

COMPREHENSIVE AGREEMENT

BY AND BETWEEN

1800 COPANS, LLC

AND

WESTVIEW COMMUNITY CEMETERY OF POMPANO BEACH, INC.

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COMPREHENSIVE AGREEMENT

THIS COMPREHENSIVE AGREEMENT ("**Agreement**") is entered into on this 20 day of September, 2023 by and between the 1800 Copans, LLC a limited liability company organized and existing under the laws of the State of Delaware (the "**Developer**"), its successors and assigns and Westview Community Cemetery of Pompano Beach, FL, Inc., a Florida Non-Profit organization (the "**Non-Profit**"), its successors and assigns; the Developer and Non-Profit are each a "**Party**" and may collectively be referred to as the "**Parties**".

WITNESSETH

WHEREAS, the Non-Profit owns and operates Westview Community Cemetery of Pompano Beach, Florida, located at Dr. B J McCormick Avenue, Pompano Beach, FL 33069 (the "**Cemetery**"), specifically identified in **Exhibit A**. The Cemetery was created in 1952, for the use and benefit of the residents of Pompano Beach, Broward County, Florida.

WHEREAS, in order to raise funds to maintain the existing cemetery, on January 9, 2020, the Non-Profit entered into a legally binding contract under which the Non-Profit agreed to sell a parcel of vacant land to Jacob Zebede and/or his assignees.

WHEREAS, the Vacant Land Sale Contract pertains to 4.4979 acres of unimproved land that is located within the boundary of the Cemetery, specifically, the eastern-most 4.5 acres of the Cemetery and is located at 1900 NW 24th Street (Copans Road), Pompano Beach, Florida 33069, but has never been utilized for burials or other cemetery related purposes. With the exception of the cemetery property, all other properties adjacent to the subject site are used primarily for industrial and heavy commercial uses. The legal description of the subject Property along with a land Survey are attached hereto and made a part hereof as **Exhibit B** (the "**Property**").

WHEREAS, 1800 Copans, LLC, the Developer of the subject Property, intends to utilize the vacant Property for industrial warehouse, distribution and storage that is compatible with surrounding uses, which may include self-storage and warehouse related uses, in addition to light industrial manufacturing and retail/wholesale businesses (the “**Development Project**”).

WHEREAS, when the parties entered into the Vacant Land Sale Contract, the parties contemporaneously executed an Addendum, which provides for a Feasibility Study Period that enables the Developer to obtain a Land Use and Zoning Amendment from the City of Pompano Beach for a zoning change from the current PU designation and use as a Cemetery to a designation for Commercial use, as well as a Final Site Plan approval prior to the final transfer of title.

WHEREAS, subsequent to entering into the Vacant Land Contract, Mr. Zebede assigned his interest in the Vacant Land to KZ Copans, LLC, a Florida limited liability company, which later assigned the Vacant Land Contract to 1800 Copans, LLC, a Delaware limited liability company.

WHEREAS, the Non-Profit desires to utilize the sale proceeds to fund much-needed improvements to the Westview Community Cemetery, including but not limited to, enhanced burial graves, a digital database to easily identify cemetery plots and those buried in specific plots, improved driveways, and substantial landscaping, irrigation, and fencing around the premises (the “**Westview Revitalization Project**”).

WHEREAS, prior to and subsequent to entering into the Vacant Land Contract, Developer conducted extensive due diligence in preparation for seeking rezoning from the City of Pompano Beach and approvals from Broward County, including, but not limited to, a feasibility analysis including soil testing, engineering studies, environmental studies, title check, and preparing architectural plans. Furthermore, Developer engaged a variety of consultants to assist with

additional due diligence, including conducting ground penetrating radar, which confirmed there is no evidence of burials or graves on the site. See Exhibit C, GPRS Inc.'s Report with Findings as to the Vacant Land.

WHEREAS, on January 13, 2021, the Developer submitted a Small Scale Land Use Amendment Application ("**LUPA**") pursuant to Chapter 163.3187 in order to amend the Property's Future Land Use Map designation as adopted by the City of Pompano Beach from CF (Community Facility) and Recreation and Open Space to the proposed land use designation of Industrial (I) for the City's Plan and Commerce (C) for the Broward County Land Use Plan.

WHEREAS, according to the LUPA, the proposed use of the subject Property would be "general industrial" which would allow for light industrial uses, such as manufacturing, assembly, fabrication, processing, distribution, warehousing, research and development, and other industrial uses, but not heavy or hazardous manufacturing processes, consistent and compatible with the I-1 General Industrial zoning of the surrounding area.

WHEREAS, on June 24, 2021, KZ Copans LLC submitted an Application to the City of Pompano Beach to rezone the subject Property from Public Utility (PU) zoning to General Industrial (I-1) zoning, consistent with the uses allowed by Section 155.4301 of the City of Pompano Beach's Zoning Code, as well as the City of Pompano Beach's Comprehensive Plan and the City of Pompano Beach Northwest Community Redevelopment (NWCRA) Plan, and requested that the rezoning be scheduled to coincide with the land use application scheduled for a City of Pompano Beach Planning and Zoning Board Meeting scheduled for September 22, 2021 (the "**Development Project**").

WHEREAS, on August 4, 2021, the Rezoning Application was reviewed by the City's Development Review Committee (DRC) and the City Staff recommended approval of the

application based on the finding that the small scale land use amendment is consistent with the City of Pompano Beach Comprehensive Plan Goals, Objectives and Policies, that are consistent with the City's Comprehensive Plan, that the I-1 rezoning is in conformance with the Industrial land use designation being requested, and that there was substantial competent evidence to support the rezoning request.

WHEREAS, on September 22, 2021, the City of Pompano Beach's Planning and Zoning Board issued a Staff Report concluding that the I-1 rezoning sought by the Developer is in conformance with the Industrial land use designation being requested concurrently with the rezoning, that the I-1 zoning district is compatible with the properties immediately adjacent to the subject property, and that there is substantial evidence to support the rezoning request. The Staff Report therefore recommended approval of the rezoning request being processed concurrently with the land use plan amendment for Industrial land use.

WHEREAS, despite the City's support of the request, the Development Project was placed on hold, and the application was withdrawn, when a lawsuit, entitled *Edward Phillips, et. al., v. Westview Community Cemetery of Pompano Beach, Inc., et. al.*, Case No. CACE-21018476, (the "**Prior Lawsuit**"), was filed against the Parties to invalidate the Vacant Land Sale Contract.

WHEREAS, despite the hold on obtaining the entitlements, the Parties agreed to officially transfer fee simple title to the Property to 1800 Copans, LLC on May 24, 2022.

WHEREAS, although the Development Project was placed on hold, the Parties still desired to commence Cemetery improvements and executed a Promissory Note, acknowledging the undertaking of a landscaping and irrigation project on the Cemetery, for which Cutting Edge Industries, per Proposal # 304-7-22, is to be paid by the Developer from the release of sale proceeds, in accordance with the terms of the Parties' Amendment to the Promissory Note, for the

landscaping and irrigation project, which shall be completed within ninety (90) days from the effective date. See Exhibit D, Landscaping Plan.

WHEREAS, nearly a year later after the Developer acquired title to the Property, on May 13, 2022, (“**Closing**”) the Circuit Court of Broward County, Florida, found in favor of KZ Copans, LLC and Westview Community Cemetery of Pompano Beach, Inc. and such decision has been affirmed on appeal.

WHEREAS, the Order of the Circuit Court of Broward County, Florida, on Defendant KZ Copans, LLC’s Motion for Summary Judgment (“**Order**”), which is attached, determined as a *matter of law* that Westview Community Center of Pompano Beach, Inc. (“**Westview**” or “**Seller**”) is governed by those particular bylaws that allow Westview’s Board of Trustees to “sell, encumber, lease or open to the public or any other group, any property managed by Westview,” and that “only three Trustees shall be necessary to transact any business of the Corporation.”

WHEREAS, the Circuit Court for Broward County, Florida, ruled that “[i]t is undisputed that only three (3) Trustees were required to conduct business on behalf of Westview, including the sale of property, and that three (3) Trustees signed the Vacant Land Contract.” The Circuit Court for Broward County judicially determined that Westview’s authority “to sell the land pursuant to the *legally valid and binding* Vacant Land Contract is *established as a matter of law*.” (emphasis added).

WHEREAS, subsequent to the Court’s decision, four dissident residents of Pompano Beach filed a new suit against the Non-Profit, seeking a declaratory judgment in the matter styled *Fuller v. Westview Community Cemetery of Pompano Beach FL Inc.*, Case No. CACE-23013605, Broward County, Florida May 12, 2023 (the “New Litigation”), challenging the validity of the Non-Profit’s bylaws. Non-Profit will be defending this New Litigation at its sole cost and expense.

WHEREAS, although this New Litigation has *no bearing* on KZ Copans' legal ownership or its right to seek entitlements, it could impact the operation of the Non-Profit.

WHEREAS, the Parties desire to memorialize their understandings and to bind the parties' obligations with respect to the Development Project and the rights and responsibilities of both Parties with respect to the Westview Revitalization Project.

NOW, THEREFORE, in consideration of the recitals set forth above, which are true and correct and made part of this Agreement, and in further consideration of the mutual benefits created herein, the Parties agree as follows:

1. Developer Obligations.

1.1 Developer will be responsible for obtaining all entitlements, permits, variances, approvals, consents, exemptions and authorizations necessary for the development, design, construction, operation, maintenance and repair of the Development Project (and, in furtherance thereof, shall have the right to execute, submit to, process and pursue with and obtain from the City, Broward County, and any other Governmental Authority any and all applications, petitions, utility reservation agreements, site plans and other easements, documents, agreements, covenants and/or instruments, and any amendments to the foregoing, in connection therewith as contemplated by this Agreement). The Non-Profit hereby consents to all of the Developer's Obligations, and will provide access to the Developer and its agents to the Cemetery for construction of all of Developer's Obligations and its Development Project. The Non-Profit shall not interfere with or cause any delay with respect to the construction of Developer's Obligations and the Developer Project. Cemetery shall promptly, and without delay, execute any and all documents necessary to construct Developer's Obligations and the Developer Project.

1.2 Entrance Gates and Fencing. In conjunction with the construction of its

Development Project, the Developer, at its sole cost and expense, will construct, and install a new primary entrance gate at the south side of the Cemetery Property located off of Dr. B J McCormick Avenue. The Developer will further fund, construct and install an entrance gate at the Northeast corner of the Cemetery's roundabout, which connects to the new shared access road set forth in Section 1.7 below. The decorative gates will be made out of aluminum and powder coated to match the Cemetery's fencing. The gates will be non-motorized, but will be capable of locking. In addition, in conjunction with the construction of its Development Project, the Developer will also fund, construct and install new aluminum fencing, to match the Cemetery's fencing, or in Developer's sole discretion a masonry wall, to separate the Cemetery from the new shared access road set forth in Section 1.7 below.

1.3 Memorial Garden. In conjunction with the construction of its Development Project, the Developer, at its sole cost and expense, will improve the existing flagpole area in the Cemetery by designing, constructing, and installing a new Memorial Garden which will include inscribable brick pavers and a Cemetery Plaque.

1.4 Computerized Database. Within thirty (30) days from the execution of this Agreement, the Developer shall provide the Non-Profit with a computerized database identifying marked and unmarked graves and identifying persons buried within the Cemetery by name, date of birth and date of death, to the extent reasonably possible, and the Non-Profit will be responsible for maintaining the subscription.

1.5 Ground Penetration Radar Study. Within one hundred and twenty (120) days from this Agreement's effective date, Developer shall, at its sole cost and expense, commission a Ground Penetrating Radar Study to help confirm the portions of the Cemetery that are available for future burials.

1.6 Landscaping. Within three (3) business days from this Agreement's effective date, Developer will authorize the release of sale proceeds, in accordance with the terms of the Parties' Amendment to the Promissory Note. These funds shall be utilized by the Cemetery to engage Cutting Edge Industries, pursuant to Proposal # 304-7-22, to immediately improve the landscaping and irrigation at the Cemetery. The Cemetery has selected Cutting Edge Industries as its preferred vendor, and will be in direct privity of contract. Developer shall have no liability as it relates to the selection of this vendor or the completion of the work.

1.7 Road Development. In conjunction with the construction of the Development Project, or at any time prior, Developer, at its sole cost and expense, shall construct and install a new entrance roadway from Copan's Road (east of the existing entrance) to provide shared access to both properties, in accordance with the conceptual rendering attached hereto as **Exhibit E**, and the recorded shared Access Easement Agreement. The final design of the entrance features and entrance roadway shall be in the Developer's sole discretion, subject to governmental approval. The new entrance will eliminate the current east entrance to the Cemetery from Copan's Road. The new entrance will most likely require a right-turn slowdown lane across the northern perimeter of the cemetery to be constructed at the Developer's sole cost and expense.

1.8 Walking Path. In conjunction with the construction of the Development Project, or at any time prior, Developer, at its sole cost and expense, shall remove the asphalt walking path between the North end of the roundabout and the existing Copan's Road entrance to make room for additional burial sites. The Non-Profit, at its sole cost and expense, shall make whatever modifications that are necessary and proper, including tree removal, in accordance with the City's Code, to ensure that all burial sites are protected from root intrusion.

2. General Non-Profit Obligations.

2.1 The Non-Profit agrees and acknowledges that it and its Board Members and Affiliates will support the Developer's applications and proposed development plan at all levels of required community meetings and public hearings, including but not limited to executing all documents, applications, plans, and consents required by any and all applicable jurisdictions and/or by Developer, throughout the Developer's Entitlements' approval process, including, issuing a Resolution in favor of the Developer's Entitlements, which shall be sent to the proper governmental officials, staff and community leaders prior to any scheduled meeting or hearing, requiring that the President of the Non-Profit's Board of Directors (or the Chairman or Vice President, if President is not available), as the official and authorized representative of the Non-Profit and adjacent Property owner, Westview Community Cemetery of Pompano Beach FL, Inc. to attend and speak in favor of the Developer's Entitlements, applications and development plans being presented at all community meetings, City meetings and hearings, as set forth in Addendum 4 to Vacant Land Contract.

2.2 Within one hundred and twenty (120) days of this Agreement's effective date, the Non-Profit shall make substantial improvements to the Westview Community Cemetery including the following:

- Improve conditions of the existing graves, with ongoing maintenance, including painting and cleaning of headstones and necessary landscaping;
- Identify whether a certain plot is occupied or vacant, and confirming the amount of plots available at the Cemetery;
- Complete the installation of new fencing around the entire Cemetery except as delineated in Section 1.2 above.
- Add additional landscape hedging and irrigation behind the newly-installed

perimeter fencing, as further described in Section 1.6 above; and

- Refurbishing the existing Cemetery sign on Copans' Road.

2.3 Roadway Improvements. In conjunction with the Developer's construction obligations set forth in Section 1.2 above, and within ninety (90) days of completion of said obligations, Non-Profit will fund, construct, and install irrigation and an opaque landscape hedge along the west side of the new entrance fence or masonry wall.

2.4 Use of Sale Proceeds. The Non-Profit agrees and acknowledges that any and all proceeds from the Vacant Land Sale Contract will be utilized solely for the completion of the necessary improvements to the Cemetery as contemplated in this Agreement, as more specifically set forth in above, and furthering the mission of the Non-Profit. The Non-Profit further agrees and acknowledges that no proceeds whatsoever derived from the Vacant Land Sale Contract will be utilized for any payment and/or revenue to any of the Non-Profit's Board Members, other members, affiliates or any entities owned and/or managed by the Non-Profit's Board Members.

2.5 Perpetual Support. The Non-Profit will continue to provide its support to the Developer for any future development plans for the property adjacent to the Non-Profit's Cemetery. If the Non-Profit fails to provide this support or the rezoning support as per Section 2.1 above, such failure will constitute a material Default of this Agreement, entitling the Developer to assert any and all applicable rights and remedies under the law, including but not limited to: (i) terminating the instant Agreement with immediate effect; (ii) seek repayment for all sums paid for the Property; (iii) seek reimbursement of any down payment and financing obtained with respect to the Vacant Land Sale Contract; (iv) seek repayment of the Developer's reasonable attorney's fees, costs and expenses incurred for both the Prior and New Litigation, as well as payment of its reasonable attorney's fees, costs and expenses relating to enforcement of the terms of this

Agreement, including but not limited to any claims or lawsuits filed by the Developer against the Non-Profit and all ensuing pre-development costs. Furthermore, the entire cemetery and its operations will be deeded and transferred over to the Developer to compensate the Developer for its losses.

3. Default.

3.1 In the event of any default under this Agreement, the non-defaulting Party shall provide the defaulting Party with written notice of such default and the defaulting Party shall have 30 days to cure such default after receipt of written notice of such default. If such default is not cured within the 30-day period, and the cure period has not been extended by written agreement between the Parties as set forth herein, the non-defaulting Party shall be entitled to pursue all remedies for such default provided at law or equity, except as limited by the following paragraph. It is the intent of the Parties to allow for this cure period to be extended upon written mutual agreement of the Parties, which agreement shall not be unreasonably withheld, if the cure cannot occur within 30 days but the defaulting Party has promptly undertaken the cure within the 30 day period and is diligently and continuously pursuing the cure so long as such extended cure period should not exceed 90 days.

3.2 In the event of an uncured default by either party, the non-defaulting party may, in its sole discretion, terminate this Agreement and/or pursue an action for actual and reasonable damages, specials damages, and consequential damages, including reasonable attorney's fees, costs and expenses. In the event of any uncured default of either party, the non-defaulting party may, in its sole discretion, seek specific performance without posting a bond, or terminate this Agreement. The prevailing party in any legal proceeding shall be entitled to attorney's fees and costs at all tribunal levels.

4. Miscellaneous.

4.1 Successors and Assigns. The terms contained in this Agreement shall bind and inure to the benefit of each Party, and its respective successors and assigns.

4.2 Notices. All notices, demands, requests for approvals or other communications given by a Party to another shall be in writing, and shall be sent by registered or certified mail, postage prepaid, return receipt requested or by courier service, or by hand delivery to the office of each Party indicated below and addressed as follows:

If to Developer:

1800 Copans, LLC
c/o Louis Archambault, Esq.
Saul Ewing Arnstein & Lehr
701 Brickell Avenue
17th Floor
Miami, FL 33131

With a copy to:

Keith Poliakoff, Esq.
Government Law Group
200 S. Andrews Avenue, Suite 601
Fort Lauderdale, Florida 33301

If to Non-Profit:

Westview Community Cemetery of Pompano Beach, FL, Inc.
428 N.W. 6th Avenue
Pompano Beach, FL 33060
Attn: Walter C. Hunter & Vicente Thrower

The addresses to which notices are to be sent may be changed from time to time by written notice delivered to the other Parties. Notices shall be effective upon receipt. Until notice of change of address is received as to any particular Party, all other Parties may rely upon the last address given.

4.3 Severability. If any term, provision or condition contained in this Agreement shall be held invalid or unenforceable the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term, provision and condition to this Agreement shall be valid and enforceable provided that the severed term, provision or condition does not materially affect the Developer's ability to develop the Project pursuant to the Proposal.

4.4 Governing Law. The laws of the State of Florida shall govern the validity, performance and enforcement of this Agreement. This Agreement shall not be deemed to have been prepared by the Developer or the Non-Profit, but by both Parties. Venue for any action related to this Agreement shall be in Broward County.

4.5 Term. This Agreement shall commence on the Effective Date and continue indefinitely, with the right of termination solely resting with the Developer.

4.6 Captions. The section headings and captions of this Agreement are for the convenience and reference of the Parties and in no way define, limit, or describe the scope or intent of this Agreement.

4.7 Complete Agreement; Amendments. This Agreement, and all the terms and provisions contained herein, and the other agreements and documents referred to herein, unless superseded by prior agreements and those entered into contemporaneously herewith, constitute the full and complete agreement among the Parties with respect to the subject matter

hereof. Where language conflicts from prior agreements, that have not yet been terminated by virtue of the Closing and those contemporaneously entered with this Agreement, this Agreement shall control.

4.8 Force Majeure. Neither party shall be liable for any default or delay in the performance of its responsibilities under this Agreement or any other agreement referenced herein (collectively referred herein as the "Agreements") if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, riots, strikes, civil disorders, quarantine restrictions, epidemics, pandemics, or any other cause beyond the reasonable control of such party ("Force Majeure"). The time for performance for the non-defaulting party under the Agreements will be extended as necessary, without penalty or liability to such party, for the same period of time as the delay. However, if it appears that the Force Majeure will result in a delay in either party's performance of more than one hundred and twenty days (120) days, either party may, at its option, terminate this Agreement or the applicable agreement as part of the collective Agreements that is still in full force and effect immediately by written notice to the non-terminating party.

4.9 Excuse of Performance. Performance by any Party shall be excused for any period of delay in performance if such delay is due to Force Majeure or to the extent a Party is precluded from performance by virtue of an injunction or restraining order issued against such Party by a court of competent jurisdiction.

4.10 The foregoing accurately sets forth the understanding of the Parties and is intended to be a legally binding Agreement and shall be binding upon all successors and assigns. Such binding nature shall include, but shall not be limited to, any future owner of the Cemetery, the Non-Profit as a body corporate, , or any entity or individual that may take over the management

of the Cemetery or Non-Profit.

4.11 Cooperation. The Parties agree to cooperate fully in the execution of any documents or performance in any way which may be reasonably necessary to carry out the purposes of this Agreement and to effectuate the intent of the Parties, provided this provision shall not be deemed to limit, but to supplement section 2.1 above.

4.12 No Third Party Beneficiaries. Developer and Non-Profit 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 or the Non-Profit to third parties. No person not a party to this Agreement will be a third-party beneficiary or acquire any rights hereunder. Only the parties to this Agreement, including successors and assigns, can enforce the terms stated herein.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have duly executed this instrument as of the day and year first above written.

ATTEST:

Name

APPROVED AS TO FORM:

Levi Williams, Esq.

NON-PROFIT:

**WESTVIEW COMMUNITY
CEMETERY OF POMPAHO BEACH
FL, INC.**, a not-for-profit corporation
organized and existing under the laws of
the State of Florida

By:

Vicente Thrower, Chairman

By:

Evander Derico, Jr., Board Member

By:

Gary McLamore, Board Member

Date Signed: September 20 2023

DEVELOPER:
1800 COPANS, LLC, a Delaware limited
liability company

By: 
Jacob Zebede, Managing Member

Date Signed: September 20, 2023

Exhibit A: Legal Description of Cemetery

Exhibit B: Legal Description and Survey of Property

Exhibit C: GPRS Inc.'s Report with Findings as to the Vacant Land

Exhibit D: Landscaping Plan

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Exhibit E: Conceptual Copans' Road Access Rendering

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11/15/2023