgage immediately prior to such sale or construction) resulting from damage to the Property prior to the sale or construction shall pass to the Mortgagee.

4. PROTECTION OF MORTGAGEE'S SECURITY. The Mortgagee may, at its option, upon notice to Mortgagor, make such appearances, disburse such sums, and take such action as is necessary to protect the Mortgagee's interest, if Mortgagor fails to perform the covenants or agreements contained in this Mortgage or, if any action or proceeding is commenced which materially affects the Mortgagee's interests in the Property subject to this Mortgage, including but not limited to, eminent domain, insolvency, code enforcement, arrangements, or proceedings involving a bankruptcy.

5. PROTECTIVE ADVANCES. Mortgagee may, at its option, and without waiving its right to accelerate the secured indebtedness and to foreclose the same, pay after delinquency

any or all of those certain obligations required by the terms of this Mortgage to be paid by the Mortgagor for the protection of the Mortgage security or for the collection of the secured indebtedness. All sums so advanced or paid by Mortgagee shall bear interest from the date paid at the Default Rate specified in the Note as fully and to the same extent as though a part of the original indebtedness evidenced by the Note and secured by this Mortgage, excepting however, that sums shall be repaid to the Mortgagee within fifteen (15) days after demand by the Mortgagee to the Mortgagor for such payment.

6. ACCELERATION OF MATURITY. Mortgagee shall have the right to mature the indebtedness and foreclose this Mortgage in the event of the following:

(a) any breach of this Mortgage or default on the part of the Mortgagor which is not cured within thirty (30) days following written notice from the Mortgagee, or if such default cannot practicably be cured within thirty (30) days, then within such additional time as may be required to effect a cure (such additional time not to exceed sixty (60) days, so long as (i) the cure is commenced within thirty (30) days and is diligently prosecuted and (ii) the lack of a cure during such continuing cure period has no material adverse effect on the Mortgaged Property; or

(b) a failure to pay promptly and fully any sums of money referred to in this Mortgage within five (5) days after the same become due and payable, without demand or notice; or

(c) failure to maintain in reasonably good repair the buildings and any improvements, including but not limited to landscaping, on the Property; or

(d) failure to comply with any requirement, order, notice of violation of law, or ordinance issued by any governmental entity claiming jurisdiction over the Property; or

(e) failure to assign and deliver the policies insuring the buildings against loss by fire or in reimbursing the Mortgagee for premiums paid on such insurance, as provided in this Mortgage; or

(f) failure to keep, observe and perform any of the other covenants, conditions or agreements contained in this Mortgage; or

(g) in the event each and every stipulation, agreement, condition and covenant of the Note and this Mortgage are not duly, promptly and fully performed, discharged, executed, effected, completed, complied with and abided by, following the giving of notice and the expiration of applicable cure periods.

Then, in such events, the aggregate sum mentioned in the Note then remaining unpaid, and all monies secured by the Mortgage shall become due and payable at the option of the Mortgagee, as fully and completely as if all of the sums of money were originally stipulated to be paid on such day, anything in the Note or in this Mortgage to the contrary notwithstanding; and thereupon or thereafter, at the option of the Mortgagee, without notice or demand, suit at law or in equity, therefore, or thereafter begun, may be prosecuted as if all money secured this Mortgage had matured prior to its institution.

Notwithstanding anything to the contrary, the Note is a non-recourse obligation of the Mortgagor and its members and neither Mortgagor nor its partners have personal liability for repayment of the loan evidenced by the Note. Mortgagor's sole recourse shall be to the collateral which secures the Loan.

7. **APPOINTMENT OF RECEIVER.** At any time while a suit is pending to foreclose or to reform this Mortgage or to enforce any claims, the Mortgagee may apply to a court of appropriate jurisdiction for the appointment of a receiver, and such court shall appoint a Receiver of the Mortgaged Property, including all and singular the income, profits, rents, issues and revenues from whatever source derived. The Receiver shall have all the broad and effective functions and powers entrusted by a court to a Receiver, and such appointment shall be made by such court as an admitted equity and as a matter of absolute right to the Mortgagee without reference to the adequacy or inadequacy of the value of the Mortgaged Property, or to the solvency or insolvency of the Mortgagor or the Defendants. All income, profits, rents, issues and revenues collected by the Receiver shall be applied by such Receiver according to the lien of this Mortgage, and the practice of such court.

8. **LEASES AFFECTING MORTGAGED PROPERTY.** The Mortgagor shall comply with and observe its obligations as landlord under all leases, now existing or hereafter created, affecting all or any portion of the Mortgaged Property (the "Residential Leases"). Upon request, the Mortgagor shall furnish promptly to the Mortgagee executed copies of all such Residential Leases now existing or hereafter created.

9. **MORTGAGE CONSTITUTES SECURITY AGREEMENT.** This Mortgage also constitutes a security agreement as defined under the Uniform Commercial Code. The Mortgagor grants to the Mortgagee a security interest in and to all furniture, furnishings, equipment, machinery, and personal property of every nature whatsoever now owned or hereafter acquired by the Mortgagor located upon the Mortgaged Property together with all proceeds therefrom. The Mortgagor shall execute any and all documents as the Mortgagee may request, including, without limitation, financing statements pursuant to the Uniform Commercial Code as adopted by the State of Florida, to preserve and maintain the priority of the lien created on property which may be deemed personal property or fixtures. The Mortgagor authorizes and empowers the Mortgagee to execute and file on behalf of the Mortgagor all financing statements and refilings and continuations as the Mortgagee deems necessary or advisable to create, preserve or protect this lien. The Mortgagor and Mortgagee expressly agree that the filing of a financing statement shall never be construed as derogating from or impairing the express declaration and intention of the parties and that all such personalty located on or utilized in connection with the real property encumbered by this Mortgage shall, at all times and for all purposes, in all proceedings both legal and equitable, be deemed a part of the real property encumbered by this Mortgage.

10. **MORTGAGE SECURES INDEBTEDNESS.** It is expressly agreed and understood that this Mortgage secures the indebtedness and the obligation of the Mortgagor to the Mortgagee with respect to the Note, as the same is evidenced by the Note, and all renewals, extensions and modifications thereof. This Mortgage shall not be deemed released, discharged or satisfied until the entire indebtedness evidenced by the Note is paid in full.

11. FUTURE ADVANCES. Pursuant to the laws of the State of Florida, this Mortgage shall secure not only the existing indebtedness evidenced by the Note, but also such future advances as may be made by the Mortgagee to the Mortgagor in accordance with the Note or this Mortgage, whether or not such advances are obligatory or are to be made at the option of the Mortgagee, or otherwise, and as are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but the total unpaid balance so secured at one time shall not exceed two times the face amount of the Note, and any disbursements made for the payment of taxes, levies or insurance on the Mortgaged Property with interest on such disbursements at the rate designated in the Note to apply following a default thereunder.

12. NO WAIVER. It is expressly agreed and understood that a waiver by the Mortgagee of any right or rights conferred to it with regard to any one transaction or occurrence shall not be deemed a waiver of such right or rights to any subsequent transaction or occurrence. It is further agreed that any forbearance or delay by the Mortgagee in the enforcement of any right or remedy shall not constitute or be deemed a waiver of such right or remedy.

13. NOTICE. All notices given by Mortgagor or the Mortgagee in connection with this Mortgage must be in writing. Any notice to in connection with this Mortgage shall be deemed to have been given to Mortgagor when mailed by first class mail or when actually delivered to Mortgagor's notice address if sent by other means. The notice address shall be the address stated in this Mortgage unless instructed otherwise by a party. Mortgagor shall promptly notify the Mortgagee of Mortgagor's change of address. If the Mortgagee specifies a procedure for reporting Mortgagor's change of address, then Mortgagor shall only report a change of address through that specified procedure. There may be only one designated notice address under this Mortgage at any one time. Any notice to the Mortgagee shall be given by delivering it or by mailing it by first class mail to the Mortgagee's address unless the Mortgagee has designated another address by notice to Mortgagor. Any notice in connection with this Mortgage shall not be deemed to have been given to the Mortgagee until actually received by the Mortgagee. If any notice required by this Mortgage is also required under Florida law, the Florida law requirement will satisfy the corresponding requirement under this Mortgage.

14. GOVERNING LAW AND VENUE. This Mortgage shall be construed and enforced pursuant to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws and comity. Any action or dispute arising between the parties pertaining to this Mortgage shall, to the extent permitted by law, be in courts of jurisdiction for Broward County and no other venue. All meetings to resolve said dispute, including voluntary arbitration, mediation, or other alternative dispute resolution mechanism, will take place in Broward County.

15. PREVAILING PARTY. The prevailing party in any action to enforce this Mortgage, shall recover from the non-prevailing party all and singular the costs, charges and expenses, including but not limited to, reasonable attorney's fees, including but not limited to all trial, appellate, and bankruptcy litigation, including litigation for the amount as well as entitlement to such, costs, charges, and expenses, because of the failure on the part of the non-prevailing party

to perform, comply with, and abide by, each and every of the stipulations, agreements, conditions and covenants of this Promissory Note, whether or not suit is brought, and the fees and costs shall bear interest from that date at the maximum rate permitted by law.

16. PARTIES BOUND; NO ORAL MODIFICATIONS. Each and every of the terms, covenants and conditions contained in this Mortgage shall be binding upon the parties and their successors, and assigns. This Mortgage is not subject to modification other than by a written document or instrument executed by the party or parties to be charged with such modification, in the same formality.

17. WAIVER OF TRIAL BY JURY. MORTGAGOR (AND MORTGAGEE, BY ITS ACCEPTANCE) KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED ON OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS MORTGAGE, OR THE FINANCING CONTEMPLATED, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR THE ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE MORTGAGEE EXTENDING THE LOAN SECURED BY THIS MORTGAGE.

18. AGREEMENT TO SUBORDINATE. Mortgagee agrees that: (i) this Mortgage and the Note that it secures is and shall be subordinated in right of payment to the indebtedness evidenced by such mortgage as may be held by construction and permanent loan providers ("Senior Lenders") encumbering the Leasehold Estate for development of the Project as defined in the Development Agreement executed by the Parties and recorded in the public records of Broward County, Florida ("Senior Mortgages") and (ii) this Mortgage and the Note it secures are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Mortgages and any other loan documents in favor of Senior Lenders ("Senior Loan Documents") and to all advances made or which may hereafter be made pursuant to the Senior Mortgages and the other Senior Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the Senior Mortgages, curing defaults by the Borrower under the Senior Loan Documents or for any other purpose expressly permitted by the Senior Mortgages, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Leasehold Estate consistent with the Development Agreement executed by the Parties and recorded in the public records of Broward County, Florida).

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Mortgagor has set its hand and seal the day and year first above written.

MORTGAGOR:

SONATA APARTMENTS, LTD., a Florida
limited partnership

By: Cornerstone Sonata, LLC, a Florida limited
liability company, its general partner

By: _____
Leon J. Wolfe, Manager

ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me, by means of ☐ physical presence
or ☐ online notarization, this _____ day of _____, 2021, by Leon J.
Wolfe, as Manager of Cornerstone Sonata, LLC, a Florida limited liability company, General
Partner of SONATA APARTMENTS, LTD, a Florida limited partnership, on behalf of the limited
partnership, who is personally known to me, or who has produced _____,
as identification.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF _____
(Signature of Notary Taking Acknowledgement)

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

Exhibit A
Legal Description of The Property

PROMISSORY NOTE

Pompano Beach, Florida

\$1,500,000.00

_____, 2021

FOR VALUE RECEIVED the undersigned, SONATA APARTMENTS, LTD., a Florida limited partnership (the “Maker”) with offices at 2100 Hollywood Boulevard, Hollywood, FL 33020, promises to pay to the order of the POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic (the “Lender”), at 100 West Atlantic Boulevard, Pompano Beach, FL 33060 or such other location or address as the Lender may direct from time to time, the principal sum of **One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000.00)** (the “Promissory Note”).

This Promissory Note is secured by that certain Mortgage and Security Agreement (the “Mortgage”) of even date executed in favor of the Maker, relating to real property located in Pompano Beach, Florida and more particularly described in the Mortgage (the “Property”).

This Promissory Note shall bear no interest and the outstanding principal balance shall become due and payable on the thirty-fifth (35th) calendar year after the Maker receives a certificate of occupancy for the construction of a 121 Unit mixed-use, mixed-income housing development (“Project”), whether temporary or final, as defined in the Development Agreement, dated _____ 2021, by and between the Maker and Lender (the “Development Agreement”). Proceeds under this Promissory Note shall be advanced to Maker in the amount of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) per year for a period of five (5) years commencing on October 1, 2022, and thereafter on each consecutive October 1st until disbursed in full. Notwithstanding the foregoing, this Promissory Note shall be forgiven, at Lender’s sole discretion if: (a) a Certificate of Occupancy is issued for the Building and Improvements and (b) if the Developer complies with the provisions of the Declaration of Covenants and Restrictions, as those terms are then defined in the Development Agreement.

At the option of the Lender, all sums advanced and all other sums due under this Promissory Note shall become immediately due and payable, without notice or demand, upon the occurrence of any one or more of the following Events of Default: (a) the Maker's failure to promptly pay in full any payment of principal or default interest due under this Promissory Note within ten (10) days following the date on which such payment is due; (b) Maker’s failure to comply with the terms, conditions and covenants agreed to in the Development Agreement entered into by Maker and Lender, or (c) any uncured breach, following the giving of notice and the expiration of any applicable cure period, by the Maker of any of the terms, covenants or conditions set forth in the Mortgage. Upon the occurrence of any of the foregoing events (each, an “Event of Default”), and in addition to any other remedies provided in the Mortgage, the amount disbursed under the Note, together with default interest at the rate provided in this Promissory Note, and all unpaid fees, charges and other obligations of the Maker due under the Note or under the Mortgage, shall, at Lender's option, be immediately due and payable.

No delay or omission on the part of the Lender in the exercise of any right under this Promissory Note shall operate as a waiver of such right or of any other right under this Promissory

Note. A waiver by the Lender of any right or remedy on any one occasion shall not be construed as a bar to, or waiver of, any such right or remedy as to any future occasion.

The Maker agrees that in the event each and every of the terms and conditions of this Promissory Note or any instrument which secures or collateralizes the payment of the sums is not duly performed, complied with, or abided by, subject to applicable notice and cure periods set forth in the Mortgage, the whole of the indebtedness then outstanding shall, at the option of the Lender, become immediately due and payable. If this Promissory Note becomes in default and is placed in the hands of an attorney for collection, the Maker agrees to pay all and singular the costs, charges, and expenses incurred by the Lender in the enforcement of its rights, including, but not limited to reasonable attorneys' fees and costs, at trial or on appeal.

The Maker and all persons becoming obligated or liable for the payment in this Promissory Note, do jointly and severally waive demand, notice of non-payment, protest, notice of dishonor and presentment.

The Maker does not intend or expect to pay, nor does the Lender intend or expect to charge, collect or accept, any interest greater than the highest legal rate of interest which may be charged under any applicable law. Should the acceleration of any charges made in this Promissory Note result in the computation or earning of interest in excess of such legal rate, any and all such excess shall be and the same is waived by the Lender, and any such excess shall be credited by the Lender to the outstanding balance.

Each Maker, endorser, or any other person, firm or corporation liable for the payment of the loan evidenced by this Promissory Note, consents to any renewals, extensions, modifications, releases of security or any indulgence shown to or any dealings between the Lender and any party obligated under this Promissory Note, without notice, and jointly and severally agree that they shall remain liable notwithstanding any such renewals, extensions, modifications or indulgences, until the debt evidenced is fully paid.

Upon the occurrence of any Event of Default, all sums outstanding under this Promissory Note shall immediately bear interest at the highest legal rate of interest which may be charged under Florida law ("Default Interest Rate") per annum from the date of disbursement, without notice to the Maker or any guarantor or endorser of this Promissory Note, and without any affirmative action or declaration on the part of the Lender.

This Promissory Note shall be construed and enforced according to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws or comity. Any action pursuant to a dispute under this Promissory Note must be brought in Broward County and no other venue. All meetings to resolve said dispute, including voluntary arbitration, mediation, or other alternative dispute resolution mechanism, will take place in this venue.

The terms of this Promissory Note may not be orally changed.

The prevailing party in any action to enforce this Promissory Note, shall recover from the non-prevailing party all and singular the costs, charges and expenses, including but not limited to, reasonable attorney's fees, including but not limited to all trial, appellate, and bankruptcy litigation, including litigation for the amount as well as entitlement to such, costs, charges, and expenses, because of the failure on the part of the non-prevailing party to perform, comply with, and abide by, each and every of the stipulations, agreements, conditions and covenants of this

Promissory Note, whether or not suit is brought, and the fees and costs shall bear interest from that date at the maximum rate permitted by law.

Notwithstanding anything to the contrary herein or in the Mortgage, this Promissory Note is a non-recourse obligation of the Maker and its members and neither Maker nor its members have personal liability for repayment of the loan evidenced by this Promissory Note. Lender's sole recourse shall be to the collateral which secures said loan.

THE MAKER OF THIS PROMISSORY NOTE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS PROMISSORY NOTE, OR THE FINANCING CONTEMPLATED, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR THE ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER EXTENDING THE LOAN EVIDENCED BY THIS PROMISSORY NOTE.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Maker has set its hand and seal the day and year first above written.

MAKER:

SONATA APARTMENTS, LTD., a Florida
limited partnership

By: Cornerstone Sonata, LLC, a Florida limited
liability company, its general partner

By: _____
Leon J. Wolfe, Manager

ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2021, by Leon J. Wolfe, as Manager of Cornerstone Sonata, LLC, a Florida limited liability company, General Partner of SONATA APARTMENTS, LTD, a Florida limited partnership, on behalf of the limited partnership, who is personally known to me, or who has produced _____, as identification.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA
(Signature of Notary Taking Acknowledgement)

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

Exhibit 6 – City Mortgage and Note

Prepared by, and after recording return to:

Brian J. McDonough

Stearns Weaver Miller Weissler

Alhadeff & Sitterson, P.A.

150 West Flagler Street, Suite 2200

Miami, FL 33130

NOTE TO RECORDER: This Mortgage is given in relation to the financing of housing under Part V of Chapter 420 of the Florida Statutes and is exempt from taxation pursuant to Section 420.513 Florida Statutes.

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the “Mortgage”), is executed and delivered on _____, 2021 by SONATA APARTMENTS, LTD., a Florida limited partnership, whose address is 2100 Hollywood Boulevard, Hollywood, FL 33020 (the “Mortgagor”), to the CITY OF POMPANO BEACH, a Florida municipal corporation, with offices at 100 West Atlantic Boulevard, 4th Floor, Pompano Beach, FL 33060 (the “Mortgagee”).

WITNESSETH, that in consideration of the premises and in order to secure the payment of the principal and any other sum payable under, pursuant to or by virtue of the Note or this Mortgage and the performance and observance of all of its provisions and of the Note, the Mortgagor does grant, bargain, sell, alien, remise, release, convey and confirm unto the Mortgagee, all of Mortgagor’s estate, right, title and interest in, to, under and with respect to all of the following described real and personal property, legally described on the attached Exhibit “A”, situate, lying and being in Broward County, Florida.

TOGETHER WITH all structures and improvements now or hereafter erected or located, the rents, and all easements, privileges, hereditaments, appurtenances to the Land or the Improvements or both, rents, royalties, power, mineral, oil and gas rights, water rights, and any incomes and profits of any of the foregoing, all furniture, furnishings, fixtures and equipment, and all additions and replacements, which real property, improvements and personalty shall collectively be referred to as the “Mortgaged Property”.

TO HAVE AND TO HOLD the same, together with all tenements and hereditaments and appurtenances, unto the Mortgagee.

The Mortgagor warrants that Mortgagor has a good and marketable title to an indefeasible fee simple absolute estate in the Mortgaged Property; that the Mortgagor has full power and lawful right to convey the Mortgaged Property; that the Mortgagor covenants that this Mortgage is and will remain a valid and enforceable mortgage on the Mortgaged Property; that Mortgagor has full power and lawful authority to mortgage the Mortgaged Property in the manner and form done and

that Mortgagor will preserve such title and will forever warrant and defend the validity and priority of the Mortgage against the lawful claims of all persons claiming by, through, or under Mortgagor, save Senior Indebtedness as defined below.

PROVIDED ALWAYS, that if the Mortgagor shall pay to the Mortgagee the indebtedness in the principal sum of \$783,250.00 evidenced by that certain Promissory Note, of even date, upon the terms provided in the Note, and together with all other sums advanced by Mortgagee to or on behalf of Mortgagor pursuant to the Note or this Mortgage, the final maturity date of this Mortgage being the thirty-third (33rd) calendar year following the issuance of the last certificate of occupancy for the Project, and shall otherwise perform and comply with and abide by each and every one of the stipulations, agreements, conditions and covenants of the Note and this Mortgage, then this Mortgage and the estate thereby created shall cease and terminate.

THE MORTGAGOR FURTHER COVENANTS AND AGREES AS FOLLOWS:

1. PERFORMANCE OF NOTE, MORTGAGE AND HOUSING COVENANTS.

The Mortgagor shall pay all sums, including principal and interest, where applicable, secured by this Mortgage when due as provided for in the Note, and any renewal, replacement, extension or modification, and in this Mortgage, all such sums to be payable at the address specified in the Note, or at such other place as the holder of such Note may designate in writing. Mortgagor shall perform, comply with and abide by each and every of the agreements, conditions and covenants set forth in the Note and this Mortgage.

2. TAXES AND OTHER CHARGES. The Mortgagor shall pay before any interest, charge or penalty is due, all taxes, assessments, levies, liabilities, obligations, encumbrances, and all other charges or claims of every nature and kind which may be imposed or filed at any time against this Mortgage, the Mortgaged Property or any part or against the interest of the Mortgagee, or which by any present or future law may have priority over the secured indebtedness; provided, however, that if the Mortgagor in good faith and by appropriate legal action shall contest the validity of any such items or the amount, and shall have established on its books or by deposit of cash with the Mortgagee or the holder of any senior lien on the Mortgaged Property a reserve for the payment thereof in such amount as the Mortgagee may require, then the Mortgagor shall not be required to pay the item: (a) while the reserve is maintained; and (b) so long as the contest operates to prevent collection, is maintained and prosecuted with diligence, and shall not have been terminated or discontinued adversely to the Mortgagor. The Mortgagor shall furnish the Mortgagee with annual receipted tax bills evidencing payment within ninety (90) days from their due date.

3. HAZARD INSURANCE. Mortgagor shall keep the improvements now existing or later erected on the Property insured against loss by fire and such other hazards included within the term "extended coverage," and any other hazards including, but not limited to wind or floods for which insurance is required and as Mortgagee may require, in such amounts and for such periods as Mortgagee may require; provided, that Mortgagee shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage.

Unless otherwise required by the Mortgagee all such insurance shall be affected by Standard Fire and Extended Coverage Insurance policies, in amounts not less than necessary to comply with the coinsurance clause percentage of the value applicable to the location and character

of the property to be covered. All such insurance shall be carried in companies approved by the Mortgagee and all policies therefore shall be in such form and shall have attached loss payable clauses in favor of the Mortgagee and any other party as shall be satisfactory to the Mortgagee. The insurance carrier providing the insurance shall be chosen by Mortgagor, subject to the Mortgagee's approval; provided that such approval shall not be unreasonably withheld.

All insurance policies and renewals shall be in a form acceptable to the Mortgagee and shall include a standard mortgage clause in favor of and in a form acceptable to the Mortgagee. Mortgagor shall promptly furnish to the Mortgagee all renew notices and all receipts of paid premiums. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and the Mortgagee, and the Mortgagee may make proof of loss if not made promptly by Mortgagor.

Unless the Parties otherwise agree in writing insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible, and the security of this Mortgage is not impaired. If such restoration or repair is not economically feasible, or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor or if Mortgagor fails to respond to the Mortgagee within thirty (30) days after notice by the Mortgagee to Mortgagor that the insurance carrier offers to settle a claim for insurance benefits, the Mortgagee is authorized to collect and apply insurance proceeds at the Mortgagee's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

During such repair and restoration period, the Mortgagee shall have the right to hold such insurance proceeds until the Mortgagee has had an opportunity to inspect such Property to ensure the work has been completed to the Mortgagee's satisfaction, provided that such inspection shall be undertaken promptly.

If the Property is acquired by the Mortgagee, all right, title, and interest of Mortgagor in and to any insurance policies and, in and to the proceeds (to the extent of the sums secured by this Mortgage immediately prior to such sale or construction) resulting from damage to the Property prior to the sale or construction shall pass to the Mortgagee.

4. PROTECTION OF MORTGAGEE'S SECURITY. The Mortgagee may, at its option, upon notice to Mortgagor, make such appearances, disburse such sums, and take such action as is necessary to protect the Mortgagee's interest, if Mortgagor fails to perform the covenants or agreements contained in this Mortgage or, if any action or proceeding is commenced which materially affects the Mortgagee's interests in the Property subject to this Mortgage, including but not limited to, eminent domain, insolvency, code enforcement, arrangements, or proceedings involving a bankruptcy.

5. PROTECTIVE ADVANCES. Mortgagee may, at its option, and without waiving its right to accelerate the secured indebtedness and to foreclose the same, pay after delinquency any or all of those certain obligations required by the terms of this Mortgage to be paid by the Mortgagor for the protection of the Mortgage security or for the collection of the secured indebtedness. All sums so advanced or paid by Mortgagee shall bear interest from the date paid

at the Default Rate specified in the Note as fully and to the same extent as though a part of the original indebtedness evidenced by the Note and secured by this Mortgage, excepting however, that sums shall be repaid to the Mortgagee within fifteen (15) days after demand by the Mortgagee to the Mortgagor for such payment.

6. ACCELERATION OF MATURITY. Mortgagee shall have the right to mature the indebtedness and foreclose this Mortgage in the event of the following:

(a) any breach of this Mortgage or default on the part of the Mortgagor which is not cured within thirty (30) days following written notice from the Mortgagee, or if such default cannot practicably be cured within thirty (30) days, then within such additional time as may be required to effect a cure (such additional time not to exceed sixty (60) days, so long as (i) the cure is commenced within thirty (30) days and is diligently prosecuted and (ii) the lack of a cure during such continuing cure period has no material adverse effect on the Mortgaged Property; or

(b) a failure to pay promptly and fully any sums of money referred to in this Mortgage within five (5) days after the same become due and payable, without demand or notice; or

(c) failure to maintain in reasonably good repair the buildings and any improvements, including but not limited to landscaping, on the Property; or

(d) failure to comply with any requirement, order, notice of violation of law, or ordinance issued by any governmental entity claiming jurisdiction over the Property; or

(e) failure to assign and deliver the policies insuring the buildings against loss by fire or in reimbursing the Mortgagee for premiums paid on such insurance, as provided in this Mortgage; or

(f) failure to keep, observe and perform any of the other covenants, conditions or agreements contained in this Mortgage; or

(g) in the event each and every stipulation, agreement, condition and covenant of the Note and this Mortgage are not duly, promptly and fully performed, discharged, executed, effected, completed, complied with and abided by, following the giving of notice and the expiration of applicable cure periods.

Then, in such events, the aggregate sum mentioned in the Note then remaining unpaid, and all monies secured by the Mortgage shall become due and payable at the option of the Mortgagee, as fully and completely as if all of the sums of money were originally stipulated to be paid on such day, anything in the Note or in this Mortgage to the contrary notwithstanding; and thereupon or thereafter, at the option of the Mortgagee, without notice or demand, suit at law or in equity, therefore, or thereafter begun, may be prosecuted as if all money secured this Mortgage had matured prior to its institution.

Notwithstanding anything to the contrary, the Note is a non-recourse obligation of the Mortgagor and its members and neither Mortgagor nor its partners have personal liability for repayment of

the loan evidenced by the Note. Mortgagor's sole recourse shall be to the collateral which secures the Loan.

7. **APPOINTMENT OF RECEIVER.** At any time while a suit is pending to foreclose or to reform this Mortgage or to enforce any claims, the Mortgagee may apply to a court of appropriate jurisdiction for the appointment of a receiver, and such court shall appoint a Receiver of the Mortgaged Property, including all and singular the income, profits, rents, issues and revenues from whatever source derived. The Receiver shall have all the broad and effective functions and powers entrusted by a court to a Receiver, and such appointment shall be made by such court as an admitted equity and as a matter of absolute right to the Mortgagee without reference to the adequacy or inadequacy of the value of the Mortgaged Property, or to the solvency or insolvency of the Mortgagor or the Defendants. All income, profits, rents, issues and revenues collected by the Receiver shall be applied by such Receiver according to the lien of this Mortgage, and the practice of such court.

8. **LEASES AFFECTING MORTGAGED PROPERTY.** The Mortgagor shall comply with and observe its obligations as landlord under all leases, now existing or hereafter created, affecting all or any portion of the Mortgaged Property (the "Residential Leases"). Upon request, the Mortgagor shall furnish promptly to the Mortgagee executed copies of all such Residential Leases now existing or hereafter created.

9. **MORTGAGE CONSTITUTES SECURITY AGREEMENT.** This Mortgage also constitutes a security agreement as defined under the Uniform Commercial Code. The Mortgagor grants to the Mortgagee a security interest in and to all furniture, furnishings, equipment, machinery, and personal property of every nature whatsoever now owned or hereafter acquired by the Mortgagor located upon the Mortgaged Property together with all proceeds therefrom. The Mortgagor shall execute any and all documents as the Mortgagee may request, including, without limitation, financing statements pursuant to the Uniform Commercial Code as adopted by the State of Florida, to preserve and maintain the priority of the lien created on property which may be deemed personal property or fixtures. The Mortgagor authorizes and empowers the Mortgagee to execute and file on behalf of the Mortgagor all financing statements and refilings and continuations as the Mortgagee deems necessary or advisable to create, preserve or protect this lien. The Mortgagor and Mortgagee expressly agree that the filing of a financing statement shall never be construed as derogating from or impairing the express declaration and intention of the parties and that all such personalty located on or utilized in connection with the real property encumbered by this Mortgage shall, at all times and for all purposes, in all proceedings both legal and equitable, be deemed a part of the real property encumbered by this Mortgage.

10. **MORTGAGE SECURES INDEBTEDNESS.** It is expressly agreed and understood that this Mortgage secures the indebtedness and the obligation of the Mortgagor to the Mortgagee with respect to the Note, as the same is evidenced by the Note, and all renewals, extensions and modifications thereof. This Mortgage shall not be deemed released, discharged or satisfied until the entire indebtedness evidenced by the Note is paid in full.

11. **FUTURE ADVANCES.** Pursuant to the laws of the State of Florida, this Mortgage shall secure not only the existing indebtedness evidenced by the Note, but also such

future advances as may be made by the Mortgagee to the Mortgagor in accordance with the Note or this Mortgage, whether or not such advances are obligatory or are to be made at the option of the Mortgagee, or otherwise, and as are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but the total unpaid balance so secured at one time shall not exceed two times the face amount of the Note, and any disbursements made for the payment of taxes, levies or insurance on the Mortgaged Property with interest on such disbursements at the rate designated in the Note to apply following a default thereunder.

12. NO WAIVER. It is expressly agreed and understood that a waiver by the Mortgagee of any right or rights conferred to it with regard to any one transaction or occurrence shall not be deemed a waiver of such right or rights to any subsequent transaction or occurrence. It is further agreed that any forbearance or delay by the Mortgagee in the enforcement of any right or remedy shall not constitute or be deemed a waiver of such right or remedy.

13. NOTICE. All notices given by Mortgagor or the Mortgagee in connection with this Mortgage must be in writing. Any notice to in connection with this Mortgage shall be deemed to have been given to Mortgagor when mailed by first class mail or when actually delivered to Mortgagor's notice address if sent by other means. The notice address shall be the address stated in this Mortgage unless instructed otherwise by a party. Mortgagor shall promptly notify the Mortgagee of Mortgagor's change of address. If the Mortgagee specifies a procedure for reporting Mortgagor's change of address, then Mortgagor shall only report a change of address through that specified procedure. There may be only one designated notice address under this Mortgage at any one time. Any notice to the Mortgagee shall be given by delivering it or by mailing it by first class mail to the Mortgagee's address unless the Mortgagee has designated another address by notice to Mortgagor. Any notice in connection with this Mortgage shall not be deemed to have been given to the Mortgagee until actually received by the Mortgagee. If any notice required by this Mortgage is also required under Florida law, the Florida law requirement will satisfy the corresponding requirement under this Mortgage.

14. GOVERNING LAW AND VENUE. This Mortgage shall be construed and enforced pursuant to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws and comity. Any action or dispute arising between the parties pertaining to this Mortgage shall, to the extent permitted by law, be in courts of jurisdiction for Broward County and no other venue. All meetings to resolve said dispute, including voluntary arbitration, mediation, or other alternative dispute resolution mechanism, will take place in Broward County.

15. PREVAILING PARTY. The prevailing party in any action to enforce this Mortgage, shall recover from the non-prevailing party all and singular the costs, charges and expenses, including but not limited to, reasonable attorney's fees, including but not limited to all trial, appellate, and bankruptcy litigation, including litigation for the amount as well as entitlement to such, costs, charges, and expenses, because of the failure on the part of the non-prevailing party to perform, comply with, and abide by, each and every of the stipulations, agreements, conditions

and covenants of this Promissory Note, whether or not suit is brought, and the fees and costs shall bear interest from that date at the maximum rate permitted by law.

16. PARTIES BOUND; NO ORAL MODIFICATIONS. Each and every of the terms, covenants and conditions contained in this Mortgage shall be binding upon the parties and their successors, and assigns. This Mortgage is not subject to modification other than by a written document or instrument executed by the party or parties to be charged with such modification, in the same formality.

17. WAIVER OF TRIAL BY JURY. MORTGAGOR (AND MORTGAGEE, BY ITS ACCEPTANCE) KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED ON OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS MORTGAGE, OR THE FINANCING CONTEMPLATED, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR THE ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE MORTGAGEE EXTENDING THE LOAN SECURED BY THIS MORTGAGE.

18. AGREEMENT TO SUBORDINATE. Mortgagee agrees that: (i) this Mortgage and the Note that it secures is and shall be subordinated in right of payment to the indebtedness evidenced by such mortgage as may be held by construction and permanent loan providers ("Senior Lenders") encumbering the Leasehold Estate for development of the Project as defined in the Development Agreement executed by the Parties and recorded in the public records of Broward County, Florida ("Senior Mortgages") and (ii) this Mortgage and the Note it secures are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Mortgages and any other loan documents in favor of Senior Lenders ("Senior Loan Documents") and to all advances made or which may hereafter be made pursuant to the Senior Mortgages and the other Senior Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the Senior Mortgages, curing defaults by the Borrower under the Senior Loan Documents or for any other purpose expressly permitted by the Senior Mortgages, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Leasehold Estate consistent with the Development Agreement executed by the Parties and recorded in the public records of Broward County, Florida).

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Mortgagor has set its hand and seal the day and year first above written.

MORTGAGOR:

SONATA APARTMENTS, LTD., a Florida
limited partnership

By: Cornerstone Sonata, LLC, a Florida limited
liability company, its general partner

By: _____
Leon J. Wolfe, Manager

ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2021, by Leon J. Wolfe, as Manager of Cornerstone Sonata, LLC, a Florida limited liability company, General Partner of SONATA APARTMENTS, LTD, a Florida limited partnership, on behalf of the limited partnership, who is personally known to me, or who has produced _____, as identification.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF _____
(Signature of Notary Taking Acknowledgement)

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

Exhibit A
Legal Description of The Property

PROMISSORY NOTE

Pompano Beach, Florida

\$783,250.00

_____, 2021

FOR VALUE RECEIVED the undersigned, SONATA APARTMENTS, LTD., a Florida limited partnership (the “Maker”) with offices at 2100 Hollywood Boulevard, Hollywood, FL 33020, promises to pay to the order of the CITY OF POMPANO BEACH, a Florida municipal corporation (the “Lender”), at 100 West Atlantic Boulevard, 4th Floor, Pompano Beach, FL 33060 or such other location or address as the Lender may direct from time to time, the principal sum of **Seven Hundred Eight-Three Thousand Two Hundred Fifty and 00/100 Dollars (\$783,250.00)** (the “Promissory Note”).

This Promissory Note is secured by that certain Mortgage and Security Agreement (the “Mortgage”) of even date executed in favor of the Maker, relating to real property located in Pompano Beach, Florida and more particularly described in the Mortgage (the “Property”).

This Promissory Note shall bear one percent (1%) interest and the outstanding principal balance shall become due and payable on the thirty-third (33rd) calendar year after the Maker receives a certificate of occupancy (“Maturity Date”) for the construction of a 121 Unit mixed-use, mixed-income housing development (“Project”), whether temporary or final, as defined in the Development Agreement dated _____, 2021, by and between Maker and Lender.

At the option of the Lender, all sums advanced and all other sums due under this Promissory Note shall become immediately due and payable, without notice or demand, upon the occurrence of any one or more of the following Events of Default: (a) the Maker's failure to promptly pay in full any payment of principal or default interest due under this Promissory Note within ten (10) days following the date on which such payment is due; (b) Maker's failure to comply with the terms, conditions and covenants agreed to in the Development Agreement entered into by Maker and Lender, or (c) any uncured breach, following the giving of notice and the expiration of any applicable cure period, by the Maker of any of the terms, covenants or conditions set forth in the Mortgage. Upon the occurrence of any of the foregoing events (each, an “Event of Default”), and in addition to any other remedies provided in the Mortgage, the amount disbursed under the Promissory Note, together with default interest at the rate provided in this Promissory Note, and all unpaid fees, charges and other obligations of the Maker due under the Promissory Note or under the Mortgage, shall, at Lender's option, be immediately due and payable.

No delay or omission on the part of the Lender in the exercise of any right under this Promissory Note shall operate as a waiver of such right or of any other right under this Promissory Note. A waiver by the Lender of any right or remedy on any one occasion shall not be construed as a bar to, or waiver of, any such right or remedy as to any future occasion.

The Maker agrees that in the event each and every of the terms and conditions of this Promissory Note or any instrument which secures or collateralizes the payment of the sums is not duly performed, complied with, or abided by, subject to applicable notice and cure periods set forth in the Mortgage, the whole of the indebtedness then outstanding shall, at the option of the Lender, become immediately due and payable. If this Promissory Note becomes in default and is placed in the hands of an attorney for collection, the Maker agrees to pay all and singular the costs, charges, and expenses incurred by the Lender in the enforcement of its rights, including, but not limited to reasonable attorneys' fees and costs, at trial or on appeal.

The Maker and all persons becoming obligated or liable for the payment in this Promissory Note, do jointly and severally waive demand, notice of non-payment, protest, notice of dishonor and presentment.

The Maker does not intend or expect to pay, nor does the Lender intend or expect to charge, collect or accept, any interest greater than the highest legal rate of interest which may be charged under any applicable law. Should the acceleration of any charges made in this Promissory Note result in the computation or earning of interest in excess of such legal rate, any and all such excess shall be and the same is waived by the Lender, and any such excess shall be credited by the Lender to the outstanding balance.

Each Maker, endorser, or any other person, firm or corporation liable for the payment of the loan evidenced by this Promissory Note, consents to any renewals, extensions, modifications, releases of security or any indulgence shown to or any dealings between the Lender and any party obligated under this Promissory Note, without notice, and jointly and severally agree that they shall remain liable notwithstanding any such renewals, extensions, modifications or indulgences, until the debt evidenced is fully paid.

Upon the occurrence of any Event of Default, all sums outstanding under this Promissory Note shall immediately bear interest at the highest legal rate of interest which may be charged under Florida law ("Default Interest Rate") per annum from the date of disbursement, without notice to the Maker or any guarantor or endorser of this Promissory Note, and without any affirmative action or declaration on the part of the Lender.

This Promissory Note shall be construed and enforced according to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws or comity. Any action pursuant to a dispute under this Promissory Note must be brought in Broward County and no other venue. All meetings to resolve said dispute, including voluntary arbitration, mediation, or other alternative dispute resolution mechanism, will take place in this venue.

The terms of this Promissory Note may not be orally changed.

The prevailing party in any action to enforce this Promissory Note, shall recover from the non-prevailing party all and singular the costs, charges and expenses, including but not limited to, reasonable attorney's fees, including but not limited to all trial, appellate, and bankruptcy litigation, including litigation for the amount as well as entitlement to such, costs, charges, and expenses, because of the failure on the part of the non-prevailing party to perform, comply with, and abide by, each and every of the stipulations, agreements, conditions and covenants of this Promissory Note, whether or not suit is brought, and the fees and costs shall bear interest from that date at the maximum rate permitted by law.

Notwithstanding anything to the contrary herein or in the Mortgage, this Promissory Note is a non-recourse obligation of the Maker and its members and neither Maker nor its members have personal liability for repayment of the loan evidenced by this Promissory Note. Lender's sole recourse shall be to the collateral which secures said loan.

THE MAKER OF THIS PROMISSORY NOTE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS PROMISSORY NOTE, OR THE FINANCING CONTEMPLATED, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR THE ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER EXTENDING THE LOAN EVIDENCED BY THIS PROMISSORY NOTE.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Maker has set its hand and seal the day and year first above written.

MAKER:

Sonata Apartments, Ltd., a Florida
limited partnership

By: Cornerstone Sonata, LLC, a Florida limited
liability company, its general partner

By: _____
Leon J. Wolfe, Manager

ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2021, by Leon J. Wolfe, as Manager of Cornerstone Sonata, LLC, a Florida limited liability company, General Partner of SONATA APARTMENTS, LTD, a Florida limited partnership, on behalf of the limited partnership, who is personally known to me, or who has produced _____, as identification.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF _____
(Signature of Notary Taking Acknowledgement)

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

Exhibit 7 – Declaration of Covenants and Restrictions

(Final document will be approved as for form by City Attorney)

Exhibit 8 – Insurance Requirements

(A) Property Insurance. "**All risk**" property insurance with extended coverage against loss or damage by earthquake, mudslide, windstorm, flood with an endorsement for amended coverage, vandalism, malicious mischief, sprinkler leakage and special coverage, including flammable materials.

Amounts. Such coverage shall be in the following amounts: (a) as to windstorm, \$100,000,000; (b) as to flood, \$12,500,000; and (c) as to all other perils, One Hundred Percent (100%) of the replacement cost of the Improvements (exclusive of foundation and excavation costs), Developer's alterations, improvements, fixtures, equipment, furniture, trade fixtures and floor coverings, including the expense of the removal of debris as a result of damage by an insured peril (collectively, the "**Insured Property**") on the Property.

Deductibles. The maximum deductibles for such coverage shall be as follows: (A) as to flood and windstorm, Five Percent (5%) of the completed building value; and (B) as to all other perils, One Percent (1%) of the insured value.

Loss Payees and Insureds. City, CRA, Developer, and any Approved Leasehold Mortgagee shall be named as loss payees. Developer shall be the first named insured, and City, CRA and any Approved Leasehold Mortgagee shall be named as additional insureds.

Special Considerations for Casualty and Windstorm Insurance. Notwithstanding the foregoing, the Parties acknowledge and agree that coastal properties are often precluded from being insured by private insurers and that any casualty and windstorm insurance may have to be written through the Florida Joint Underwriters Association or another governmental or other insurance pool which may include certain prohibitions such as no replacement cost coverage.

Determination of Replacement Cost. Unless expressly waived in writing by the City Manager, the replacement cost of the Insured Property shall be determined every seven (7) years during the Term by an insurance appraiser selected and paid for by Developer, provided that Developer shall obtain City or CRA's approval (which approval shall not be unreasonably withheld) of the appraiser before commencement of the appraisal. The appraiser selected by Developer shall submit to City, CRA and Developer a written report of the appraised replacement cost. If City, CRA or Developer is not satisfied with such report, the dissatisfied party shall serve upon the other a notice of dissatisfaction within thirty (30) days after receipt of the report, and the Parties shall in good faith attempt to resolve any disputes concerning the appraised replacement cost. During this period of the dispute, Developer shall continue to maintain insurance in an amount equal to that maintained before the dispute arose. Promptly upon receipt of the appraiser's report and resolution of any such dispute, Developer shall procure and deliver to City and CRA written confirmation from the insurer(s) evidencing the adjustment in insurance amounts which may be required.

(B) Boiler and Machinery Insurance. Boiler and machinery insurance covering repair and replacement of all boilers and machinery serving or benefiting the Improvements. The policies of insurance shall be endorsed so as to provide use and occupancy coverage for the Improvements in such amount as may be reasonably acceptable to City and CRA. City, CRA, Developer and any Approved Leasehold Mortgagee shall be named as loss payees. Developer

shall be the first named insured, and City, CRA and any Approved Leasehold Mortgagee shall be named as additional insureds.

(C) Other Insurance to Be Carried. At all times during the Term, Developer shall also, at Developer's sole cost and expense but for the mutual benefit of Developer, CRA and City (with City and CRA being named as an additional insured thereunder and with leasehold mortgage clauses for the benefit of any Approved Leasehold Mortgagee, which clauses shall be consistent with the terms of this Agreement), maintain the following insurance:

(i) CGL Insurance. Commercial General Liability insurance on a commercial general liability coverage form with "**broad form**" coverage, or its equivalent, including contractual liability, products and completed operations, personal injury, liquor legal liability, garage keepers liability, and products and completed operations, personal injury, and premises coverage against sums adjudicated to be payable by the insured on account of bodily injury, death or property damage occurring in or about the Property (it being understood, however, that such coverage does not extend to damage to property in the insured's care, custody and control).

(1) *Amounts.* The limits of such coverage shall not be less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate single limit for bodily injury and property damage. No deductible in excess of \$50,000 will be carried under this coverage without the City Manager's prior written consent, which shall not be unreasonably withheld.

(2) *Umbrella Policy.* Developer shall further maintain an excess liability umbrella policy whose limits shall not be less than a combined single limit of Five Million Dollars (\$5,000,000).

(3) *Adjustments in Amounts.* Such insured amounts as provided above shall be adjusted as of the fourth (4th) anniversary of the January 1 following the Commencement Date, and every three (3) years thereafter, by any increase or decrease (which decrease shall not result in an amount less than the amounts initially required as set forth above) in the CPI from the Commencement Date to the date on which the adjustment is to be made.

(ii) Builder's Risk. During any periods of: (1) excavation and/or construction; (2) alteration; (3) restoration in the event of damage or destruction or condemnation; or (4) razing or demolition, at, in or on the Property, the Improvements or any part of it, an all risk Builder's Risk policy (including extended coverage for fire, lightning, earth movement, flood, collapse, business interruption, hurricane, boiler and machinery) covering the interests of City, CRA and Developer. Such policy shall insure that portion of the Improvements which is affected by such activities for not less than One Hundred Percent (100%) replacement cost on a completed value basis (including foundations and pilings), and shall include coverage for the increased cost of construction due to the enforcement of any laws, as well as the contingent liability from the operation of buildings, and coverage for the demolition cost of undamaged portions of buildings.

(iii) *E & O Coverage.* In addition, Developer shall cause all of the key or primary professionals retained by it in connection with any construction (e.g., architects and engineers) to procure errors and omission coverage reasonably satisfactory to Developer for

Developer's and City and CRA's benefit, in such amounts as are customarily carried by such professionals in Broward County, Florida.

(iv) Pollution/Environmental Impairment Liability.

Pollution/Environmental Impairment Liability Insurance coverage on a claims made basis with limits of Five Million Dollars (\$5,000,000) per occurrence (with the policy period extending at least six (6) years from and after the expiration or sooner termination of this Agreement), providing coverage for the damage caused by spillage of any fuel, petroleum, products or any other "**hazardous substances**", "**hazardous materials**" or "**toxic substances**" (as defined in any and all Applicable Laws), whether those substances are solid, liquid or gaseous. Such policy of insurance shall also provide coverage for the cost of cleanup of the affected area and for the removal, transportation and safe disposal of any contaminated area. City, CRA and Developer shall be named as loss payees. Developer shall be the first named insured, and City, CRA and any Approved Leasehold Mortgagee shall be named as additional insureds.

(v) Worker's Compensation. Worker's compensation and occupational disease coverage in the amounts and types required by Chapter 440, F.S., or any successor. Only Developer shall be named as an insured.

(vi) Automobile Liability. Automobile liability insurance covering all owned, non-owned and hired vehicles used in conjunction with operations covered by this Agreement. The policy or policies of insurance shall contain such limits as may be reasonably requested by City or CRA from time to time but not less than One Million Dollars (\$1,000,000). Such insured amount shall be increased as of the fourth (4th) anniversary of the January 1 following the Commencement Date, and every three (3) years thereafter.

(vii) Other Coverage. In the event that any other type of legislation may be enacted imposing special liability upon City, CRA or Developer by virtue of its use for any special purposes, before Developer shall so use the Property and/or the Improvements or any part of it for such purposes, Developer shall provide insurance in form and substance, and with insurers and limits reasonably satisfactory to City and CRA and meeting commercial standards insuring the interests of City, CRA and Developer and naming City and CRA as additional insured.

(viii) "Wrap-Up" Policy. City acknowledges and agrees that the coverage required by this subparagraph and any other required coverages may be obtained through a so-called "**wrap-up**" policy.

EXHIBIT C INSURANCE REQUIREMENTS

(A) Property Insurance. "**All risk**" property insurance with extended coverage against loss or damage by earthquake, mudslide, windstorm, flood with an endorsement for amended coverage, vandalism, malicious mischief, sprinkler leakage and special coverage, including flammable materials.

Amounts. Such coverage shall be in the following amounts: (a) as to windstorm, \$100,000,000; (b) as to flood, \$12,500,000; and (c) as to all other perils, One Hundred Percent (100%) of the replacement cost of the Improvements (exclusive of foundation and excavation costs), Tenant's alterations, improvements, fixtures, equipment, furniture, trade fixtures and floor coverings, including the expense of the removal of debris as a result of damage by an insured peril (collectively, the "**Insured Property**") on the Demised Property.

Deductibles. The maximum deductibles for such coverage shall be as follows: (A) as to flood and windstorm, Five Percent (5%) of the completed building value; and (B) as to all other perils, One Percent (1%) of the insured value.

Loss Payees and Insureds. City, Tenant, and any Approved Leasehold Mortgagee shall be named as loss payees. Tenant shall be the first named insured, and City and any Approved Leasehold Mortgagee shall be named as additional insureds.

Special Considerations for Casualty and Windstorm Insurance. Notwithstanding the foregoing, the Parties acknowledge and agree that coastal properties are often precluded from being insured by private insurers and that any casualty and windstorm insurance may have to be written through the Florida Joint Underwriters Association or another governmental or other insurance pool which may include certain prohibitions such as no replacement cost coverage.

Determination of Replacement Cost. Unless expressly waived in writing by the City Manager, the replacement cost of the Insured Property shall be determined every seven (7) years during the Lease Term by an insurance appraiser selected and paid for by Tenant, provided that Tenant shall obtain City's approval (which approval shall not be unreasonably withheld) of the appraiser before commencement of the appraisal. The appraiser selected by Tenant shall submit to City and Tenant a written report of the appraised replacement cost. If City or Tenant is not satisfied with such report, the dissatisfied party shall serve upon the other a notice of dissatisfaction within thirty (30) days after receipt of the report, and the Parties shall in good faith attempt to resolve any disputes concerning the appraised replacement cost. During this period of the dispute, Tenant shall continue to maintain insurance in an amount equal to that maintained before the dispute arose. Promptly upon receipt of the appraiser's report and resolution of any such dispute, Tenant shall procure and deliver to City written confirmation from the insurer(s) evidencing the adjustment in insurance amounts which may be required.

(B) Boiler and Machinery Insurance. Boiler and machinery insurance covering repair and replacement of all boilers and machinery serving or benefiting the Improvements. The policies of insurance shall be endorsed so as to provide use and occupancy coverage for the Improvements in such amount as may be reasonably acceptable to City. City, Tenant and any Approved Leasehold Mortgagee shall be named as loss payees. Tenant shall be the first named insured, and City and any Approved Leasehold Mortgagee shall be named as additional insureds.

(C) Other Insurance to Be Carried. Beginning on the Possession Date and at all times during the Term, Tenant shall also, at Tenant's sole cost and expense but for the mutual benefit of Tenant and City (with City being named as an additional insured thereunder and with leasehold mortgage clauses for the benefit of any Approved Leasehold Mortgagee, which clauses shall be consistent with the terms of this Lease), maintain the following insurance:

(i) CGL Insurance. Commercial General Liability insurance on a commercial general liability coverage form with "**broad form**" coverage, or its equivalent, including contractual liability, products and completed operations, personal injury, garage keepers liability, and products and completed operations, personal injury, and premises coverage against sums adjudicated to be payable by the insured on account of bodily injury, death or property damage occurring in or about the Demised Property (it being understood, however, that such coverage does not extend to damage to property in the insured's care, custody and control).

(1) *Amounts.* The limits of such coverage shall not be less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate single limit for bodily injury and property damage. No deductible in excess of \$50,000 will be carried under this coverage without the City Manager's prior written consent, which shall not be unreasonably withheld.

(2) *Umbrella Policy.* Tenant shall further maintain an excess liability umbrella policy whose limits shall not be less than a combined single limit of Five Million Dollars (\$5,000,000).

(3) *Adjustments in Amounts.* Such insured amounts as provided above shall be adjusted as of the fourth (4th) anniversary of the January 1 following the Lease Commencement Date, and every three (3) years thereafter, by any increase or decrease (which decrease shall not result in an amount less than the amounts initially required as set forth above) in the CPI from the Lease Commencement Date to the date on which the adjustment is to be made.

(ii) Builder's Risk. During any periods of: (1) excavation and/or construction; (2) alteration; (3) restoration in the event of damage or destruction or condemnation; or (4) razing or demolition, at, in or on the Demised Property, the Improvements or any part of it, an all risk Builder's Risk policy (including extended coverage for fire, lightning, earth movement, flood, collapse, business interruption, hurricane, boiler and machinery) covering the interests of City and Tenant. Such policy shall insure that portion of the Improvements which is affected by such activities for not less than One Hundred Percent (100%) replacement cost on a completed value basis (including foundations and pilings), and shall include coverage for the increased cost of construction due to the enforcement of any laws, as well as the contingent liability from the operation of buildings, and coverage for the demolition cost of undamaged portions of buildings.

(iii) *E & O Coverage.* In addition, Tenant shall cause all of the key or primary professionals retained by it in connection with any construction (e.g., architects and engineers) to procure errors and omission coverage reasonably satisfactory to Tenant for Tenant's and City's benefit, in such amounts as are customarily carried by such professionals in Broward County, Florida.

(iv) Pollution/Environmental Impairment Liability. Pollution/Environmental Impairment Liability Insurance coverage on a claims made basis with

limits of Five Million Dollars (\$5,000,000) per occurrence (with the policy period extending at least six (6) years from and after the expiration or sooner termination of this Lease), providing coverage for the damage caused by spillage of any fuel, petroleum, products or any other "**hazardous substances**", "**hazardous materials**" or "**toxic substances**" (as defined in any and all Applicable Laws), whether those substances are solid, liquid or gaseous. Such policy of insurance shall also provide coverage for the cost of cleanup of the affected area and for the removal, transportation and safe disposal of any contaminated area. City and Tenant shall be named as loss payees. Tenant shall be the first named insured, and City and any Approved Leasehold Mortgagee shall be named as additional insureds.

(v) **Worker's Compensation**. Worker's compensation and occupational disease coverage in the amounts and types required by Chapter 440, F.S., or any successor thereto. Only Tenant shall be named as an insured.

(vi) **Automobile Liability**. Automobile liability insurance covering all owned, non-owned and hired vehicles used in conjunction with operations covered by this Lease. The policy or policies of insurance shall contain such limits as may be reasonably requested by City from time to time but not less than One Million Dollars (\$1,000,000). Such insured amount shall be increased as of the fourth (4th) anniversary of the January 1 following the Lease Commencement Date, and every three (3) years thereafter, by any increase in the CPI from the Lease Commencement Date to the date on which the adjustment is to be made.

(vii) **Other Coverage**. In the event that any other type of legislation may be enacted imposing special liability upon City or Tenant by virtue of its use for any special purposes, before Tenant shall so use the Demised Property and/or the Improvements or any part of it for such purposes, Tenant shall provide insurance in form and substance, and with insurers and limits reasonably satisfactory to City and meeting commercial standards insuring the interests of City and Tenant and naming City as additional insured.

(viii) **"Wrap-Up" Policy**. City acknowledges and agrees that the coverage required by this subparagraph and any other required coverages may be obtained through a so-called "**wrap-up**" policy.

EXHIBIT D

DESCRIPTION OF TENANT'S ADJACENT PROPERTY WHICH, TOGETHER WITH ANY THEN-EXISTING IMPROVEMENTS, WILL BE CONVEYED AS PART OF THE TERMINATION RENT

Legal Description:

Lots 1, 2, 3, and 6 through 12 and the East One-Half (E 1/2) of Lot 13 of SUMTER'S ADDITION TO POMPANO FIRST ADDITION PLAT, according to the Plat thereof, as recorded in Plat Book 10, Page 67, of the Public Records of Broward County, Florida; together with that portion of the adjacent alley abandoned by City of Pompano Beach Ordinance NO. 2005-4 recorded in Official Records Book 38597, Page 1455; and that portion of the adjacent alleyway abandoned by City of Pompano Beach Ordinance No. 2007-25 recorded in Official Records Book 43583, Page 377; and that portion of the adjacent road right-of-way abandoned by City of Pompano Beach Ordinance No. 2008-21 recorded in Official Records Book 45181, Page 321, of the Public Records of Broward County, Florida.

The foregoing is subject to adjustment based on any dedications, easements or covenants made pursuant to a replatting of the property