

## **DRAFT TERM SHEET / LETTER OF INTENT**

### **For Tax Increment Financing Agreement**

**Pompano Beach Community Redevelopment Agency (CRA) & CP Old Town Square, LLC**

**July 3, 2019**

#### **Overview**

- 1.1 **Project Development:** Developer has received approval from the City for the Project (as defined herein) consisting of approximately 5,000 square feet of commercial uses and approximately 280 residential units. Prior to the Effective Date as defined herein, Developer has been pursuing development of the Project and shall continue to do so, subject to reasonable financing requirements. Developer represents to the CRA that but for the assistance to be provided by the CRA pursuant to the Development Agreement and the Annual Payment Amount, the Developer would not undertake development of the Project. Developer shall be responsible for all aspects of development, design, construction, ownership, use and operation of the Project.
- 1.2 **Determination by the CRA:** The CRA hereby determines that the Project is consistent with and furthers the CRA's goals and objectives of the CRA Plan and that its design, development, construction, ownership, use and operation will promote the health, safety, morals and welfare of the residents of the area. The Project is consistent with the intent of the Downtown Pompano Beach Transit Oriented Development (DPTOD) land use and zoning designations to create a concentrated development pattern including residential development.
- 1.3 **Intent:** This draft term sheet/letter of intent is intended to establish a framework for a Development Agreement between CP Old Town Square, LLC and the CRA. Both parties acknowledge that this Term Sheet is a framework only of certain essential terms and that there are additional terms/and or provisions that will require negotiation in the completion of the Development Agreement. As detailed and defined herein and in the Development Agreement, the CRA agrees to grant Developer 95% of the annual incremental tax revenues generated by the Project. By resolution, the CRA hereby authorizes the CRA General Counsel or outside legal counsel to prepare the Development Agreement in consultation with the CRA's Executive Director and to incorporate the following general terms and conditions as provided herein.

#### **The Property**

- 2.1 **Property:** 212 NE 1<sup>st</sup> Avenue/101 NE 2<sup>nd</sup> Street
- 2.2 **Folio Numbers:** 484235250041, 484235250100, 484235250140, 484235250120, 484235250130, 484235250110, 484235250150
- 2.3 **Property Owner:** CP OLD TOWN SQUARE, LLC

### **Definitions**

- 3.1 Agreement means this draft term sheet/letter of intent.
- 3.2 Annual Payment Amount has the meaning as set forth in paragraph 5.2 of this Agreement.
- 3.3 Base Year Payment means the amount of ad valorem real and personal property tax revenue received by the CRA from the taxing authorities in the calendar year 2019.
- 3.4 Certificate of Occupancy means a Temporary Certificate of Occupancy issued by the City or other appropriate governmental authority for any specific phase of the Project that allows such phase of the Project to be occupied, opened for business and used as contemplated by the Development Agreement.
- 3.5 City means the City of Pompano Beach, Florida.
- 3.6 Commercially Reasonable Efforts means that level of effort which prudent business would undertake in circumstances which are the same as or similar to the circumstances referred to or described, but without any obligation to incur any unreasonable or unduly burdensome expenses or obligations or any guaranty of completion or results.
- 3.7 Completion Date means the date on which the construction of the Project is substantially complete and a Certificate of Occupancy has been issued by the appropriate governmental authority such that the Project can be substantially opened for business.
- 3.8 Construction Commencement Date means the date which is twenty-four (24) months after the Effective Date as defined herein. If the Developer requests an extension of the Construction Commencement Date, based on specific issues that caused the delay, from the CRA prior to the expiration of the Construction Commencement Date and the CRA grants such extension (which the CRA must not unreasonably withhold) then the Construction Commencement Date shall be deemed to be the date which is thirty-six (36) months after the Effective Date as defined herein. Specific issues include financial or construction related issues as well as unforeseen conditions due to force majeure.
- 3.9 CRA means the Pompano Beach Community Redevelopment Agency, a Community Redevelopment Agency created pursuant to Chapter 163, Part III, Florida Statutes, and its successors and/or assigns.
- 3.10 CRA Sunset Date means December 31, 2040 unless an extension is approved. If an extension of the CRA's life is approved, the CRA Sunset Date shall be the new expiration date of the CRA.
- 3.11 Developer means CP Old Town Square, LLC, and its successors and/or assigns.
- 3.12 Development Agreement means a Development Agreement entered into by the CRA and the Developer that is substantially based off the terms in this Agreement.
- 3.13 Effective Date means the date that the Development Agreement is executed by Developer and the CRA.

- 3.14 Equity Partner means a corporate entity, individual, or partnership with an equitable ownership interest in the Project or the Developer.
- 3.15 Event of Default has the meanings described in Sections 7 and 8 of this Agreement.
- 3.16 Lender means a corporate entity, individual, or partnership that has or will lend funds to the Developer to develop the Project.
- 3.17 Maximum Payment Amount means a total of Seven Million Eight Hundred Thousand Dollars and 00/00 (\$7,800,000).
- 3.18 Outstanding Maximum Payment Amount means the Maximum Payment Amount minus the aggregate sum of Annual Payment Amounts paid by the CRA to the Developer under the Development Agreement.
- 3.19 Plans and Specifications means architectural, engineering, and construction documents constituting the concept documents, preliminary plans and drawings, schematic design documents, design development documents and construction documents for the Project, as may be amended from time to time.
- 3.20 Project means the mixed-use project, consisting of approximately 5,000 square feet of commercial uses, and approximately 280 residential units approved under City Planning and Zoning Case No. 17-12000018, as may be amended from time to time.
- 3.21 Transfer has the meaning as set forth in Section 10.2 of this Agreement.

#### **Developer's Obligations**

- 4.1 Permit Approvals: Developer, with the assistance of the CRA, shall use Commercially Reasonable Efforts to obtain or cause to be obtained all permits and approvals, necessary under applicable law, for the design, development, construction, ownership, operation, and use of the Project as described herein, and to commence construction of the Project on or before the Construction Commencement Date, which shall include, when applicable, the timely filing of necessary applications, with permit fees when required, the prosecution of the application to the same extent as used by the party charged with the effort as such party has devoted to the approvals, timely follow through with such amendment and revisions or additions to the documentation required by the application or other process as shall be customary with like kind projects of economic magnitude in the City, and the prompt payment of costs and fees associated therewith.
- 4.2 Maintenance and Repairs: Upon completion of the Project, Developer, its successors and/or assigns, shall have a continuing obligation to maintain the Project in good repair and provide adequate insurance coverages at its expense, all as set forth in the Development Agreement. All construction will be done in accordance with necessary approvals and the permitted and approved set of Plans and Specifications by the appropriate governing authority.

### **CRA's Obligations**

- 5.1 Assessed Value: The CRA finds that the Project will add significantly to the revitalization of the Community Redevelopment Area and, when completed, will increase the assessed value of the Property on the real property ad valorem tax roll.
- 5.2 Annual Payment Amount Disbursements: No later than thirty (30) days after the date on which Developer pays its ad valorem property taxes for the Property for each and every year after the Completion Date, and the Developer delivers notice of such payment to the CRA, the CRA shall pay to Developer the Annual Payment Amount (defined below) until 1) the CRA Sunset Date as may be extended or 2) the Developer has received the Maximum Payment Amount from the CRA, whichever occurs first. If the Annual Payment Amount would exceed an aggregate sum equal to the Maximum Payment Amount, the CRA shall only pay Developer the portion of the Annual Payment Amount that would bring the aggregate sum paid to Developer up to the Maximum Payment Amount. In lieu of the Annual Payment Amount, the CRA may, at its discretion, pay Developer the Outstanding Maximum Payment Amount in a lump sum.

The Annual Payment Amount shall be equal to 95% of the increase, if any, over the Base Year Payment in ad valorem real and personal property tax revenue collected from the taxing authorities on the Property and received by the CRA.

- 5.3 Covenant to Fund: The CRA shall budget and appropriate legally available funds sufficient to make all such required Annual Payment Amounts for each fiscal year, beginning on the first date immediately following the Completion Date that the Developer pays its ad valorem taxes, subject to the approval as to form and substance by the CRA's General Counsel, outside counsel, or City Auditor. Such obligations to annually appropriate and disburse the Annual Payment Amount are subordinate to senior CRA debt and previously approved CRA projects.

### **Permit Processing**

- 6.1 Special Permit Process: As of the Effective Date, the Project has been approved by the City's Planning and Zoning Board. Developer desires to use an expedited permit process for the processing of all permits and approvals that are necessary to construct the Project. The Developer and the CRA acknowledge that an expedited permit process will be desirable for both the CRA and the Developer in order to expedite the successful construction and completion of the Project. Accordingly, the CRA hereby agrees that, to the extent not otherwise prohibited by the South Florida Building Code or other applicable law, the Developer is qualified to apply for an expedited permit process as a means of fast tracking the review and processing of all permits and approvals that are necessary to construct the Project, including that Developer may submit separate modified Plans and Specifications as to a portion of the Project then being or to be built, including any

individual phase. Developer represents to the CRA that it may separately request and that the City may be asked to separately issue the following permits on the various portions of the Project being constructed: (i) demolition, clearing and miscellaneous site work; (ii) pilings; (iii) foundation; (iv) structural framing and exterior cladding (i.e. a shell permit); (v) for mechanical, electrical, plumbing and finish package; and (vi) all other permits and approvals that are necessary for the completion of the construction of that portion of the Project then being or to be built. The CRA will urge the City to issue Certificate(s) of Occupancy for units in the Project on a floor by floor and/or phase by phase basis as such units are substantially completed and ready for occupancy. However, in no event will Developer cause any work to be performed on any portion of the Project without an approved set of Plans and Specifications for that portion of the Project then being or to be built.

- 6.2 **Moratorium:** In the event that the City imposes a moratorium on construction in the City such that construction of the Project is adversely affected, then upon notification to that effect by Developer to the CRA, the CRA shall endeavor to cause the City to exempt the Project from any such moratorium or that the City shall waive any limitations on construction of the Project which would otherwise be imposed by any such moratorium. If the City does not exempt the Project or waive any limitations on construction of the Project, then such moratorium shall be deemed an event of Force Majeure.

#### **Project Financing**

- 7.1 **Developer:** Developer shall use its own funds and funds obtained from Developer's capital providers, if applicable, to design, develop, construct, own, sell, operate and use the Project for the purposes contemplated in the Development Agreement. The CRA shall not have any claim to any right, title, or interest in and to the Property or the Project and Developer shall be free to arrange other financing in connection with the Property and the Project as Developer may desire, whether using Developer's capital providers or any other source for any such financing.
- 7.2 **Taxes and Other Charges:** Developer shall pay and discharge, or cause to be paid and discharged, all taxes, charges, liabilities or claims of any type at any time assessed against or incurred by the Property or the Project.

#### **Default by the Developer**

- 8.1 **Event of Default:** The occurrence of any one or more of the following and the continuance thereof for the period of time hereinafter provided shall constitute an Event of Default hereunder:
- 8.1.1 The Developer defaults in the performance of any material obligation imposed upon it under the Development Agreement or the Developer fails to complete any material item required to be completed by it as provided herein, including constructing the Project substantially in accordance with the final Plans and Specifications, as amended from time to time by the City, and the Developer

does not commence to cure such default within thirty (30) days after delivery of such notice of such default from the CRA and diligently pursue such cure to completion thereafter within ninety (90) days after delivery of such notice as to any default, which by its nature is capable of being cured within such period of time, or within a reasonable period of time as to any default which by its nature is not capable of being cured within such period of time; or

8.1.2 Any statement, representation or warranty made by the Developer herein or in any writing now or hereafter furnished in connection herewith shall be false in any respect which materially affects the rights, duties, or obligation so the CRA hereunder; or

8.1.3 (i) An order or decree is entered by any court of competent jurisdiction adjudicating the Developer bankrupt or insolvent, approving a petition seeking a reorganization or appointing a receiver, trustee or liquidator of the Developer or of all or a substantial part of its assets, or (ii) there is otherwise commenced as to the Developer or any of its assets any proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment, receivership or similar law, and if such order, judgment, decree or proceeding continues unstayed for more than sixty (60) days after any stay thereof expires.

- 8.2 **Remedies:** Upon the occurrence of any Event of Default by Developer hereunder, the CRA shall have the following rights as its sole and exclusive remedy hereunder: (a) to terminate the Development Agreement, without cost or liability to Developer, or (b) to stop any disbursements of funds by the CRA hereunder, including the Annual Payment Amount, and (c) to immediately enforce any of its rights under the Development Agreement

#### **Default by the CRA**

- 9.1 **CRA Event of Default:** An Event of Default shall occur if the CRA fails to timely complete any of its obligations under the Development Agreement.
- 9.2 **Accrued Interest:** If the Annual Payment Amount is not provided to Developer within the time frame set forth herein, the CRA shall pay the Developer the Annual Payment Amount plus any accrued interest.
- 9.3 **Remedies:** If at any time there is a default by the CRA which is not cured within any applicable cure period provided herein, Developer shall have all available remedies, including (a) the right to terminate the Development Agreement, (b) the right to seek from the CRA, specific performance of any payments owed or due and all reasonable costs and expenses incurred by the Developer in connection with failure to make such payments, and (c) to enforce any of its rights under the Development Agreement.

#### **Miscellaneous Provisions**

- 10.1 **Notice:** All notices, demands, requests or other communications hereunder shall be deemed to have been given or served for all purposes hereunder forty-eight (48) hours after

the time that the same shall be deposited with (i) the United States mail, postage prepaid, in the manner aforesaid, provided, or (ii) an overnight mail service such as Federal Express or similar carrier.

**AS TO CRA:**

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With a copy to:

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**AS TO DEVELOPER:**

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With a copy to:

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10.2 **Assignment:** Developer may not Transfer its rights under this Agreement except as set forth in this Agreement.

10.2.1 **Transfers:** For the purposes of this Agreement, a "Transfer" is a sale, assignment, or conveyance of any of the following:

- 1) The Project or any part thereof;
- 2) Any interest in the Project or any part thereof;
- 3) Any interest in the Developer;
- 4) Any series of such Transfers, or any contract or agreement to do any of the same, that have the cumulative effect of a sale; or
- 5) Any other transaction or series of transactions in the nature of a sale.

10.2.2 **Purpose of Restrictions on Transfer:** CRA is entering into this Agreement with Developer solely to develop, operate, and manage the Project, and not for speculation in landholding. Developer recognizes that, because of the importance of the Project to the general welfare of the City and its residents, the Developer's qualifications and identity are

of particular concern to the community and to the City. Developer acknowledges that it is because of the qualifications and identity of Developer that City is entering into this Agreement, and that the CRA is willing to rely on the Developer's covenants to fulfill its obligations under this Agreement. It is acknowledged by the parties that additional terms related to the sale of all or a portion of the project may be negotiated and included within the Development Agreement.

**10.2.3 Ownership of Developer:** Developer represents and warrants that Developer has not made, created or suffered any Transfers as of the date of this Agreement. Upon request by the CRA from time to time throughout the term of this Agreement, Developer will furnish the CRA with a complete statement, subscribed and sworn to by a duly authorized representative of the Developer, setting forth the percentage ownership interest of all members of Developer who hold at least a ten percent (10%) interest in Developer. If the Developer is an entity other than a limited liability company, then the references to membership will be changed to appropriate ownership interests for the entity in question.

**10.2.4 Transfers Not Requiring CRA Consent:** During the term of this Agreement only the following Transfers ("Permitted Transfers") will be permitted without the prior written consent of the CRA:

**10.2.4.1 Foreclosure:** Any Transfer directly resulting from the foreclosure of the Property or the granting of a deed in lieu of foreclosure of the Property, or any Transfer made by the purchaser at the foreclosure sale of the Property, if such purchaser or grantee is the Lender or a nominee of the Lender;

**10.2.4.2 Conveyance to Lender:** Any Transfer directly resulting from a conveyance to a Lender of Developer's interest in the Property;

**10.2.4.3 Estate Planning:** Any Transfer of all or any portion of any ownership interest in Developer for estate planning purposes, including without limitation, any Transfer into a charitable trust or a blind trust, provided the Transferor maintains control over the interest in Developer being Transferred;

**10.2.4.4 Transfers Among Affiliates:** Any Transfer, or series of Transfers, among affiliates of Developer, provided that at all times after such Transfer, either Adam Adache, Daniel Adache, or Anthony Cavo, or a successor individual approved by the CRA, continues to direct the day-to-day management and policies of Developer.

**10.2.4.5 Transfers of Ownership Interests in Developer:** Any Transfer, or series of Transfers to an Equity Partner, provided that at all times after such Transfer, either Adam Adache, Daniel Adache, or Anthony Cavo, or a successor individual approved by the CRA, continues to direct the day-to-day management and policies of Developer.

**10.2.4.6 Transfers Resulting from Death or Incapacitation:** Any Transfer resulting from the death or incapacity of Adam Adache, Daniel Adache, Anthony Cavo, or



4) CRA must be provided with a written instrument in recordable form in which the Transferee, for itself and its successors and assigns, and for the benefit of the CRA, expressly assumes all of the obligations of the Developer under this Agreement and agrees to be subject to all conditions and restrictions to which Developer is subject under this Agreement.

10.2.9 Effectuation of Transfers: No Transfer will be effective unless executed copies of the Transfer documents and any other agreements between the parties to the Transfer are delivered to the CRA within 30 days thereafter.

10.3 Development Standards: CRA and Developer agree that the manner in which the Project is developed, operated, and maintained is important to both the CRA and the Developer by reason of their interest in having a market-rate residential project with dining, shopping and entertainment uses for use by City residents and visitors to the City. Developer agrees to develop, operate and maintain the Project and all other property and equipment located on the Property consistent with the following standards:

10.3.1 Cleanliness: Developer will keep the Property free of debris and trash at all times. The City will maintain the rights-of-way abutting the Project and the surface parking areas and remove trash on a routine basis, but to the extent that trash or debris accumulates on a daily basis, Developer will remove same.

10.3.2 No Nuisance; No Waste: Developer will not commit or permit any waste, odor, noise, nuisance, or any activity which violates any regulations of the City.

10.3.3 No Hazardous Materials: Developer will not permit flammable materials such as gasoline, kerosene, naptha, benzene, explosives or other articles, goods or merchandise of an intrinsically hazardous or dangerous nature to be brought onto the Property, unless such materials are customarily used or required in connection with the contemplated uses of the Property.

10.3.4 No Fumes: Developer will not permit any noxious odors, acids, vapors or other gases or materials to be discharged from the Project in violation of any applicable governmental requirements.

10.3.5: No Obstructions: Developer will use reasonable efforts not to obstruct or close off any portions of the Property unless necessary for the safety and protection of the public or the residents of the Project.

10.3.6 No Loitering; Crowd Control: To the extent within Developer's control, Developer will not permit any large, uncontrolled gatherings of people to occur on the Property, physical altercations, intimidating behavior, or disruptive behavior by visitors to the Property.

10.4 Termination: Prior to the execution of the Development Agreement, the CRA or Developer may terminate this letter of intent if any of the following events shall occur:

If the Developer:

- a. Applies for or consents to the appointment of a receiver, trustee, or liquidator for it or any of its property;
- b. Admits in writing an inability to pay its debts as they mature;
- c. Makes a general assignment for the benefit of creditors;
- d. Is adjudicated bankrupt or insolvent;
- e. Files a voluntary petition or an answer seeking reorganization or an arrangement with creditors or take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution, or liquidation law or statute, or file an answer admitting the material allegations of a petition filed against it or them in any proceeding under any such law; or
- f. If condemnation proceedings are commenced against the Project or any part thereof; or
- g. If the Developer and CRA are unable to agree to the terms of the Development Agreement.

In the event of a termination of this Agreement or Development Agreement as provided herein prior to its expiration, the party terminating this Agreement or the Development Agreement shall provide notice to that effect to the other party and upon receipt of such notice and the expiration of any cure period provided herein, this Agreement and the Development Agreement shall then be of no force and effect, neither party will be liable to the other for any payments or other obligations other than any payments or obligations provided herein.

**10.5 Contingent Fee:** The Developer represents and warrants that it has not paid or agreed or promised to pay any person or other legal entity any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the execution of this Agreement or the Development Agreement, including any broker fee or commission.

**10.6 Independent Contractor:** In the performance of the Development Agreement, the Developer will be acting in the capacity of an independent contractor and not as an agent, employee, or partner of the CRA. The Developer and its employees and agents shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized by the Developer in the performance of its obligations under the Development Agreement.

**10.7 Parties to the Agreement:** This Agreement and the Development Agreement are agreements solely between the CRA and the Developer. The execution and delivery hereof shall not be deemed to confer any rights or privileges to any person or other legal entity not a party hereto other than the successors or assigns of the CRA and the Developer.

10.8 Condominiums or Time Shares or Condo/Hotel: In the event that Developer, or its successors or assigns, ever attempts to create a condominium or other form of ownership other than rental apartments for the Project, the CRA may terminate the Agreement after written notice to Developer of the CRA's objections to such action. If within ninety (90) days of said notice, if the Developer does not terminate such condominium arrangement, the CRA shall not be obligated to make any payments to the Developer contemplated in this Agreement but not yet paid.

**[Signatures on the following page]**


IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

**AS TO CRA:**


WITNESSES:

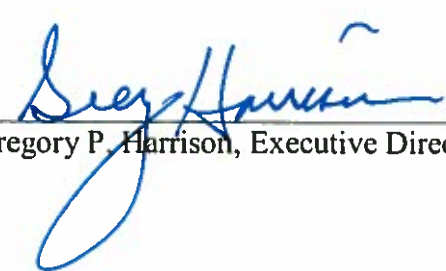
CRA

**Pompano Beach Community  
Redevelopment Agency, a  
Community Redevelopment Agency created  
pursuant to Chapter 163, Part III, Florida  
Statutes**


  
\_\_\_\_\_  
Audrey G. Suttle  
Print Name

By   
\_\_\_\_\_  
Rex Hardin, Chair

  
\_\_\_\_\_  
Shelley R. Bartholomew  
Print Name

By   
\_\_\_\_\_  
Gregory P. Harrison, Executive Director

ATTEST:

  
\_\_\_\_\_  
Marsha Carmichael, CRA Secretary

By   
\_\_\_\_\_  
Claudia McKenna, CRA Attorney

**AS TO DEVELOPER:**

**CP OLD TOWN SQUARE, LLC, a**  
Florida limited liability company

By: 

Title: Manager

**WITNESSES:**



NGUYEN TRAN  
Print Name



Kimberly VAZQUEZ  
Print Name

AGREED TO AND ACCEPTED this 23rd of July, 2019.

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**POMPANO BEACH  
COMMUNITY REDEVELOPMENT  
AGENCY**



**Real Estate Development Accelerator (REDA)  
Tax Incentive for Projects  
Over \$5,000,000**

**REV September 2016**

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## **Real Estate Development Accelerator (REDA)**

Projects in the City of Pompano Beach Community Redevelopment Agency (CRA) Northwest area may be eligible for a tax incentive known as the Real Estate Development Accelerator (REDA). This incentive will be instituted to expedite development in the Northwest CRA Area.

Although businesses within the entire Pompano Beach Community Redevelopment Agency area are eligible to participate, emphasis shall be placed on those businesses within the Martin Luther King Business District target area and property owners within the Old Pompano, 27<sup>th</sup> and 31<sup>st</sup> Avenue corridors. Applicants meeting the location criteria of this program will have preference to ensure maximum impact to the district.

REDA, a performance-based tax incentive, is a phased-in program that provides larger incentives to developers during the initial development stage. The developers who bring projects to the area in the early stages are accepting more risk; they will incur more costs for marketing their development and may experience slower sales than projects that are built after the market is established. Costs to develop the projects are also generally higher due to the lenders ability to mitigate risk by charging higher interest rates or to require more up front equity, thus negatively effecting the developer's pro forma.

A clearly defined need must exist and be proven by each development initiative before funding under REDA will be considered. Any incentive that is approved by the CRA Board will be paid during and/or after construction of a project. Approved projects will require a Development Agreement among the CRA and the developer.

Disbursements of the Grant proceeds may be made on a reimbursement basis or paid directly to the Service Provider, in accordance with the Scope of Services attached to application and provided applicant first approves of payment to Service Provider.

Should an applicant choose to engage the services of an agent (individual or company) to assist/represent applicant in this aspect of the process, the expenses for the agent's service will be borne by the applicant. Such expenses are not reimbursable under the terms of any of the CRA's incentive programs. CRA funds cannot be applied to services other than architecture, engineering, etc. related to the construction of the interior or exterior of the building.

The REDA Incentive is contingent on funding availability and CRA approval, and is not to be construed as an entitlement or right of a property owner or applicant. Properties in the CRA areas are not eligible for City/CRA funded programs when such funding conflicts with the goals expressed in the CRA Strategic Finance Plan or Community Redevelopment Plan.



The REDA program will be available for a six-year period, with Phase I in effect for four years and Phases II and III for one year each. Phase I will be effective from October 2016 and will expire September 2019. At that point Phase II incentives will take effect for one year, followed by the final stage, Phase III. The incentives for the three phases are as follows:

Costs Covered	Phase I <u>10/2016-9/2019</u> 50-80%	Phase II <u>10/2019-9/2020</u> 35-60%	Phase III <u>10/2020-9/2021</u> 5-40%
Land Cost Mark-down	X		
Development Costs	X		
Relocation Assistance	X	X	
Demolition, Site-Prep, Remediation	X	X	
Infrastructure Assistance	X	X	X
Assembly Assistance	X	X	X



**PLEASE READ THE FOLLOWING PRIOR TO APPLICATION SUBMITTAL**

- Properties listed for sale may not apply. Properties sold within twenty-four months of receiving grant funding must repay the full amount.
- Prior to application submittal, a preliminary review of proposed renovations to property must be completed by the Planning Department.
- After approval process, the CRA will provide the applicant with an approved Grant Agreement for signature. It is recommended that **NO CONSTRUCTION** begin until the Grant Agreement is signed by all parties. Improvements completed prior to approval by the CRA Board, may not be eligible for reimbursement.
- If deemed necessary, the Community Redevelopment Agency (CRA) reserves the right to have the application and its contents evaluated and analyzed by an outside third party including but not limited to; the proposed business plan, partnership/ownership information with equity positions, mortgage on the property, lease agreements, letter of Intent from lending institution and any other documents provided by the applicant.
- If your site plan or application request includes landscaping, the landscaping must be a species and variety of native plants that are drought tolerant, require little irrigation and withstand the environmental conditions of Pompano Beach. Irrigation systems must prevent over spray and water waste and it is recommended a drip irrigation system be installed.
- Property to be improved must be free of all municipal and county liens, judgments or encumbrances of any kind. This provision can be waived by the CRA Board of Commissioners if development plans for said property meets the goals and objectives as set forth in the Northwest CRA Five Year Strategic Finance Plan. Upon grant approval, said property must remain free of all municipal and county liens, judgments or encumbrances of any kind under the term of the agreement.

All work must commence within 12 months of application approval. If work has not commenced within 12 months, funds will be reprogrammed.

I have read completely and understand the program, including the application guidelines and grant reimbursement process.

  
Applicant Signature

Date

7/9/19

CP OLD TOWN SQUARE, LLC  
Property Owner



**REAL ESTATE DEVELOPMENT ACCELERATOR  
Application Form**

Date of Application 07/09/2019

**1. Address of project requesting CRA investment:**

484235250041 NE 3 STREET, POMPANO BEACH FL 33060  
484235250100 116 NE 3 STREET, POMPANO BEACH FL 33060  
484235250140 NE 2 STREET, POMPANO BEACH FL 33060  
484235250120 212 NE 1 AVENUE, POMPANO BEACH FL 33060  
484235250130 101 NE 2 STREET, POMPANO BEACH FL 33060  
484235250110 112 NE 3 STREET, POMPANO BEACH FL 33060  
484235250150 NE 2 STREET, POMPANO BEACH FL 33060

**2. Name of Applicant:**

CP OLD TOWN SQUARE, LLC

**Address of Applicant:**

2125 E Atlantic Blvd. Pompano Beach, FL 33062

**Phone:** 954 588 0007

**Fax:** 954-943-8550

**Email:** adam@cavache.com

**3. Does the applicant own project property?** ☒ Yes ☐ No

If "no" box is checked, when will property be in control (own or long-term lease) of the applicant?

\_\_\_\_\_  
Indicate the owning entity of the property (i.e. name on property title):  
\_\_\_\_\_  
\_\_\_\_\_

**4. What is the total estimated project investment?**

Current assessed value: \$938,120

New capital investment dollars: \$63,000,000

Total estimated new assessment: \$53,550,000

5. What is the percentage (%) amount of ownership equity relative to total estimated project investment?

- ☒ 20% or more  
☐ 10% to 19.9%  
☐ Less than 10%  
☐ None

6. What is the percentage (%) of minority ownership of the project?

- ☐ 100%  
☒ 50% or more  
☐ Less than 50%  
☐ None

7. How many jobs for the neighborhood residents will be created upon completion of project?

- ☐ 1-5  
☐ 6-10  
☒ 10+ Please see attached Economic Analysis of Old Town Square (pg 60 - 66)  
☐ None

8. When is it anticipated that construction could begin, assuming project receives REDA assistance from this program? (A detailed project schedule must accompany application)

- ☒ Less than 12 months  
☐ 12 to 16 months  
☐ 16 to 24 months  
☐ Longer

**9. Include with this application:**

- Description of proposed development/improvement to the property
- Preliminary site plan, floor plans and renderings that enable staff to determine quality of design; parking must be included in the site plan and meet current code regulations or identify variances
- Infrastructure improvements, if any, in either the public ROW or on private property and estimated costs
- Preliminary project schedule
- Tenant makeup
- Resume of developer indicating related development experience`
- Business and Financial Information:
  - \*Business Plan
  - \*Pro forma
  - \*Mortgage on property
  - \*Lease agreements
  - \*Letter of Intent from lending institution
  - \*Partnership and/or ownership information with equity positions
- A minimum of 3 copies of the completed application

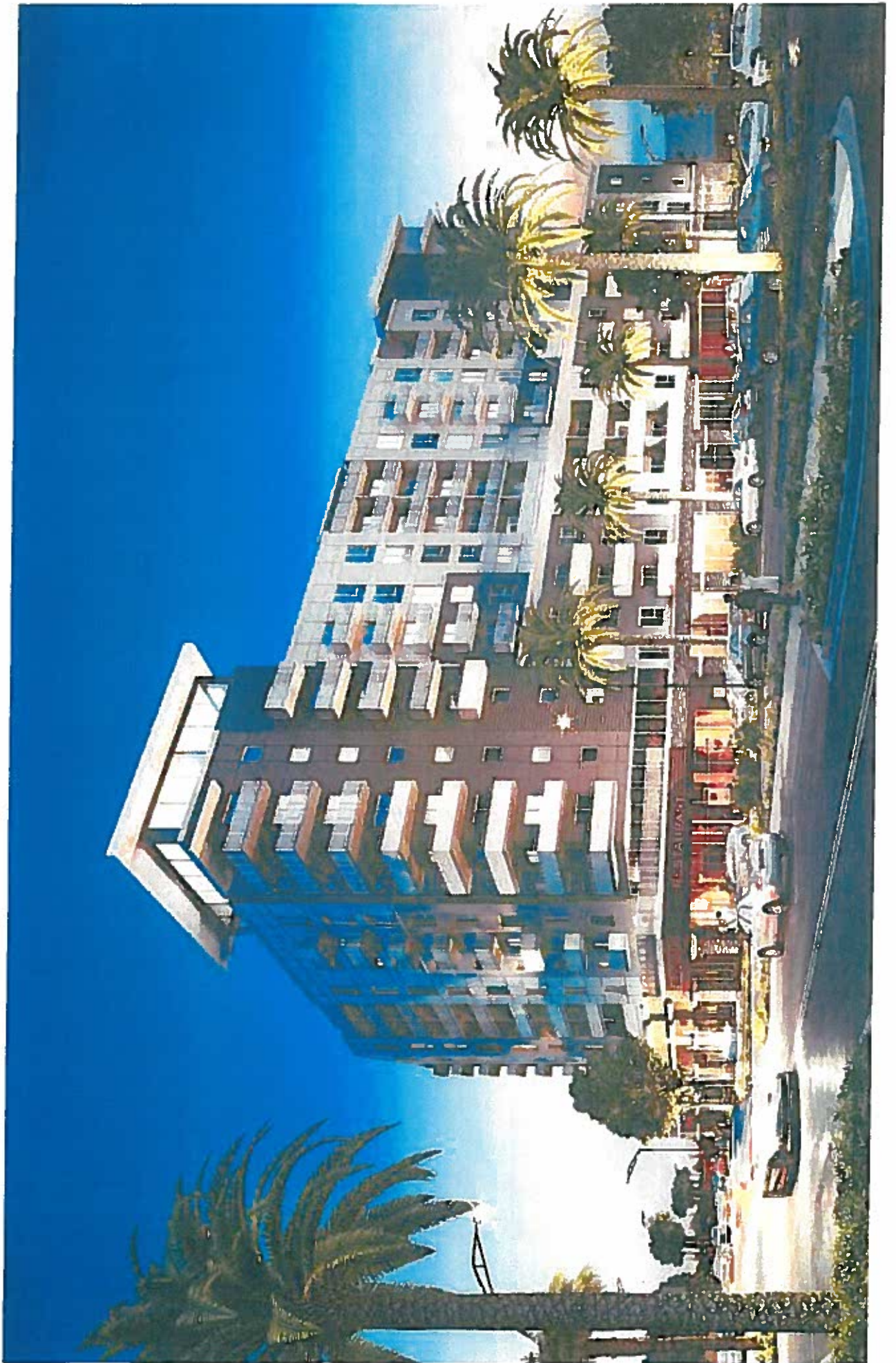
The Real Estate Development Accelerator benefits are contingent on funding availability and CRA approval, and are not to be construed as an entitlement or right of a property owner or applicant. Properties in the CRA areas are not eligible for City/CRA funded programs when such funding conflicts with the goals expressed in the CRA Strategic Finance Plan or Community Redevelopment Plan. The CRA may obtain an analysis by a third party or outside firm hired by the CRA to evaluate the application.

  
\_\_\_\_\_  
Signature of Applicant

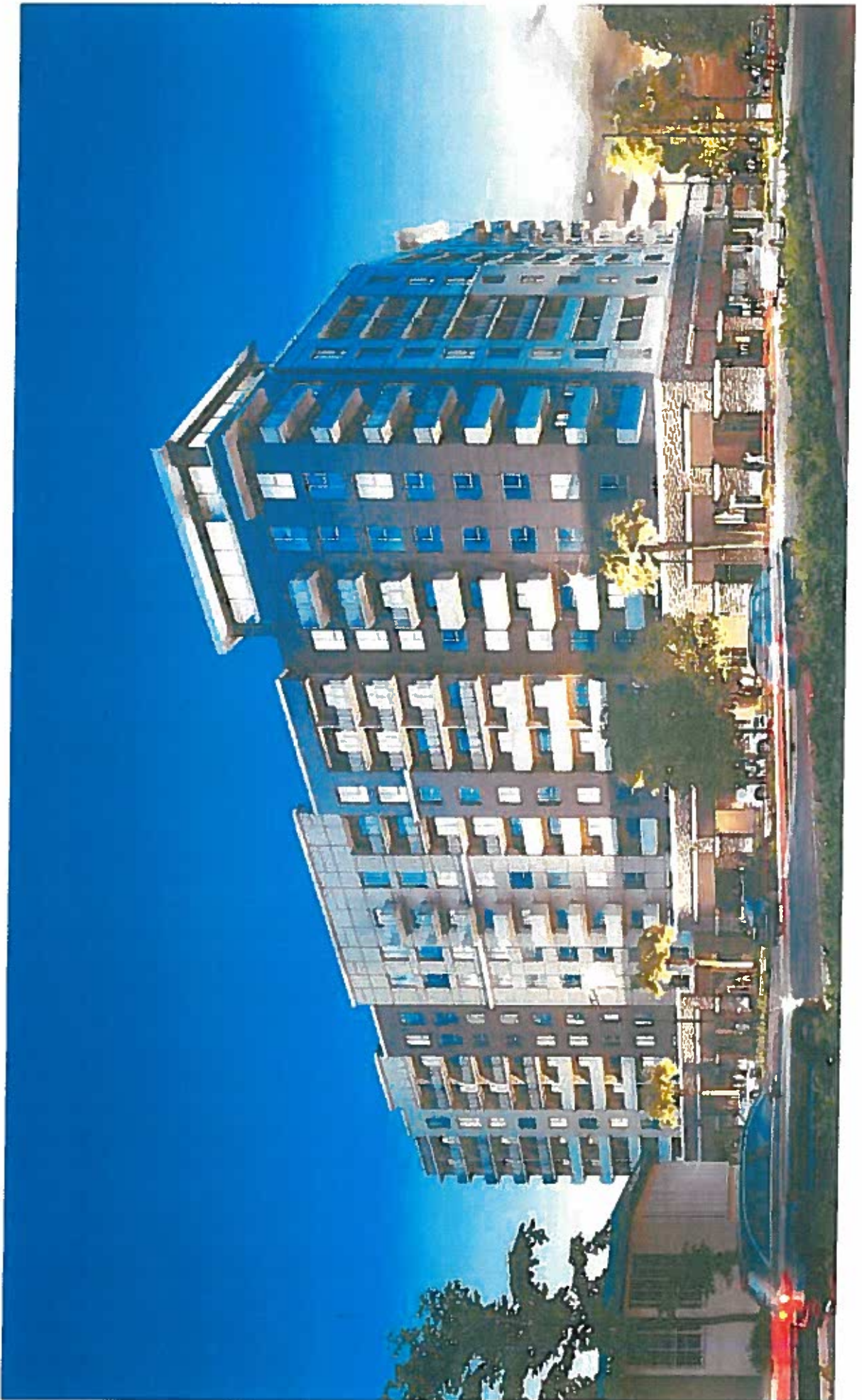
  
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Date

## **Description**

The Project is a planned 282-unit, Class A, ten-story, luxury rental residential project, located on 1.90 acres of land with a 300 car structured parking garage and on street parking, approximately 5,433 net rentable square feet of ground floor retail, and 5<sup>th</sup> floor pool and amenity deck that is located in the Old Town area of the City of Pompano Beach's Down Town Innovation District. The subject site is located approximately 3 blocks north of Atlantic Boulevard, approximately one block east of Dixie Highway on the SE corner of NE 1st Avenue and NE 3rd Street. The project amenities will include a resort style swimming pool and sun deck, yoga deck, gazebo, clubhouse, state of the art fitness facility, common area Wi-Fi, and recreational center among other amenities. Target renters are young professionals who are willing to exchange unit square footage for highly amenitized common areas. The property will feature a public plaza with a feature fountain, gardens, and benches which will provide a public gathering place and a focal point on the visible southwest corner of the site. The colonnade is also a covered gathering feature that provides lineal open space for the public along two streets. The project is proposed in an area that is in the very early stages of transitioning into a more walkable urban neighborhood, which is the focus of the CRA's downtown revitalization efforts.























LOCATION SKETCH  
M.T.S.












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## QUALITY MATTER

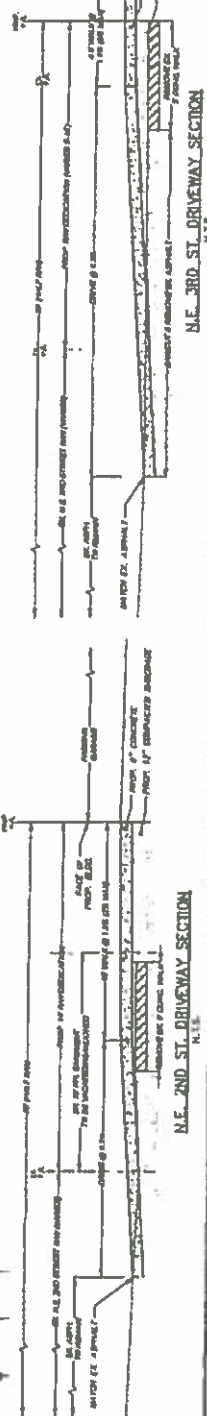
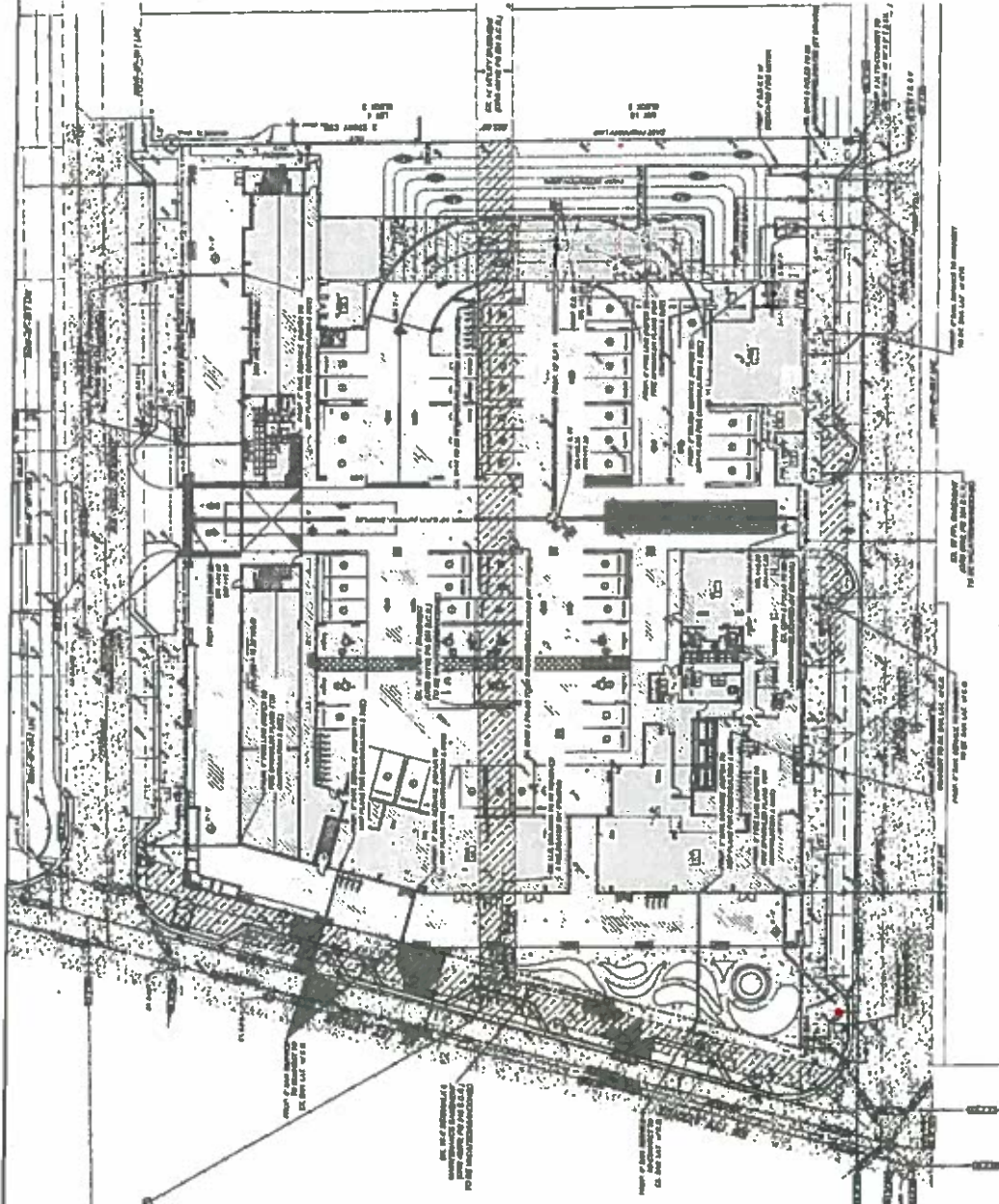
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## LEGEND

- 48 HOURS SERVICE GUARANTEE  
 1-800-432-4770  
 THE ASSOCIATED BOOKS  
 THE ASSOCIATED BOOKS

- |   |  |
|---|--|
|  | Very Excellent Results                     |
|  | Very Good Improvement in 7 Year History    |
|  | Good in the last 5 years, results becoming |
|  | Less and less desirable, trend towards     |
|  | Increasing frequency, average 100,000      |
|  | Improvement 100,000 to 150,000             |
|  | From 150,000 to 200,000                    |
|  | From 200,000 to 250,000                    |
|  | From 250,000 to 300,000                    |
|  | From 300,000 to 350,000                    |
|  | From 350,000 to 400,000                    |

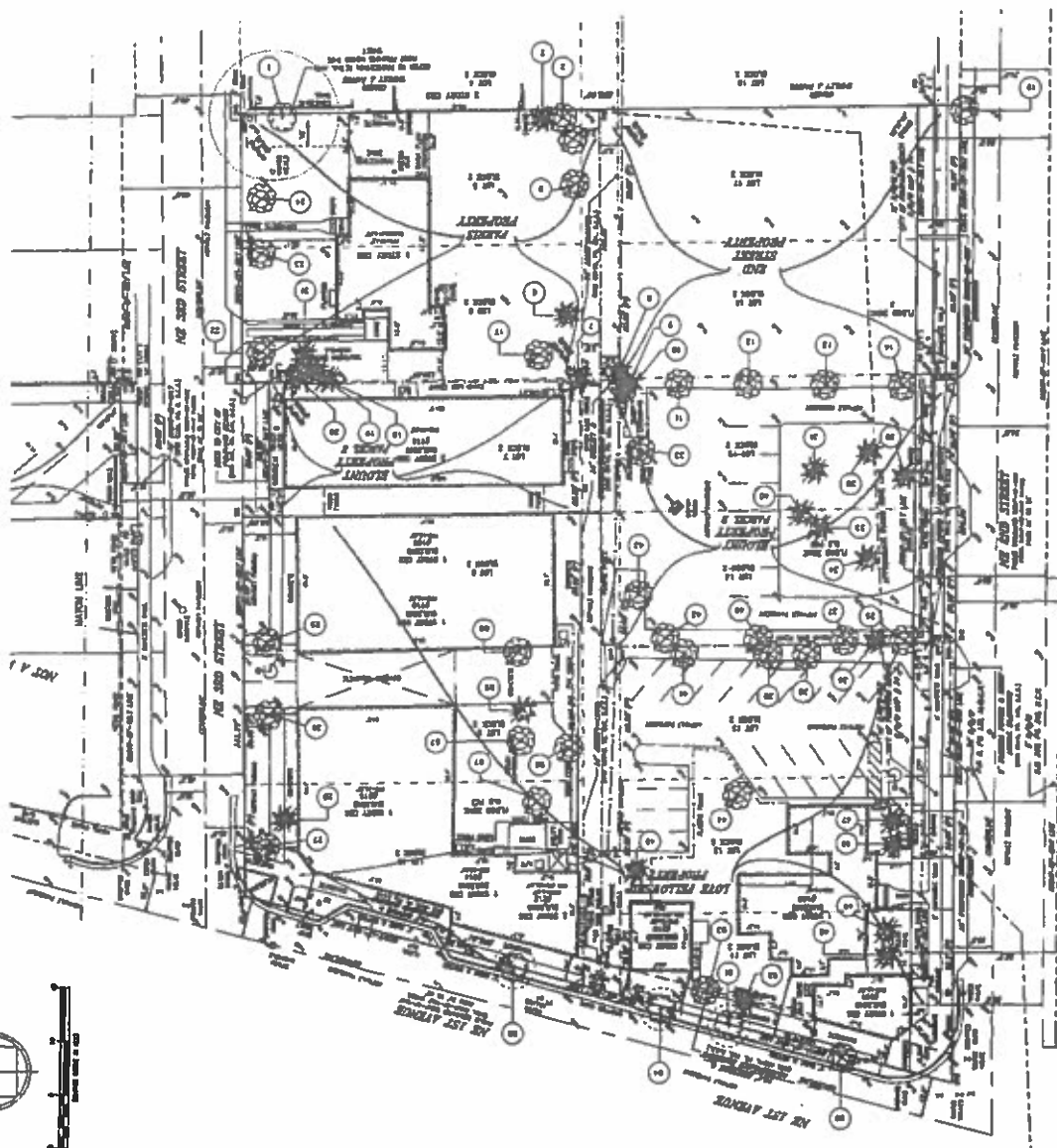
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THIS PLAN IS FOR REVIEW  
PURPOSES ONLY AND IS  
SUBJECT TO CONVEYANCE  
APPROVAL NOT FOR  
CONSTRUCTION



**N.E. 2ND ST. DRIVEWAY SECTION**

N.E. 3RD ST. DRIVEWAY SECTION

WILLIAM B. JAMES 17-11-1884

[illegible]

TESTING RUIZ

KEY

1. ☒ 2. ☐ 3. ☐ 4. ☐ 5. ☐ 6. ☐ 7. ☐ 8. ☐ 9. ☐ 10. ☐ 11. ☐ 12. ☐ 13. ☐ 14. ☐ 15. ☐ 16. ☐ 17. ☐ 18. ☐ 19. ☐ 20. ☐ 21. ☐ 22. ☐ 23. ☐ 24. ☐ 25. ☐ 26. ☐ 27. ☐ 28. ☐ 29. ☐ 30. ☐ 31. ☐ 32. ☐ 33. ☐ 34. ☐ 35. ☐ 36. ☐ 37. ☐ 38. ☐ 39. ☐ 40. ☐ 41. ☐ 42. ☐ 43. ☐ 44. ☐ 45. ☐ 46. ☐ 47. ☐ 48. ☐ 49. ☐ 50. ☐ 51. ☐ 52. ☐ 53. ☐ 54. ☐ 55. ☐ 56. ☐ 57. ☐ 58. ☐ 59. ☐ 60. ☐ 61. ☐ 62. ☐ 63. ☐ 64. ☐ 65. ☐ 66. ☐ 67. ☐ 68. ☐ 69. ☐ 70. ☐ 71. ☐ 72. ☐ 73. ☐ 74. ☐ 75. ☐ 76. ☐ 77. ☐ 78. ☐ 79. ☐ 80. ☐ 81. ☐ 82. ☐ 83. ☐ 84. ☐ 85. ☐ 86. ☐ 87. ☐ 88. ☐ 89. ☐ 90. ☐ 91. ☐ 92. ☐ 93. ☐ 94. ☐ 95. ☐ 96. ☐ 97. ☐ 98. ☐ 99. ☐ 100. ☐ 101. ☐ 102. ☐ 103. ☐ 104. ☐ 105. ☐ 106. ☐ 107. ☐ 108. ☐ 109. ☐ 110. ☐ 111. ☐ 112. ☐ 113. ☐ 114. ☐ 115. ☐ 116. ☐ 117. ☐ 118. ☐ 119. ☐ 120. ☐ 121. ☐ 122. ☐ 123. ☐ 124. ☐ 125. ☐ 126. ☐ 127. ☐ 128. ☐ 129. ☐ 130. ☐ 131. ☐ 132. ☐ 133. ☐ 134. ☐ 135. ☐ 136. ☐ 137. ☐ 138. ☐ 139. ☐ 140. ☐ 141. ☐ 142. ☐ 143. ☐ 144. ☐ 145. ☐ 146. ☐ 147. ☐ 148. ☐ 149. ☐ 150. ☐ 151. ☐ 152. ☐ 153. ☐ 154. ☐ 155. ☐ 156. ☐ 157. ☐ 158. ☐ 159. ☐ 160. ☐ 161. ☐ 162. ☐ 163. ☐ 164. ☐ 165. ☐ 166. ☐ 167. ☐ 168. ☐ 169. ☐ 170. ☐ 171. ☐ 172. ☐ 173. ☐ 174. ☐ 175. ☐ 176. ☐ 177. ☐ 178. ☐ 179. ☐ 180. ☐ 181. ☐ 182. ☐ 183. ☐ 184. ☐ 185. ☐ 186. ☐ 187. ☐ 188. ☐ 189. ☐ 190. ☐ 191. ☐ 192. ☐ 193. ☐ 194. ☐ 195. ☐ 196. ☐ 197. ☐ 198. ☐ 199. ☐ 200. ☐ 201. ☐ 202. ☐ 203. ☐ 204. ☐ 205. ☐ 206. ☐ 207. ☐ 208. ☐ 209. ☐ 210. ☐ 211. ☐ 212. ☐ 213. ☐ 214. ☐ 215. ☐ 216. ☐ 217. ☐ 218. ☐ 219. ☐ 220. ☐ 221. ☐ 222. ☐ 223. ☐ 224. ☐ 225. ☐ 226. ☐ 227. ☐ 228. ☐ 229. ☐ 230. ☐ 231. ☐ 232. ☐ 233. ☐ 234. ☐ 235. ☐ 236. ☐ 237. ☐ 238. ☐ 239. ☐ 240. ☐ 241. ☐ 242. ☐ 243. ☐ 244. ☐ 245. ☐ 246. ☐ 247. ☐ 248. ☐ 249. ☐ 250. ☐ 251. ☐ 252. ☐ 253. ☐ 254. ☐ 255. ☐ 256. ☐ 257. ☐ 258. ☐ 259. ☐ 260. ☐ 261. ☐ 262. ☐ 263. ☐ 264. ☐ 265. ☐ 266. ☐ 267. ☐ 268. ☐ 269. ☐ 270. ☐ 271. ☐ 272. ☐ 273. ☐ 274. ☐ 275. ☐ 276. ☐ 277. ☐ 278. ☐ 279. ☐ 280. ☐ 281. ☐ 282. ☐ 283. ☐ 284. ☐ 285. ☐ 286. ☐ 287. ☐ 288. ☐ 289. ☐ 290. ☐ 291. ☐ 292. ☐ 293. ☐ 294. ☐ 295. ☐ 296. ☐ 297. ☐ 298. ☐ 299. ☐ 300. ☐ 301. ☐ 302. ☐ 303. ☐ 304. ☐ 305. ☐ 306. ☐ 307. ☐ 308. ☐ 309. ☐ 310. ☐ 311. ☐ 312. ☐ 313. ☐ 314. ☐ 315. ☐ 316. ☐ 317. ☐ 318. ☐ 319. ☐ 320. ☐ 321. ☐ 322. ☐ 323. ☐ 324. ☐ 325. ☐ 326. ☐ 327. ☐ 328. ☐ 329. ☐ 330. ☐ 331. ☐ 332. ☐ 333. ☐ 334. ☐ 335. ☐ 336. ☐ 337. ☐ 338. ☐ 339. ☐ 340. ☐ 341. ☐ 342. ☐ 343. ☐ 344. ☐ 345. ☐ 346. ☐ 347. ☐ 348. ☐ 349. ☐ 350. ☐ 351. ☐ 352. ☐ 353. ☐ 354. ☐ 355. ☐ 356. ☐ 357. ☐ 358. ☐ 359. ☐ 360. ☐ 361. ☐ 362. ☐ 363. ☐ 364. ☐ 365. ☐ 366. ☐ 367. ☐ 368. ☐ 369. ☐ 370. ☐ 371. ☐ 372. ☐ 373. ☐ 374. ☐ 375. ☐ 376. ☐ 377. ☐ 378. ☐ 379. ☐ 380. ☐ 381.

[illegible]

THE FIELD WORK WAS COMPLETED ON AUGUST 11, 1977.

FOR THE FILE OF \_\_\_\_\_

FLORIDA CITIZENS FOR  
NATIONAL SERVICE AND  
CIVIL DEFENSE

[illegible]

## ALTA/NSPS LAND TITLE SURVEY

**CLIENT :**  
**CAVACHE PROPERTIES**

**COUSINS SURVEYORS & ASSOCIATES, INC.**  
3923 SW 47TH AVENUE, SUITE 1011  
DAVE, FLORIDA 33314  
CORPORATE OFFICE OF AUTHORIZATION : LG # 0448  
PHONE (954) 890-7766 FAX (954) 890-7766

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SEALS: 1" x 30"

2



























PROJECT NUMBER: 1000  
ARCHITECTS: ADACHE GROUP ARCHITECTS  
DESIGNER: ADACHE GROUP ARCHITECTS  
ENGINEER: ADACHE GROUP ARCHITECTS  
LANDSCAPE ARCHITECT: ADACHE GROUP ARCHITECTS

STRUCTURAL

MEP ENGINEER

ENVIRONMENTAL

ADACHE PROPERTIES, LLC

OLD TOWN SQUARE

MEP

MEP ENGINEER

MEP ENGINEER

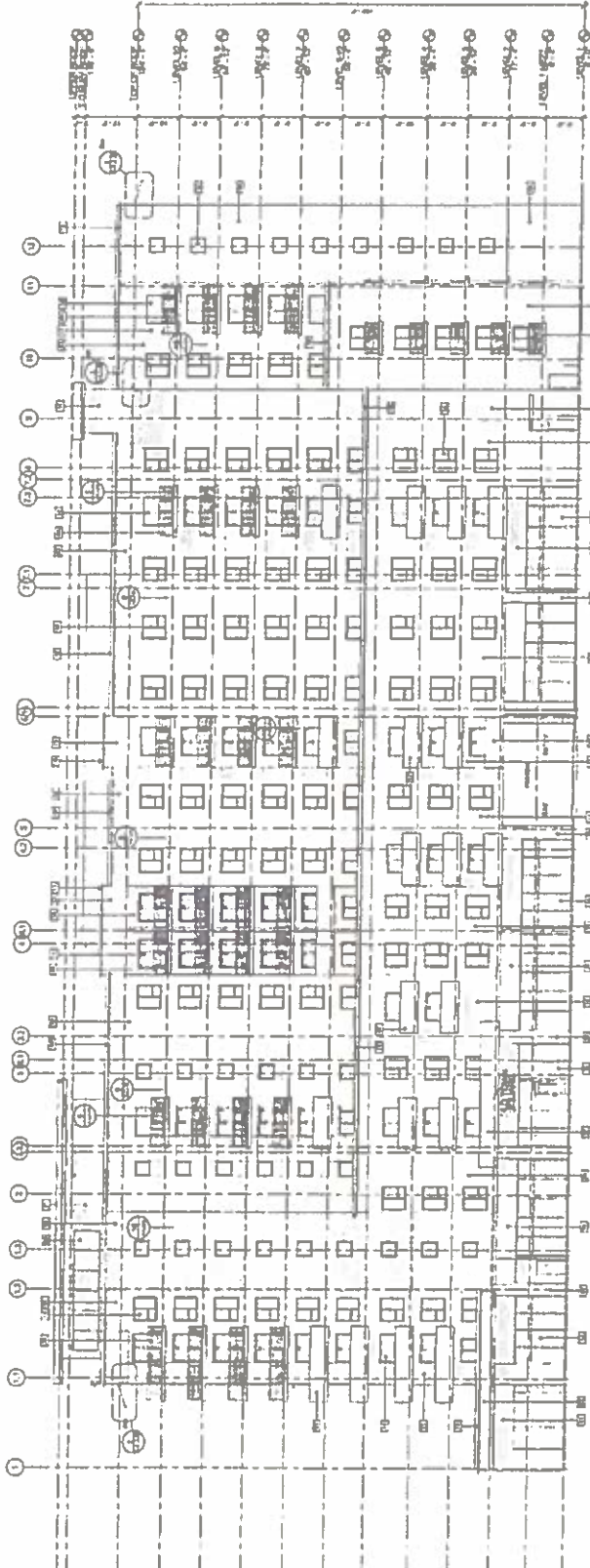
MEP ENGINEER

ADACHE GROUP ARCHITECTS  
1000 10TH AVENUE, SUITE 1000  
DENVER, CO 80202  
TEL: 303.733.1000  
WWW.ADACHEGROUPARCHITECTS.COM

DATE: 01/15/14  
SCALE: 1/8" = 1'-0"  
PROJECT: OLD TOWN SQUARE  
SHEET: A-2.1.02

A-2.1.02

NO.	REVISION	DATE
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100	REVISED PER CITY COMMENTS	01/15/14



1 SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"









### **Infrastructure Improvements**

The Old Town Square project will bring critical mass from its own residence and guests alone, plus streetscapes & award-winning architecture, plus its own retail and restaurants, but most importantly, it will bring the encouragement for other developments, retail, restaurants and other businesses to follow. The property will feature a public plaza with a feature fountain, gardens, and benches which will provide a public gathering place and a focal point on the visible southwest corner of the site. The colonnade is also a covered gathering feature that provides lineal open space for the public along two streets.

In addition, the project will be providing the city with the following improvements.

Dedication of approximately .306 lineal street-front acres (13,329 SF) (947 lineal feet) of property to city

Widening the city streets and providing on-street parking of 21 spaces to the city.

Adding storm drains, gutters, paving, sidewalks and curbing to city property

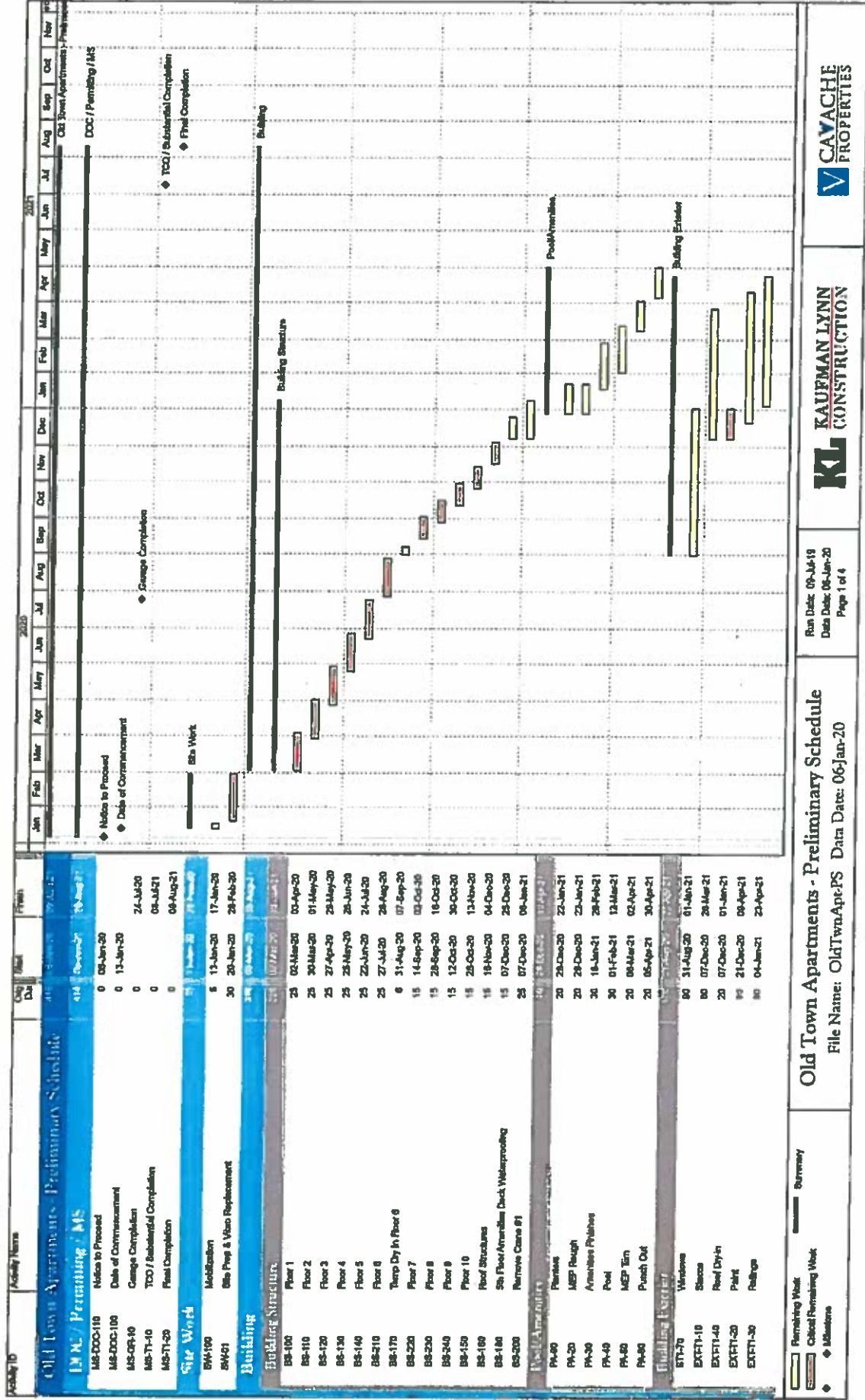
Adding landscaping, tree grates, and irrigation on city property.

Adding decorative street lighting to city property.

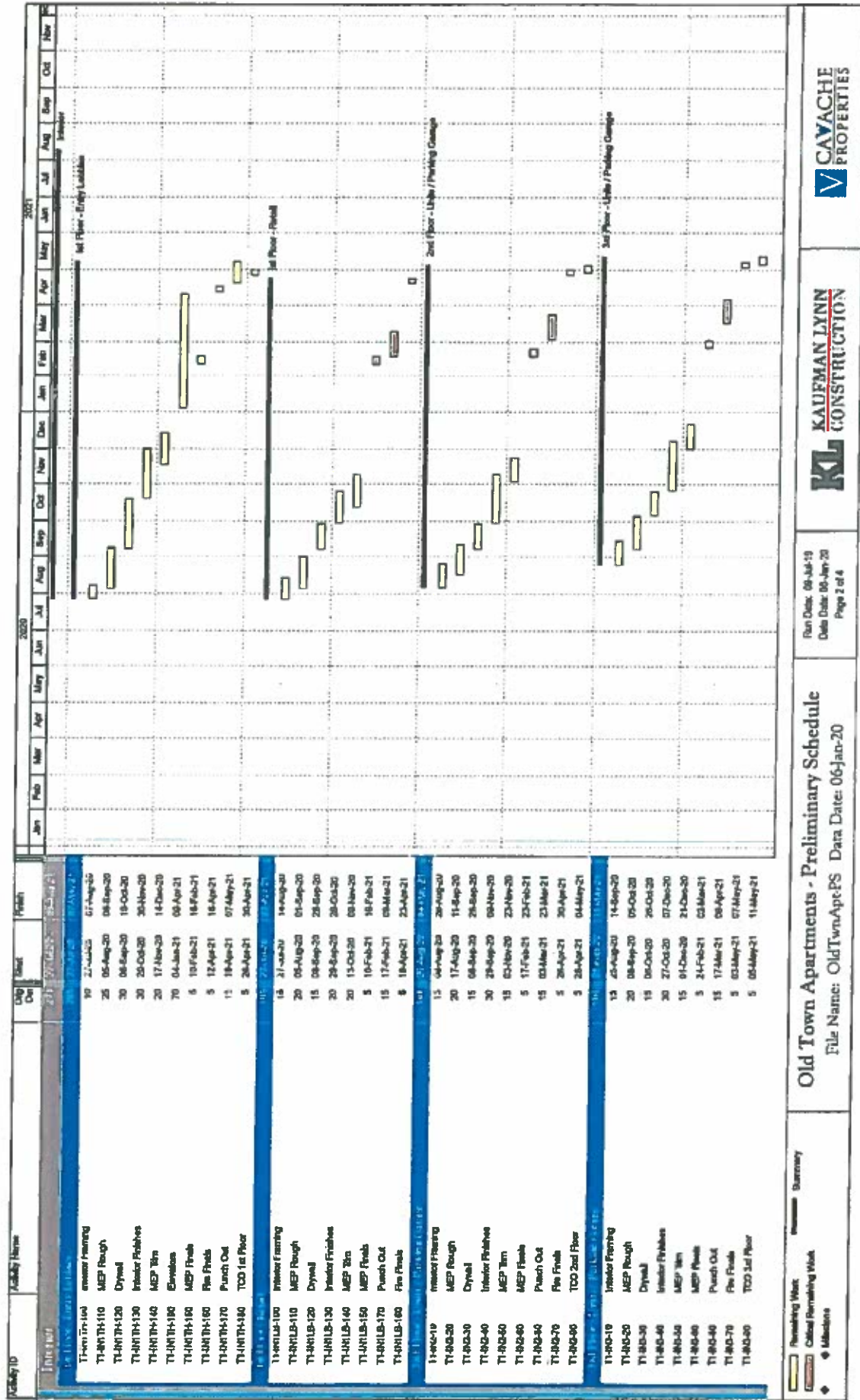
Undergrounding overhead FPL lines which is a desirable feature for all municipalities

Total for City / Public Benefit provided from above mentioned items as itemized by Kaufman Lynn  
Construction- \$975,000

# Project Schedule



# Project Schedule



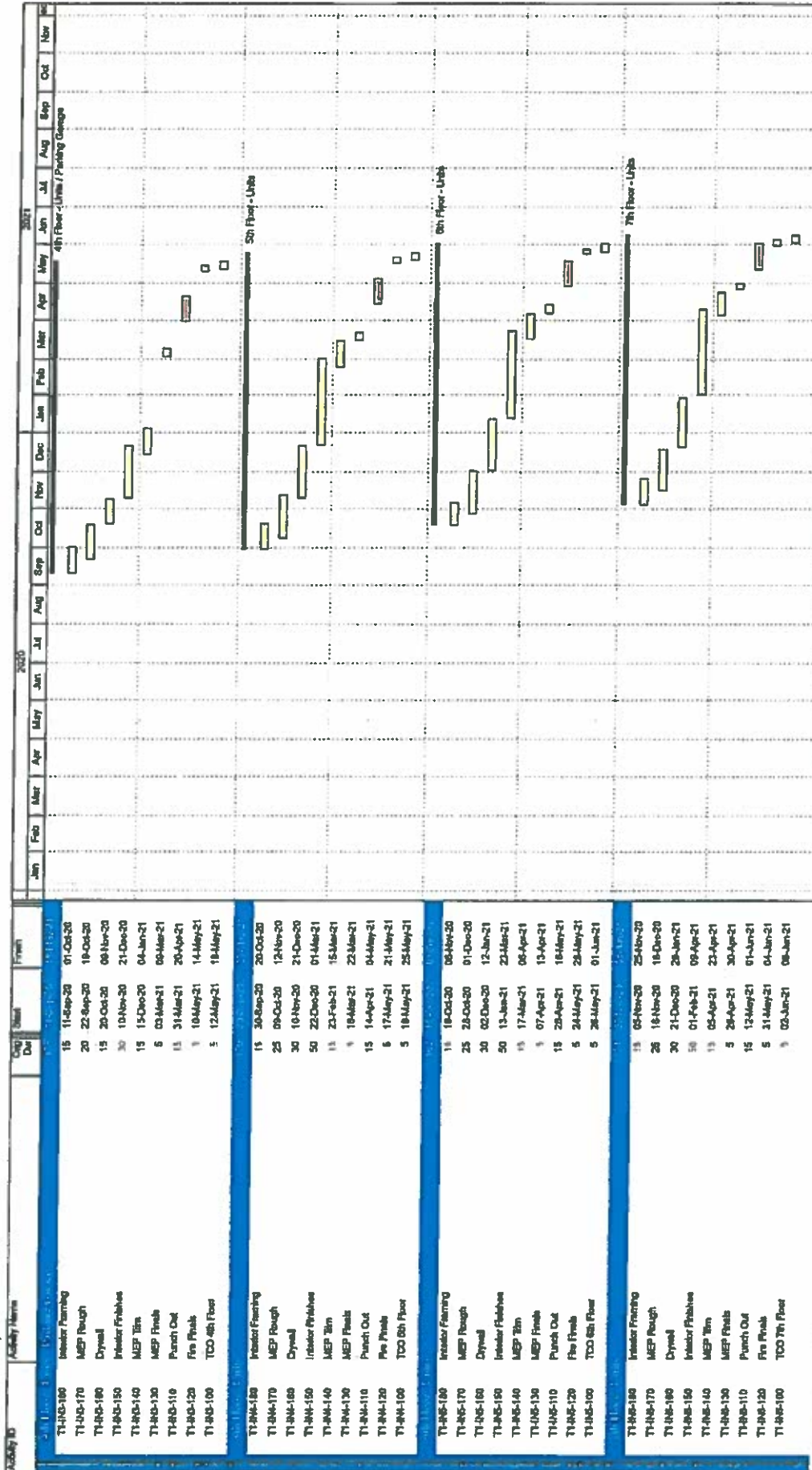
Run Date: 06-Jul-19  
Data Date: 06-Jun-20  
Page 2 of 4

Old Town Apartments - Preliminary Schedule  
File Name: OldTwnAptPS Data Date: 06-Jan-20

Summary  
Pending Work  
Critical Remaining Work  
Milestones



# Project Schedule



Remaining Work  
 Callout Remaining Work  
 Milestones

Summary

## Old Town Apartments - Preliminary Schedule

File Name: OldTwnAptPS Data Date: 06-Jan-20

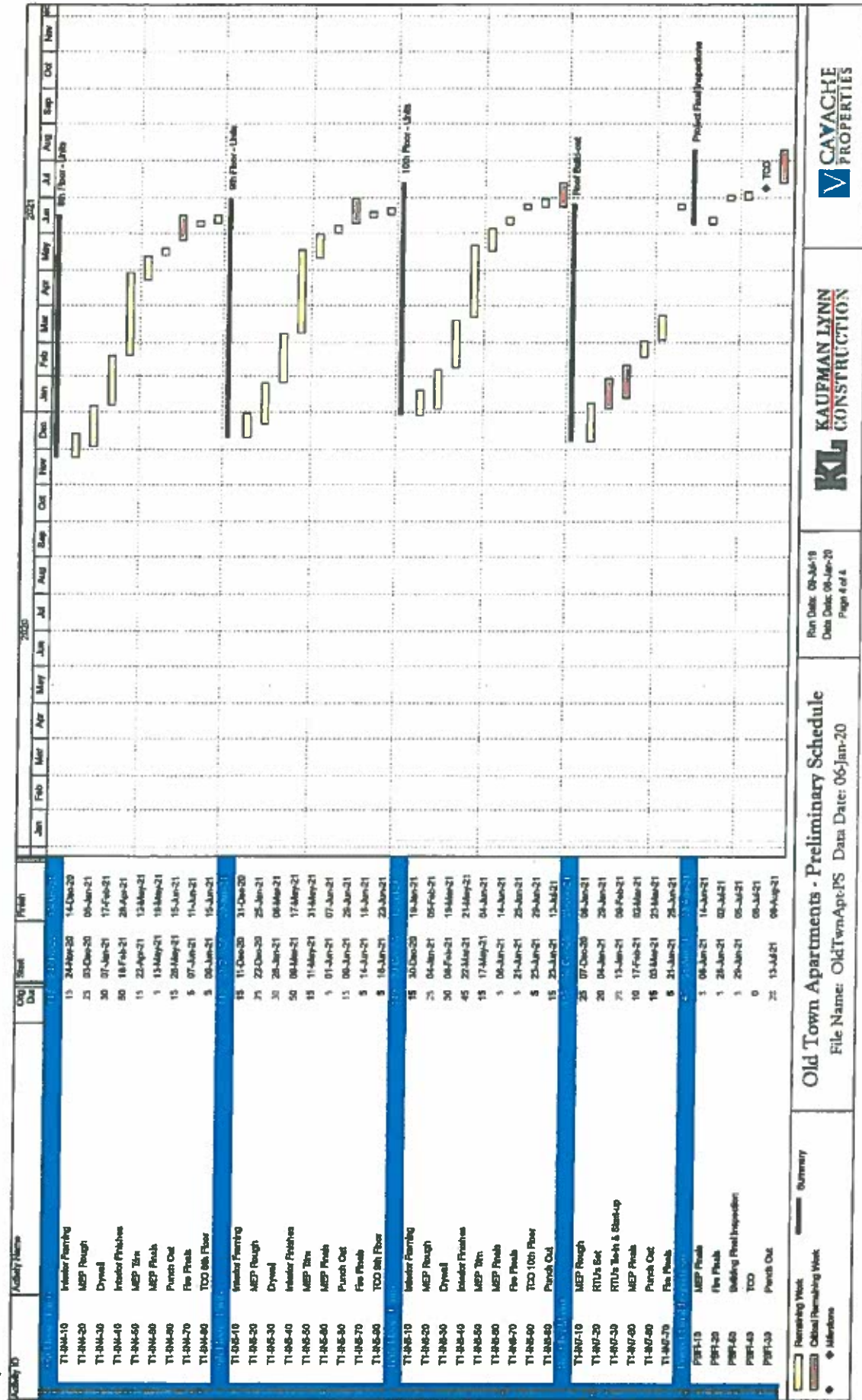
Run Date: 05-Jul-19  
 Data Date: 05-Jun-20  
 Page 3 of 4



KAUFMAN LYNN  
CONSTRUCTION



# Project Schedule



Old Town Apartments - Preliminary Schedule  
 File Name: OldTwnApts.PS Data Date: 06-Jan-20

**KL KAUFMAN LYNN CONSTRUCTION**

Run Date: 09-Jul-19  
 Data Date: 06-Jan-20  
 Page 4 of 4

**CAVACHE PROPERTIES**

## **The Team:**

Cavache Properties LLC is a real estate development and investment company based in Pompano Beach, Florida. The company is comprised of well-known and seasoned management, board members, and investors who have collectively been involved in the design and development of billions of dollars in commercial and residential real estate, representing thousands of residential units and millions of square feet of office and retail space. The team consists of developers, architects, general contractors, land development contractors, real estate brokers and investment professionals.

The company is currently acquiring land and properties for commercial and residential development throughout South Florida. The Cavache Properties management team has been involved in the design, development, and sales and marketing of multiple commercial and residential projects since 1969. This includes multifamily, hotels, single family homes, townhomes, retail, office and more.

### **Daniel E. Adache**

Education: Bachelor of Architecture, University of Illinois

Registrations: National Council of Architectural Registration Boards in States of: FL, OH, CA, NJ, CT, NC, CO, GA, MO, TN, MS, SC, LA, UT, NH District of Columbia, US Virgin Islands Certification:

Daniel E. Adache, AIA, In addition to serving as Managing Director of Cavache Properties, Adache has been Chairman of his award-winning architectural firm, Adache Group Architects, since its inception in 1969. The firm has designed over 20,000 multi-family units and over 200 hotels and resorts worldwide. In his entrepreneurial spirit, Adache brings a broad range of value from his years of experience, not only as an award winning Architect, but as a successful real estate developer and general contractor, as well. This range of accumulated experience, accompanied with his creative talent has set the tone and demands upon Adache Group for fifty years; resulting in exceptional world class architecture, with a reputation that far exceeds the competition in quality, value, and bottom-line efficiency.

As a developer Adache has often been referred to as the developer's architect. Adache has been involved in the development of multiple condominium, multifamily, hospitality, and townhome projects throughout the state of Florida and abroad.

Adache has been the president of the American Institute of Architects (Broward County Chapter), director of the Florida AIA, member of the American Arbitration Association, co-founder of the Ft. Lauderdale Community Appearance Board, member of the Ft Lauderdale Code Enforcement Board, member of the Broward County School Board

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Architecture Selection Committee, and Trustee of the Greater Ft. Lauderdale Chamber of Commerce.

Adache has extensively traveled and worked with clients, architects and developers all over the world including the Caribbean, Latin America, Europe and Asia. These cultural experiences have broadened his international knowledge where he has learned to not only adapt his American ingenuity to his projects abroad, but to bring a variety of knowledge to his domestic projects. Five decades of entrepreneurial spirit, coupled with a broad variety and depth of experience in the construction industry has given Dan Adache the necessary ingredients to manage and maintain an award winning successful architectural firm and multiple development projects.

#### **Adam D. Adache**

Mr. Adache is a managing partner of Cavache Properties and manages various aspects of the day to day operations of the company along with the other partners. More specifically he oversees the property selection, feasibility, investment and due diligence of various properties and manages the entire construction process through completion of each project. He brings a wide range of construction, real estate, and development experience to the team.

As a principal, Mr. Adache has been involved in the development, sales and marketing, and management on multiple commercial and residential real estate projects in Florida.

Mr. Adache is also the Managing Partner of Adache Real Estate LLC, a Principle in Adache Group Architects and Co-founder and Owner of Cavache, Inc. a dredging and land development contractor that has site developed over 2,000 acres of land throughout the state of Florida and currently performs hydraulic dredging and marine construction work on multiple state and federal jobs throughout the state of Florida.

Mr. Adache is a state certified licensed General Contractor and a licensed Real Estate Broker in the State of Florida.

#### **Anthony Cavo**

Mr. Cavo is a managing member of Cavache Properties and along with the other partners, manages the day to day operations of the company. More specifically, overseeing the site selection, construction due diligence, estimating, construction cost analysis, and project feasibility.

Years of experience and generations of knowledge provide a backbone of preparedness and problem solving expertise to each and every project. Mr. Cavo has had over 20 years of involvement in residential and commercial real estate, land development as well as road construction and utility installation. His hands-on expertise

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include the project management of over 200 employees on various jobsites bringing invaluable experience to the team.

Mr. Cavo is also an Owner and co-founder of Cavache, Inc. a dredging and land development contractor that has site developed over 2,000 acres of land throughout the State of Florida and currently performs hydraulic dredging and marine construction work on multiple state and federal jobs throughout the state of Florida.

Mr. Cavo is a Contractor and active real estate Investor.

### **Business Plan**

The Old Town Square Project is a New Project planned at the Southeast corner of NE 1<sup>st</sup> Avenue and NE 3<sup>rd</sup> Street in the heart of the Old Town District in Pompano Beach.

Designed by the award winning Adache Group, this Class A, ten-story, luxury rental residential project will offer smaller but efficient units, focusing on multiple project amenities, and walkability to the numerous, local shops, restaurants, and cultural amenities planned by the City of Pompano Beach.

The Old Town Square Project will feature amenities that include 5<sup>th</sup> floor pool deck, green area for aerobics/yoga, gazebo, clubhouse, restrooms with a sauna, mailroom and billiard room. It will also contain a structured parking garage with storage lockers, bicycle areas, community areas, wi-fi access throughout the common space.

The property will feature a public plaza with a feature fountain, gardens, and benches which will provide a public gathering place and a focal point on the visible southwest corner of the site. The colonnade is also a covered gathering feature that provides lineal open space for the public along two streets. The project is proposed in an area that is in the very early stages of transitioning into a more walkable urban neighborhood, which is the focus of the CRA's downtown revitalization efforts.

### **TIF Request**

CP Old Town Square LLC is requesting an allocation of Tax Increment Financing (TIF) to the Old Town Square project through an annual allocation of ad valorem taxes generated from the project to assist in funding this new development. But for this assistance, the project would not be financially feasible because there are no market rate projects in this area for lenders, investors and equity partners to evaluate the investment risk. As a pioneer in this area for this new type of development, we are requesting this TIF to provide gap financing and to provide market stability to the project.

### **Overview**

The Old Town Square Project is estimated to cost approximately \$63,000,000 to develop the 282-unit apartment project as described herein.

The estimates provided based on hard bids from the Developer and General Contractor and rounded to the nearest \$100,000.

Due to the limited amount of market rate apartment development within Old Town, the current blight in the area, and the overall limited development within the Innovation District to the west, the developer is seeking assistance in the form of Tax Increment Financing. Capital providers are viewing this property with more risk and are requiring a higher return, estimated at 7.0% or greater.

The difference in cost required to achieve a 7.0% return versus a 6.11% return is approximately \$7,800,000 or more specifically reducing cost to \$55,000,000 from the actual cost estimate of \$63,000,000.

## Pro Forma

Description	\$	%
<b>Sources</b>		
Debt	\$ 43,000,000.00	68.30%
<u>Equity</u>	<u>\$ 20,000,000.00</u>	<u>31.70%</u>
<b>Total Sources</b>	<b>\$ 63,000,000.00</b>	<b>100.00%</b>
<b>Uses</b>		
Land	\$ 3,800,000.00	6.00%
Hard Costs	\$ 47,600,000.00	75.60%
Soft Costs	\$ 7,620,000.00	12.10%
<u>Financing</u>	<u>\$ 3,980,000.00</u>	<u>6.30%</u>
<b>Total Uses</b>	<b>\$ 63,000,000.00</b>	<b>100.00%</b>
Net Operating Income	\$ 3,850,000.00	
Return on Cost		6.11%

Gap	\$	%
Return on Cost Required		7.00%
Adjusted Cost	\$ 55,000,000.00	
TIF Gap	\$ 7,800,000.00	

# WALKER & DUNLOP

July 8<sup>th</sup>, 2019

Adam Adache  
Managing Partner  
Cavache Properties, LLC  
2125 E. Atlantic Blvd.  
Pompano Beach, FL 33062

RE: Old Town Square Project  
City of Pompano Beach – CRA  
TIF Financing

Dear Adam:

Based on your current project economics and the proforma, it is my professional opinion that but for the TIF Financing the project is not feasible to develop. Current market conditions require a minimum of a 7.0% development yield (return on cost) in order to be financially feasible. More specifically, the project cost would have to be reduced by approximately \$7.8 million to achieve the 7.0% minimum return that current market conditions require.

Please contact me if you have any questions.

Respectfully Submitted,



Shannon Rex  
Senior Vice President



This Instrument prepared by:  
*John H. Adair III, Esq*  
*Doumar, Allsworth, et al*  
*1177 Southeast Third Avenue*  
*Fort Lauderdale, Florida 33316-1197*

## MORTGAGE AND SECURITY AGREEMENT

THIS IS AN EIGHTEEN MONTH BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$2,200,000.00, TOGETHER WITH ACCRUED INTEREST AND OTHER CHARGES, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS MORTGAGE.

THIS MORTGAGE, made effective as of July 13, 2017, between CP OLD TOWN SQUARE, LLC, a Florida limited liability company (hereinafter referred to as "Borrower"), whose address is 550 S Federal Highway, Ft Lauderdale, FL 33301 and AMERICAN NATIONAL BANK, a National Banking Association (hereinafter referred to as "Lender"), whose address is 4301 North Federal Highway, Oakland Park, Florida 33308.

WHEREAS, Borrower is justly indebted to Lender in the sum of TWO MILLION TWO HUNDRED THOUSAND and 00/100 Dollars (U.S. \$2,200,000.00), evidenced by Borrower's Commercial Promissory Note of this date ("Note"), and extension and renewals thereof, providing for periodic payments, with final payment being due on January 13, 2019, unless otherwise extended as provided for herein.

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage or enforce the terms thereof, and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of Broward State of Florida, to wit:

SEE LEGAL ATTACHED HERETO AS EXHIBIT "A"

(the "Lands") which has the addresses of 112 NE 3rd Street, 212-216 NE 1st Avenue, 101-103 NE 2nd Street, 101-103 NE 2nd Street, 116 NE 3rd Street, NE 2nd Street (2x), and NE 3rd Street, Pompano Beach, FL 33060 (herein "Property Address").

TOGETHER WITH the following:

(a) Appurtenances. The benefit of all easements and other rights of any nature whatsoever, if any, appurtenant to the Land or the Improvements, or both, the benefit of all rights-of-way, strips and gores of land, streets, alleys, passages, drainage rights, sanitary sewer and potable water rights, stormwater drainage rights, rights of ingress and egress to the Land and all adjoining property, and any improvements of Borrower now or hereafter located on any of such real property interests, water rights and powers, oil, gas, mineral and riparian and littoral rights, whether now existing or hereafter arising, together with the reversion or reversions, remainder or remainders, rents, issues, incomes and profits of any of the foregoing (the "Appurtenances").

(b) Improvements. All buildings, structures, betterments and other improvements of any nature now or hereafter situated in whole or in part upon the Land or on the Appurtenances, regardless of whether physically affixed thereto or severed or capable of severance therefrom (the "Improvements").

(c) Tangible Property. All of Borrower's right, title and interest, if any, in and to all fixtures,

equipment and tangible personal property of any nature whatsoever that is now or hereafter (i) attached or affixed to the Land, the Appurtenances, or the Improvements, or (ii) situated upon or about the Land, the Appurtenances and/or the Improvements, regardless of whether physically affixed thereto or severed or capable of severance therefrom, or (iii) used, regardless of where situated, if used, usable or intended to be used, in connection with any present or future use or operation of or upon the Land. The foregoing includes without limitation: all goods and inventory, all heating, air conditioning, lighting, incinerating and power equipment; all engines, compressors, pipes, pumps, tanks, motors, conduits, wiring, and switchboards; all plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, and communications and public address apparatus; all signage and recreational amenities including, without limitation, swimming pools, exercise equipment, tennis courts, clubhouse furnishings or saunas; all boilers, furnaces, oil burners, vacuum cleaning systems, elevators and escalators; all stoves, ovens, ranges, disposal units, dishwashers, water heaters, exhaust systems, refrigerators, cabinets, and partitions; all rugs, draperies and carpets; all laundry equipment; all building materials; all furniture (including, without limitation, any outdoor furniture), furnishings, office equipment and office supplies; and all additions, accessions, renewals, replacements and substitutions of any or all of the foregoing. The property interests encumbered and described by this Paragraph are called the "Tangible Property" in this Mortgage.

(d) Rents. All rents, issues, incomes and profits in any manner arising from the Land, Improvements, Appurtenances or Tangible Property, or any combination thereof, including Borrower's interest in and to all leases of whatsoever kind or nature, licenses, franchises and concessions of or relating to all or any portion of the Land, Appurtenances, Improvements or Tangible Property, or the operation thereof, whether now existing or hereafter made, including all amendments, modifications, replacements, substitutions, extensions, renewals or consolidations thereof. The property interests encumbered and described in this subparagraph are called the "Rents" in this Mortgage.

(e) Secondary Financing. All of Borrower's right, power or privilege to further encumber any of the Collateral described herein, it being intended by this provision to divest Borrower of the power to encumber or to grant a security interest in any of the Collateral as security for the performance of any other obligation.

THIS IS A FIRST MORTGAGE and is junior and subordinate to no other mortgage.

(f) Proceeds. All proceeds of the conversion, voluntary or involuntary, of any of the property encumbered by this Mortgage into cash or other liquidated claims, or that are otherwise payable for injury to or the taking or requisitioning of any such property, including all judgments, settlements and insurance and condemnation proceeds as provided in this Mortgage.

(g) Contract Rights. All of Borrower's right, title and interest in and to any and all contracts or leases, written or oral, express or implied, now existing or hereafter entered into or arising, in any matter related to the improvement, use, operation, sale, conversion or other disposition of any interest in the Land, Appurtenances, Improvements, Tangible Property or the Rents, or any combination thereof, including all tenant leases, sales contracts, reservation deposit agreements, any and all deposits, prepaid items, and payments due and to become due thereunder; and including, without limitation, contracts pertaining to maintenance, on-site security service, elevator maintenance, landscaping services, building or project management, marketing, leasing, sales and janitorial services; Borrower's interests as lessee in equipment leases, including telecommunications, computers, vending machines, model furniture, televisions, laundry equipment; and Borrower's interests in construction contracts or documents (including architectural drawings and plans and specifications relating to the Improvements), service contracts, use and access agreements, advertising contracts and purchase orders. The property interests encumbered and described in this subparagraph are called the "Contract Rights" in this Mortgage.

Notwithstanding the foregoing, Lender will not be bound by any of Borrower's obligations under any of the foregoing contracts unless and until Lender elects to assume any of such contracts or leases in writing.

(h) Name. All right, title and interest of Borrower in and to all trade names, project names, logos, service marks, trademarks, goodwill, and slogans now or hereafter used in connection with the operation of the Mortgaged Property.

(i) Other Intangibles. All contract rights, commissions, money, deposits, certificates of deposit, letters of credit, documents, instruments, chattel paper, accounts, and general intangibles [as such terms from time to time are defined in the Uniform Commercial Code as adopted by the State of Florida (the "Uniform Commercial Code")], in any manner related to the construction, use, operation, sale, conversion or other disposition (voluntary or involuntary) of the Land, Appurtenances, Improvements, Tangible Property or Rents, including all construction plans and specifications, architectural plans, engineering plans and specifications, permits, governmental or quasi-governmental approvals, licenses, developer rights, vested rights under any Planned Unit Development or Development of Regional Impact or other project, zoning, or land use approval, insurance policies, rights of action and other choses in action.

The Land, Appurtenances, Improvements and Tangible Property are collectively referred to as the "Mortgaged Property" in this Mortgage. The portion of the property encumbered by this Mortgage that from time to time consists of intangible personal property, except for the Rents, is called the "Intangible Property" in this Mortgage. The Mortgaged Property, Rents, Intangible Property and any other property interests encumbered hereby are hereinafter referred to collectively as the "Collateral". Wherever used in this Mortgage, the use of the terms, "Mortgaged Property," "Rents", "Intangible Property", and "Collateral" means and includes all or any portion thereof applicable to the context.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Collateral and that the Collateral is unencumbered, except for the encumbrances specifically approved by Lender, in writing, prior to the date hereof. Borrower warrants and will defend generally the title to the Collateral against all claims and demands.

1. **PAYMENT OF INDEBTEDNESS:** Borrower shall promptly pay to Lender the secured indebtedness (which shall be deemed to include, in the broadest sense possible, any and all sums due and owing for any reason from Borrower to Lender, including pursuant to the Note, this Mortgage, or the other Loan Documents, including any Loan Agreement) with interest thereon as provided in the Note, this Mortgage, and all other Loan Documents.
2. **PAYMENT OF TAXES, ASSESSMENTS AND PREMIUMS:** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") equal to one-twelfth of: (a) yearly taxes and assessments which may attain priority over this Mortgage or the other Security Documents; (b) yearly leasehold payments or ground rents on the Mortgaged Property, if any; (c) yearly hazard insurance premiums; and (d) yearly insurance premiums for flood insurance and other risks as set forth in Article 3 below [or elsewhere in this Mortgage or the other Loan Documents], if any. These items are called "Escrow Items." Lender may estimate the Funds due on the basis of current data and reasonable estimates of future Escrow Items.

The Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay the Escrow Items. Lender may not charge for holding and applying the Funds, analyzing the account or verifying the Escrow Items, but Lender shall not be required to pay

Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with the future monthly payments of Funds payable prior to the due dates of the Escrow Items, shall exceed the amount required to pay the Escrow Items when due, the excess shall be at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly payments of Funds. If the amount of the Funds held by Lender is not sufficient to pay the Escrow Items when due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as required by Lender.

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender. If under the terms of this Mortgage the Collateral is sold or acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Collateral or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage.

Unless and until Lender notifies Borrower to the contrary, which Lender may do in its sole discretion, Borrower shall not be required to pay the Funds to Lender; provided however, that Borrower shall pay, at least ten (10) days prior to the date when such payments are delinquent without taking into account any applicable grace period: (a) each of the Escrow Items, (b) all assessments (general or special) and other charges which may attain priority over this Mortgage, and (c) all payments required by any mortgage which is or may hereafter become superior to the priority of this Mortgage. Borrower shall promptly deliver to Lender receipts showing payment in full of all of the above items.

3. **INSURANCE:** Until the Borrower shall have completely repaid all amounts due to Lender, Borrower shall maintain, at Borrower's cost and expense, the following insurance coverages in full force and effect at all times:

(a) Hazard Insurance. Borrower shall keep the Tangible Property and Improvements which now or hereafter may constitute part of the Mortgaged Property insured at all times against loss or damage by fire and other hazards included within the term "all risk" or "extended coverage" and against such other hazards as Lender may require in the full insurable value thereof (or such lesser amount as Lender may authorize in writing), with an insurer satisfactory to Lender. Such policy shall include a Replacement Cost and Agreed Amount/Stipulated Value Endorsement, Ordinance or Law Endorsement and/or a Sinkhole Endorsement, if deemed necessary by Lender.

(b) Liability Insurance. Borrower shall obtain and keep in full force a Commercial General Liability insurance coverage relating to the Mortgaged Property in the minimum coverage amount of One Million Dollars (\$1,000,000) per occurrence, with annual aggregate of One Million Dollars (\$1,000,000) if the Loan amount is less than \$5,000,000 or annual aggregate of Two Million Dollars (\$2,000,000) if the Loan amount is \$5,000,000 or greater.

(c) Consequential Loss Insurance. A Business Income Insurance endorsement, including Loss of Rents coverage and Extra Expense coverage, if required by Lender, to the Hazard Insurance Policy in an amount sufficient to prevent Borrower from becoming a co-insurer within the terms of the applicable policies, and sufficient to recover one (1) year's gross receipts from all sources of income from the Collateral.

(d) Flood Insurance. If at any time the Land or any portion thereof is located in a "Flood Hazard Area" pursuant to the Flood Disaster Protection Act of 1973 or any successor or supplemental act thereto, flood insurance in the maximum amount available or such other amount as Lender may



reasonably request.

(e) Other Insurance. Boiler and machinery insurance, worker's compensation insurance, wind damage insurance, and other insurance coverages as Lender may reasonably require.

The policy or policies of insurance shall (i) be from companies and in coverage amounts, and with deductible amounts, acceptable to Lender, (ii) contain a standard mortgagee clause in favor of Lender naming Lender, its successors and/or its assigns as a mortgagee and including a lender's loss payee clause in such policy, as applicable (iii) not be terminable or modified without thirty (30) days' prior written notice to Lender, and (iv) be evidenced by original policies or certified copies of policies deposited with Lender, as Lender may elect, to be held by Lender until Lender shall have been fully paid all amounts due. Borrower shall furnish Lender satisfactory evidence of payment of all premiums required and similar evidence of renewal or replacement coverage not later than thirty (30) days prior to the date any coverage will expire.

Each insurance policy or endorsement required herein shall be written by an insurer having a rating not less than "A-VIII" Best's Rating according to the most current edition of Best's Key Rating Guide as determined at the time of the initial policy and at all times during the term hereof. All policies shall indicate that notices related to such insurance shall be sent to Lender at the Lender's office address shown above, or such other place as Lender shall request.

If any loss occurs with respect to the Mortgaged Property, Lender is hereby appointed attorney-in-fact for Borrower to make proof of loss if Borrower fails to make the same punctually, and to give a receipt for any proceeds collected under such policies. Borrower shall promptly give written notice to Lender of any loss or damage to the Mortgaged Property, and shall not adjust or settle any such loss without Lender's prior written consent, which consent shall not be unreasonably withheld or delayed. Upon any Default by Borrower under this Mortgage, all right, title and interest of Borrower in and to all such insurance policies then in force, including any and all unearned premiums and existing claims, will inure to Lender, which, at its option, and as attorney-in-fact for Borrower, may then make, settle and give binding acquittances for claims under all such policies, and may assign and transfer such policies or cancel or surrender them, applying any unearned premium in such manner as Lender may elect. The foregoing appointment of Lender as attorney-in-fact for Borrower is coupled with an interest, and is irrevocable. Notwithstanding the occurrence of any casualty or the availability of any insurance proceeds, Borrower shall make required payments to Lender in the manner required by the Loan Documents. Lender may waive or modify any of the above insurance requirements in its sole discretion, and all of the insurance requirements are entirely for Lender's benefit; and neither Borrower nor any third party is an intended beneficiary of these provisions.

4. MAINTENANCE, REPAIRS, AND RECONSTRUCTION:

(a) Maintenance and Repairs. Borrower, at its sole cost and subject to Lender's satisfaction, shall make all repairs, renewals, replacements, servicing and reconstruction that are necessary to maintain the Mortgaged Property in good order, condition and repair. Borrower shall establish (and set aside in segregated deposits) reserve funds in amounts acceptable to Lender for replacements, repairs and capital expenditures. Immediately following the occurrence of any casualty or other loss, Borrower promptly will undertake all restoration required or desirable and will pursue it diligently to completion. Borrower shall (i) not strip, waste, remove or demolish any portion of the Mortgaged Property, nor suffer or permit any such action; (ii) promptly comply with all laws, governmental regulations and public or private restrictions or easements, or both, of any kind affecting the Mortgaged Property or requiring any alterations or improvements to be made thereon, and (iii) not commit, suffer or permit any act upon the Mortgaged Property in violation of any law. Borrower will not, without Lender's prior written consent, (i) make any material alterations, additions or improvements of or to the Mortgaged Property; (ii) make any material change in the

general nature of the use or occupancy of the Mortgaged Property; (iii) institute or join or acquiesce in any action to change the existing zoning or land use classification of the Mortgaged Property, or (iv) grant easements or licenses affecting the use or operation of the Mortgaged Property. Lender and any persons authorized by Lender may enter the Mortgaged Property at all reasonable times without prior notice for inspections or for any other lawful purpose. If Borrower fails to comply with the requirements of this Article, then Lender, without waiving the option to foreclose, may take some or all measures Lender reasonably deems necessary or desirable for the maintenance, repair, preservation or protection of the Mortgaged Property, and any expenses reasonably incurred by Lender in so doing shall become part of the indebtedness secured hereby, and shall, at the option of Lender, become immediately due and payable, and shall bear interest at the default rate specified in the Note. Lender shall have no obligation to care for or maintain the Mortgaged Property, or, having taken some measures therefore, to continue same or take other measures.

(b) Reconstruction. The Borrower shall promptly repair, restore, replace or rebuild any part of the Mortgaged Property, now or hereafter encumbered by this Mortgage which may be affected by any condemnation proceeding or which may otherwise become damaged, destroyed, lost or unsuitable for use. In the event the Mortgaged Property or any part thereof, if damaged or destroyed by fire or other casualty, the Borrower shall immediately notify the Lender, in writing, of such damage or destruction. The Borrower shall not cause or permit anything to be done which would or could increase the risk of fire or other hazard to the Mortgaged Property, or any part thereof, or which would or could result in an increase in any insurance premiums payable with respect to the Mortgaged Property, or which would or could result in the cancellation of any insurance policy carried with respect to the Mortgaged Property. No part of the Mortgaged Property, including, but not limited to, any building, structure, water system, sewer system, parking lot, driveway, landscape scheme, timber or other ground improvement, equipment or other property, now or hereafter mortgaged, shall be removed, demolished or materially altered without the prior written consent of the Lender. No top soil, sand, sod, loam, clay or gravel shall be mined, stripped, or removed from the Mortgaged Property without the written consent of the Lender.

5. **CONDEMNATION:** The Borrower shall continue to pay principal and interest on the secured indebtedness even if the Collateral is decreased in value by action of any public or quasi-public authority or corporation, or is taken by eminent domain. Any award or payment for such taking, alteration, injury or decrease in value may, at the Lender's option, be applied toward payment of the secured indebtedness or be paid over, in whole or in part, to Borrower to restore or rebuild any part of the Collateral affected by such action, or for any other purpose satisfactory to Lender.
6. **TRANSFER OF THE PROPERTY:** Borrower acknowledges and agrees that both the credit and the interest rate extended by Lender on the secured indebtedness are personal commitments between Borrower and Lender and shall not inure to the benefit of or be assumed by any third party without Lender's written consent. Borrower specifically agrees that Lender must, in its sole discretion, be satisfied with the loan terms as well as approve the creditworthiness of any proposed transferee, and of the ability of the proposed transferee to protect and maintain the value of the Collateral before Lender shall give its approval to any sale, transfer or alienation of all or any part of the Collateral, or any interest therein. If Lender gives such approval, it is specifically understood and agreed by Borrower that Lender may modify or adjust the interest rate charged in the Note secured by this Mortgage, and charge an assumption fee for processing the assumption of the Note and this Mortgage.
7. **EVENTS OF DEFAULT:** Each of the following events shall constitute an "Event of Default" under this Mortgage:
  - (a) Should Borrower fail to pay the secured indebtedness when due, or fail to make any other payment required under the Loan Agreement (if any), this Mortgage or any documents executed in connection therewith, including the Note (the "Loan Documents"), whether or

not subsequently advanced by Lender, when due and payable; tender of a partial payment shall also be an Event of Default, although Lender may receive partial payments and apply the amount thereof to the existing indebtedness which remains due and owing at the time without waiving its right to consider the partial payment a default in payment and without waiving its right to otherwise proceed against the Borrower in accordance with the rights provided herein or in the existing Loan Documents.

- (b) Should Borrower default under any duty or agreement of any Loan Agreement, this Mortgage, or any other Loan Document (a "Non-Monetary Default") and fail to cure the same within thirty (30) days of the sending of notice thereof, or should Borrower default under any prior mortgage, or if Borrower extends or otherwise modifies any prior mortgage without the prior written consent of Lender.
- (c) Should Borrower make any assignment for the benefit of creditors, should a receiver, liquidator or trustee of Borrower or any of Borrower's property be appointed, should any petition for the bankruptcy, reorganization or arrangement of Borrower, pursuant to the Federal Bankruptcy Code or any similar statute be filed, should Borrower be adjudicated a bankrupt or insolvent, or in any proceeding admit insolvency or inability to pay debts as they fall due, should Borrower, if a corporation, be liquidated or dissolved or its articles of incorporation expire or be revoked, should Borrower, if a partnership or business association, be dissolved or partitioned, or should Borrower, if a trust, be terminated or expire. Further, should Borrower actually fail to pay its debts as they come due, or otherwise become insolvent.
- (d) Should all or any part of the Collateral or any interest therein be sold or transferred, whether voluntarily, involuntarily, or by operation of law, without the prior written approval of Lender, unless the entire secured indebtedness, including all accrued interest, advances and charges, if any, shall be paid in full at the time of sale or transfer (a "Prohibited Transfer"). For purposes of this paragraph, a sale or transfer of Collateral shall include a sale or transfer of a beneficial interest in Borrower, if Borrower is a corporation, limited liability company, partnership, trust or other legal entity, as well as any change in the general partner of Borrower, if Borrower is a limited partnership.
- (e) Should Borrower tender for any required payment a check which is not honored by the bank upon which the check is drawn upon the first presentment thereof, or if such check is returned unpaid to Lender (unless as a result of an error by the bank). Lender may, but is not obligated to, resubmit the check for payment without waiving the Event of Default caused by submission of the dishonored check.
- (f) Should Borrower or any Guarantor default under the terms and conditions of any of the Loan Documents, any other loan or agreement in favor of Lender.
- (g) Should a final judgment be entered in the amount of \$50,000.00 or greater against Borrower, which judgment is not paid, bonded or set aside by a court of competent jurisdiction within thirty (30) days from its entry.
- (h) Should a federal, state or local tax lien, or any claim of lien for labor or materials be recorded against Borrower or the Mortgaged Property, and is not removed by payment or transfer to alternate security in the manner provided by law, within ten (10) days from its recordation.
- (i) Should Borrower default in the performance of its obligations as lessor under any lease of all or any portion of the Mortgaged Property, which default could result, in Lender's

judgment, in the termination of the lease.

- (j) Should any statement or representation of Borrower or any guarantor contained in the loan application, financial statements or any other materials furnished to Lender or any other lender prior to or subsequent to the making of the loan secured hereby are discovered to have been false, misleading, incorrect or incomplete.
- (k) Should Borrower default in the performance of any of its obligations pursuant to any Ground Lease affecting the Mortgaged Property.
- (l) Should Borrower fail to maintain any minimum Debt Service Coverage Ratio, as defined and set forth in the Loan Agreement or in Article 27 below.
- (m) Should Lender determine, in its sole discretion, that the likelihood of payment of amounts due under the Note, or performance of the obligations of Borrower under the Loan Documents, is threatened for any reason, including but not limited to the following: (1) a material adverse change in the financial condition or credit standing of the Borrower or any guarantor; (2) the action of any governmental agency which has regulatory oversight authority over Lender in downgrading or reclassifying this Loan; or (3) the occurrence of any event which could result in the Lender's internal loan auditors downgrading or reclassifying this Loan.

8. **REMEDIES ON DEFAULT:** If an Event of Default occurs, Lender may do any one or more of the following and shall not be required to elect between remedies:

- (a) Pay any sums in any form or manner deemed reasonable, expedient or desirable by Lender to protect the security of this instrument, including reasonable attorney's fees, or to cure any Event of Default other than payment of interest or principal on the secured indebtedness [but no such payment by Lender shall act as a cure of any Event of Default as between Borrower and Lender]. Any amounts disbursed by Lender pursuant to this section, with interest thereon at the default rate, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this section shall require Lender to incur any such expense or take any such action, and Lender's disbursement of any amounts pursuant to this section shall not affect Lender's right of acceleration and foreclosure as provided below. Lender is specifically authorized to incur expenses for inspection, appraisals, environmental audits, and such other investigation as it deems reasonable, at Borrower's expense.
- (b) Declare the entire indebtedness immediately due, payable and collectible without notice to Borrower, regardless of maturity. Lender may then institute legal proceedings to foreclose this Mortgage in accordance with Florida Law. Lender, or its assigns, shall be entitled to receive at such foreclosure all unpaid secured indebtedness, with accrued interest thereon, including any and all amounts advanced by Lender for taxes, assessments, insurance premiums, inspections, appraisals, environmental audits, and other charges, together with all costs of such foreclosure and sale of the Collateral, including reasonable attorney's fees whether or not suit is instituted, and for all stages of any legal proceedings, including any appellate and bankruptcy proceedings, all with interest at the default rate from date of payment. In any judicial proceeding under this Mortgage, the Collateral or any part thereof may be sold in one parcel or in such parcels, manner or order as Lender in its sole discretion may elect.
- (c) Pursue any right or remedy provided by the Loan Documents, including without limitation,



to increase the interest rate to the default rate until such time as the Event of Default is cured and corrected to the satisfaction of Lender.

- (d) Exercise any right or remedy available to Lender as a secured party under the Uniform Commercial Code, as it from time to time is in force and effect, with respect to any portion of the Collateral then constituting property subject to the provisions of such Code; or Lender, at its option, may elect to treat the Collateral as real property, or an interest therein, for remedial purposes.
- (e) Apply, on ex parte motion, to any court of competent jurisdiction for the appointment of a receiver to take charge of, manage, preserve, protect, complete construction of, rent, and operate the Mortgaged Property and any of Borrower's business or businesses situated thereon, or any combination thereof; to collect the Rents; to make all necessary and needed repairs; to pay all taxes, assessments, Insurance premiums and all other costs incurred in connection with the Mortgaged Property; and, after payment of the expenses of the receivership, including reasonable attorneys' fees and other costs and expenses related to the enforcement of the Security Documents, and after compensation to the receiver for any of the services described herein or pursuant hereto, to apply all net proceeds derived therefrom in reduction of the indebtedness due to Lender or in such other manner as the court shall direct. The appointment of such receiver shall be a matter of strict right to Lender, regardless of the adequacy of the security or of the solvency of any party obligated for payment of the indebtedness. All expenses, fees and compensation incurred pursuant to any such receivership shall be secured by the lien of this Mortgage until paid. The receiver, personally or through agents, may exclude Borrower wholly from the Mortgaged Property and have, hold, use, operate, manage and control the Mortgaged Property and may, in the name of Borrower, exercise all of Borrower's rights and powers to maintain, construct, operate, restore, insure and keep insured the Mortgaged Property in such manner as such receiver deems appropriate.
- (f) Set off against any accounts, deposits, certificates of deposit of Borrower, its general partners, if applicable, and any endorsers, sureties, guarantors, and all others who are, or who may become liable for the payment of the indebtedness now or hereafter in the possession of Lender. Borrower and such other parties authorize and empower Lender, in its sole discretion, at any time after the occurrence of an Event of Default hereunder, or under the other Loan Documents, to appropriate and, in such order as Lender may elect, apply any such money, deposits, or property to the payment of the indebtedness.
- (g) After Lender shall have given written notice to Borrower, to collect all Rents, issues, profits, revenues, income, proceeds, or other benefits from the Collateral, or to pursue any remedy available under Chapter 697.07, Florida Statutes, as amended, supplemented, or superseded from time to time.
- (h) Proceed to realize upon any and all other security for the indebtedness in such order as Lender may elect; no such action, suit, proceeding, judgment, levy, execution or other process will constitute an election of remedies by Lender or will in any manner alter, diminish or impair the lien and security interest created by this Mortgage or any other Security Documents unless and until the indebtedness is paid in full.
- (i) In the event that Borrower should make a Prohibited Transfer, as defined above, Lender shall have the right to treat this Mortgage and the Note as having been accelerated as of the date of such Prohibited Transfer, with the principal balance accruing interest at the default rate from such date, irrespective of when Lender actually becomes aware of the Prohibited Transfer or makes demand for payment.

9. **REMEDIES CUMULATIVE:** The rights of Lender contained in each of the Loan Documents, including any Loan Agreement, this Mortgage and in the Note shall be separate, distinct and cumulative of other powers and rights which Lender may have in law or equity, and no act of Lender shall be construed as an election to proceed under any one provision to the exclusion of any other remedy allowed at law or in equity. To the full extent of the indebtedness evidenced by the Note or this Mortgage, Lender is hereby subrogated to lien(s) and right(s) of the holder of any interest in the Collateral which is paid or satisfied by Lender out of the proceeds of this loan or pursuant to Article 8 above.
10. **FORBEARANCE:** Any indulgence or departure at any time by Lender from any of the provisions of this Mortgage or any obligation it secures shall not modify that provision or waive its future compliance by Borrower.
11. **REORGANIZED DEBT:** Lender shall specifically be entitled to interest as provided in the Note on any amount of arrearage reorganized pursuant to the Federal Bankruptcy Code or similar law.
12. **LIMITATION OF RIGHT OF FUTURE ADVANCES:** N/A
13. **CREATION OF SECURITY INTEREST:** To the extent any of the Collateral encumbered by this Mortgage from time to time constitutes personal property subject to the provisions of the Uniform Commercial Code, this Mortgage constitutes a "Security Agreement" for all purposes under the Uniform Commercial Code. Without limitation, Lender, at its election, upon the occurrence of a Default under this Mortgage, will have all rights, powers, privileges and remedies from time to time available to a secured party under the provisions of the Uniform Commercial Code with respect to the Collateral. The names and addresses of debtor and secured party are as shown for Borrower and Lender, respectively, herein. The remedies for any violation of the covenants, terms, and conditions of the security agreement herein contained shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory provisions now or hereafter enacted and specified in the Uniform Commercial Code, all at Lender's sole election. Borrower and Lender agree that the filing of financing statement(s) in the records normally having to do with personal property shall never be construed as in anywise derogating from or impairing this declaration and hereby stated intention of Borrower and Lender that everything used in connection with the production of income from the Collateral or adapted for use therein or which is described or reflected in this Mortgage, is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such item is physically attached to the Improvements, (ii) serial numbers are used for the better identification of certain items capable of being thus identified in a recital contained herein, or (iii) any such item is referred to or reflected in any financing statement(s) so filed at any time. Similarly, the mention in any financing statement of the rights in, or the proceeds of, any fire, hazard or liability insurance policy, or any award in eminent domain proceedings for a taking or for loss of value, or Borrower's interest as lessor in any present or future lease, or rights to income growing out of the use of the Mortgaged Property, whether pursuant to a lease or otherwise, shall not be construed as altering any of Lender's rights as determined by this Mortgage, or otherwise available at law or in equity, or impugning the priority of this Mortgage or the Loan Documents, or both, but such mention in any financing statement is declared to be for Lender's protection if, as, and when any court holds that notice of Lender's priority of interest, to be effective against a particular class of persons, including the federal government and any subdivisions or entities of the federal government, must be perfected in the manner required by the Uniform Commercial Code.

Borrower covenants and agrees that Borrower will furnish Lender with notice of any change in name, identity, organizational structure, mailing address, residence, or principal place of business thirty (30) days prior to the effective date of any such change. Borrower shall promptly

execute any financing statements or other instruments deemed necessary by Lender to prevent any filed financing statement from becoming misleading or losing its perfected status, or to reinstate any lapsed financing statement.

14. **ASSIGNMENT OF RENTS:** Notwithstanding the grant of Borrower's interest in the Rents and Contract Rights above, so long as no Default shall exist hereunder or under any of the other Loan Documents, Borrower shall have a license to collect and receive all incomes arising from the operation, ownership, and maintenance of the Mortgaged Property, Rents and Contract Rights, but not more than one (1) month prior to accrual. Borrower is this date executing a separate Collateral Assignment of Rents and Contract Rights, which is intended to supplement, but not derogate from, the provisions of this Mortgage, with the intention that Lender's rights and remedies with respect to the Rents and Contract Rights shall be maximized.
15. **ESTOPPELS AND SATISFACTIONS:** Borrower agrees that, within ten (10) days of a request by Lender, it will furnish, without charge, written estoppel information regarding the amount owing on the obligation which this Mortgage secures, and whether or not the Borrower claims any defenses or offsets thereto. Failure to make a claim for defenses or offsets in such estoppel letter shall be a complete waiver of the same. Lender may charge Borrower its standard fees for sending estoppel information and preparing satisfaction documentation. Upon full payment of the obligation secured by this Mortgage, and full compliance with all of the terms of all of the Loan Documents as determined in the Lender's sole discretion, Lender shall satisfy this Mortgage of record at Borrower's expense.
16. **FUTURE ADVANCES:** This Mortgage shall secure not only existing indebtedness, but also such future advances as are made within twenty (20) years from the date hereof, to the same extent as if future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be secured by this Mortgage may decrease or increase from time to time, but the total unpaid aggregate balance secured by this Mortgage at any one time shall not exceed a maximum principal amount of three times the amount of the Note, plus interest thereon, and any disbursements made for the payment of taxes, levies, assessments, or insurance on the Collateral and such other disbursements as may be made by Lender pursuant to the terms of this Mortgage, with interest on such disbursements. Any such future advances may be made either prior to or after the maturity date of the Note or any other notes secured by this Mortgage. This Mortgage is given for the specific purpose of securing any and all indebtedness of Borrower to Lender (but in no event shall the secured indebtedness exceed at any time the maximum principal amount set forth in this section) in whatever manner such indebtedness may be evidenced or represented, until this Mortgage is satisfied of record. All covenants and agreements contained in this Mortgage shall be applicable to all such future advances made by Lender to Borrower. The Lender has no obligation whatsoever to make any future advances.
17. **ENVIRONMENTAL CONTAMINATION/HAZARDOUS SUBSTANCES:** Borrower represents and warrants to the Lender that the Collateral has not in the past and is not presently being used for the handling, storage, transportation, or disposal of "Hazardous Substances" (as hereinafter defined), and that no notice or advice has been received by Borrower of any condition or state of facts that would be contributing to a claim of pollution or other damage to the environment by reason of the conduct of any activity on the Collateral or operation of the Collateral, whether past or present. Borrower shall not permit or cause the Collateral to be used for the handling, storage, transportation, or disposal of Hazardous Substances, and Borrower shall, at its own expense, and does hereby agree to, indemnify Lender and hold Lender harmless from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs, and claims of any and every kind whatsoever relating to or arising out of any Hazardous Substance. In the event that Borrower receives any notification, information or knowledge of any kind relating to the spillage, release, leakage, seepage, discharge, cleanup, or

presence of any Hazardous Substance on the Collateral, Borrower shall immediately notify Lender telephonically, and notify Lender in writing within five (5) days thereof. As used herein, the term "Hazardous Substances" means any hazardous, toxic or dangerous waste, substance or material including, but not limited to, those elements or compounds which are now or hereafter contained in the list of Hazardous Substances adopted by the United States Environmental Protection Agency ("EPA"), the list of toxic pollutants designated by the United States Congress or the EPA, or designated by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree. Borrower is this date executing a separate Affidavit and Indemnity Regarding Hazardous or Toxic Materials, which is intended to supplement, but not derogate from, the provisions of this Mortgage, with the intention that Lender's rights and remedies with respect to the Hazardous Substances shall be maximized.

18. **AFTER-ACQUIRED PROPERTY:** Without the necessity of any further act of Borrower or Lender, the lien of and security interest created by this Mortgage automatically will extend to and include: (i) any and all renewals, replacements, substitutions, accessions, proceeds, products, additions or after-acquired property for or to the Collateral; and (ii) any and all monies, proceeds and other property that from time to time, either by delivery to Borrower or by any instrument (including this Mortgage) may be subjected to such lien and security interest by Borrower or by anyone on behalf of Borrower, or with the consent of Borrower, or which otherwise may come into the possession or otherwise be subjected to the control of Lender or Borrower pursuant to this Mortgage or the other Loan Documents.
19. **APPLICATION OF INSURANCE PROCEEDS AND AWARDS:** The Borrower will promptly give the Lender written notice of any damage to or destruction of the Mortgaged Property or any part thereof, generally describing the nature and extent of such damage or destruction and the Borrower's best estimate of the cost of restoring the Mortgaged Property. The Lender shall be entitled to all insurance proceeds payable on account of such damage or destruction and the Borrower hereby irrevocably assigns, transfers and sets over to the Lender all rights of the Borrower to any such proceeds or payments and irrevocably authorizes and empowers the Lender, at its option and in its sole and absolute discretion, in the name of the Borrower or otherwise, to file and prosecute what would otherwise be the Borrower's claim for any such proceeds or payment and to collect, receipt for and retain the same for disposition in accordance with this Article. The Lender may, at its sole option, apply all amounts recovered under any insurance policy required to be maintained by the Borrower hereunder in any one or more of the following ways: (a) to the payment of the reasonable costs and expenses incurred by the Lender in obtaining such insurance proceeds, including the fees and expenses of attorneys and insurance and other experts and consultants, the costs of litigation, arbitration, mediation, investigations and other judicial, administrative or other proceedings and all other out-of-pocket expenses; (b) to the payment of any of the indebtedness at the time outstanding; (c) to the payment of the principal of the indebtedness and any interest accrued and unpaid thereon, without regard to whether any portion or all such amounts shall be matured or unmatured; (d) to fulfill any of the other covenants contained herein as the Lender may determine; (e) release to the Borrower for application to the cost of restoring the Mortgaged Property; or (f) release to the Borrower. In the event of a foreclosure of this Mortgage, the purchaser of the Mortgaged Property shall succeed to all the rights of the Borrower, including any right to unearned premiums, in and to all policies of insurance assigned and delivered to the Lender.
20. **MISCELLANEOUS:** The provisions of this Mortgage inure to the benefit of Lender and its successors and assigns, and bind all persons executing this Mortgage as Borrower and their respective heirs, legal representatives, successors and assigns, jointly and severally, and all persons now or hereafter claiming any right, title and interest in and to any of the property, real, personal or mixed, tangible or intangible, now or hereafter existing or any substitutions or replacements thereof and described in this Mortgage as the Collateral. Time is of the essence to this Mortgage and each of its provisions. The provisions of this Mortgage are to be interpreted, construed, applied and



enforced in accordance with the laws of the State of Florida, regardless of where this Mortgage is executed, delivered or breached, or where any payment or other performance required by this Mortgage is made, where any action or other proceeding involving this Mortgage is instituted, or whether the laws of the State of Florida otherwise would apply the laws of another jurisdiction; the foregoing choice of law provisions will apply to the Loan Documents. The provisions of the Loan Documents are severable at Lender's option, so that if any provision is declared by a court of competent jurisdiction to be invalid or unenforceable, no other provision will be affected by such invalidity or unenforceability, but will remain in force and effect according to its original terms, if Lender so elects. Wherever used in this Mortgage or the other Loan Documents, or both, and unless expressly provided otherwise: (i) use of the singular includes the plural, and vice versa; (ii) use of one gender includes all genders; (iii) use of the term "include" or "including" is always without limitation; (iv) use of the words, "should," "must" and "will" has the same legal effect as the use of the word "shall"; (v) the words "hereby", "hereto", "hereof", "herein", "hereunder" and words of similar import when used in this Mortgage shall refer to the Mortgage as a whole and not to any particular provision of this Mortgage [the same shall be true in all other Loan Documents]; (vi) any definition herein incorporating one or more documents or items shall refer to such items "singularly and collectively", and (vii) "person" means any natural person or artificial entity having legal capacity. Paragraph headings and subheadings are for indexing purposes only and are not to be used to interpret, construe, apply or enforce the provisions of this Mortgage. Borrower and Lender intend the provisions of this Mortgage and the other Loan Documents to be interpreted, construed, applied and enforced so as to avoid inconsistencies or conflicting results; but if any such inconsistency or conflict necessarily occurs, Borrower and Lender intend that the provisions most favorable to the Lender control unless otherwise provided therein. This Mortgage may be amended only by a written instrument executed by Borrower and Lender with the same formalities as this Mortgage.

21. **BOOKS AND RECORDS:** Borrower, at all times, will keep proper books of record and account in which full, true and correct entries will be made of its transactions with respect to the Collateral in accordance with generally accepted accounting principles, consistently applied, and which will properly and correctly reflect all items of income and expense in connection with the operation of the Collateral, regardless of whether such income or expense is realized by Borrower or any other person or entity whatsoever. Lender will have the right from time to time during normal business hours to examine all such books, records and accounts at Borrower's office or at the office of such other person as maintains them, and to make such copies or extracts as Lender may desire, at Borrower's expense.
22. **OPERATING STATEMENTS/RENT ROLLS:** Borrower shall submit each calendar quarter to Lender signed operating statements (prepared on a cash basis) accurately setting forth the income and expenses of the Mortgaged Property for the prior quarter and for the fiscal/calendar year-to-date. Borrower shall also submit annually to Lender signed/certified, updated rent roll reports reflecting the most current lease information relating to the Mortgaged Property.
23. **FINANCIAL STATEMENTS:** Borrower and each Loan guarantor shall submit annual, and when so requested by Lender, interim current financial statements. Such statements shall include, at a minimum: a balance sheet; an income and expense statement; net worth reconciliation; and any supplementary information necessary for a meaningful analysis of the statements. This supplementary information should include, but not be limited to (as applicable): detailed cash flow statements; a statement showing contingent liabilities; accounts receivable agings; and any supporting schedules or documentation which Lender may require. Each statement must contain a certification to Lender of the statement's accuracy and completeness, and must bear an original signature (or include a transmittal letter with an original signature) of a senior officer of the Borrower or guarantor, the independent accountant who prepared the statement, or the individual, as applicable. Without limiting the foregoing, the Lender must be satisfied that the liquidity of any

guarantor, as reflected on such financial statements is accurate. Borrower and guarantors shall provide Lender with annual financial statements within ninety (90) days of each fiscal year end. In addition, Borrower and each Loan guarantor shall deliver to the Lender, as and when timely filed with the Internal Revenue Service, a copy of the federal income tax return for the preceding year for Borrower and each Loan guarantor, with all exhibits attached. Failure to timely file a federal income tax return (taking into account any extension applied for and, if necessary, granted) shall be deemed to be a material Event of Default.

24. **APPRAISALS:** In addition to the appraisals required by Lender prior to closing of the Loan, updated appraisals shall be prepared at Borrower's expense when requested by Lender. Such appraisals shall be prepared in accordance with written instructions from Lender by a professional appraiser selected and engaged by Lender. Borrower shall cooperate fully with the appraisal process and shall allow the appraisers reasonable access to the Mortgaged Property and its tenants. Nevertheless, Lender shall not require updated appraisals unless (1) the Borrower is in default; (2) Lender has reason to believe the value of the Mortgaged Property has decreased since the last appraisal; or (3) this Loan has been downgraded or reclassified by any applicable regulatory agency, or by Lender's internal auditors.
25. **TAXATION OF MORTGAGE.** In the event of the passage after the date of this Mortgage of any federal, state or local law deducting from the value of real property for the purpose of ad valorem taxation any lien thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for federal, state or local purposes, or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly, on any or all of the Loan Documents, Lender shall have the right to declare the full amount of the indebtedness represented by the Note and all other Loan Documents due on a date to be specified by not less than sixty (60) days written notice given to Borrower by Lender; provided, however, that such election shall be ineffective if Borrower is permitted by law to pay the whole of such tax in addition to all other payments required hereunder, and if Borrower, prior to such specified date, does pay such tax and agrees to pay any such tax (excluding, however, all taxes on the income of Lender) when thereafter levied or assessed, and such agreement shall constitute a modification of this Mortgage.
26. **INDEMNIFICATION AND SUBROGATION:** Borrower agrees to pay to Lender any and all documentary stamps and/or intangible taxes and all interest and penalties associated therewith which may be assessed on account of the execution and/or recording of this instrument. Borrower shall pay such sums immediately upon receipt of notice of such amounts from Lender or its assigns. In the event Borrower fails to pay such sums, Lender or its assigns may, at its option, pay such taxes and/or documentary stamps. Any such payment by Lender or its assigns shall be added to the Indebtedness and shall bear interest from the date advanced to the date of recovery at the maximum rate permissible under Florida law. If Borrower fails to pay any and all documentary stamps and/or intangible taxes and any interest or penalties associated therewith which may be assessed on account of the execution and/or recording of this instrument, it shall be deemed to be a default under the terms hereof.

Borrower agrees that Lender is hereby subrogated to the lien or liens, and to the rights of the holders thereof, of each and every mortgage, lien or other encumbrance on the Mortgaged Property which is paid and/or satisfied, in whole or in part, from the proceeds of the Loan described herein and secured hereby. Further, the respective liens of such mortgages, liens or encumbrances shall be preserved and shall pass to Lender as additional security for the indebtedness to the same extent as if they had been duly and regularly assigned and transferred to Lender by separate assignment, notwithstanding that the same may be satisfied and cancelled of record, it being the intention of the parties that they will be satisfied and cancelled of record by the holders thereof at or about the time of the recording of this Mortgage.

27. ADDITIONAL PROVISIONS:

- (a) Mortgage Loan Commitment: The loan evidenced and secured by the Note and this Mortgage was made pursuant to the terms of that certain mortgage loan commitment letter dated July 11, 2017 (the "Loan Commitment") executed by Lender and accepted by Borrower and Guarantor. The Loan Commitment shall survive closing and execution of the Note and Mortgage, but shall be superseded by the Note, this Mortgage, or any other Loan Document to the extent of any express and direct conflict with the provision of the Loan Commitment.
- (b) Extension Option. Provided that (i) Borrower has made all of the monthly payments of interest in a timely manner; (ii) no Event of Default exists; (iii) no state of facts exists which, with the passage of time or the giving of notice, or both, would amount to an Event of Default under this Note, the Mortgage or any other Loan Document; (iv) Borrower has paid to Lender a payment of a 50 basis point fee based on the outstanding loan balance; (v) the Borrower has provided to the Lender a status update for the Project acceptable to the Lender; and (iv) Borrower makes the request for extension in writing at least sixty (60) days prior to the Maturity Date accompanied by sufficient funds to replenish the Interest Reserve through the extension term; then Borrower shall have the option to extend the loan for one additional six (6) month term, at Lender's then-prevailing rate and terms.
- (c) Depository Relationship. The Lender shall be designated and shall continue to be the depository of the funds of the Borrower. The Borrower shall maintain its bank accounts with Lender for the duration of the Note, and acknowledges that this depository relationship is a material inducement to loan money to Borrower on the terms set forth in the Loan Documents.

28. **WAIVER OF CERTAIN RIGHTS**: Borrower will not claim, take or insist upon any benefit or advantage of any present or future stay, extension, redemption or moratorium law that may affect Borrower's obligations hereunder, or any law providing for the valuation or appraisal of the Mortgaged Property or any portion thereof prior to any sale or sales that may be made under or by virtue of this Mortgage. Borrower, for itself and all who may claim under Borrower, waives, to the extent that it lawfully may, all rights to have the Mortgaged Property and any other security for the indebtedness marshalled upon any foreclosure or otherwise. Borrower hereby waives and renounces all homestead and exemption rights provided for by the laws of the United States of America and of any state, including Florida, in and to the Mortgaged Property as against the collection of the indebtedness, or any part thereof.

LEFT BLANK FOR FORMATTING REASONS

**JURY TRIAL WAIVER:** BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT BORROWER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION (INCLUDING, BUT NOT LIMITED TO, ANY CLAIMS, CROSS-CLAIMS OR THIRD PARTY CLAIMS) ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE, THE LOAN DOCUMENTS, OR THE TRANSACTIONS CONTEMPLATED HEREIN. THE BORROWER HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF THE LENDER OR THE LENDER'S COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE LENDER WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. BORROWER ACKNOWLEDGES THAT THE LENDER HAS BEEN INDUCED TO MAKE THE LOAN BY, INTER ALIA, THE PROVISIONS OF THIS PARAGRAPH.

THIS IS AN EIGHTEEN MONTH BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$2,200,000.00, TOGETHER WITH ACCRUED INTEREST AND OTHER CHARGES, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS MORTGAGE.

Signed, sealed and delivered  
in the presence of:

BORROWER:

CP OLD TOWN SQUARE, LLC,  
a Florida limited liability company

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Witness Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Witness Name

By: CAVACHE PROPERTIES, LLC, as its manager  
Manager

By: \_\_\_\_\_

\_\_\_\_\_  
Adam D. Adache, Manager

STATE OF FLORIDA     )  
                                      )  
COUNTY OF BROWARD    )

The foregoing instrument was sworn to, subscribed and acknowledged before me on July 13, 2017, by Adam D. Adache as Manager of CAVACHE PROPERTIES, LLC, a Florida limited liability company, the Manager of CP OLD TOWN SQUARE, LLC, a Florida limited liability company.

NOTARY PUBLIC:



JOHN H. ADAIR III  
MY COMMISSION # FF 228020  
EXPIRES: May 8, 2019  
Bonded Through Budget Notary Services

Print: \_\_\_\_\_

State of Florida at Large (Seal)

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Type of identification produced: \_\_\_\_\_

\_\_\_\_\_  
Identification Produced

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL 1:**

Lots 8, 9, 10, 11, 12 and 13, Block 2, SMOAKS ADDITION TO THE TOWN OF POMPANO, according to the map or plat thereof, as recorded in Plat Book 5, Page 10, Public Records of Palm Beach County, Florida, said lands now being situate, lying and being in Broward County, Florida,

And:

That portion of the vacated 14' alley lying adjacent to Lots 8, 9, 10, 11, 12 & 13, Block 2, SMOAKS ADDITION TO POMPANO, according to the Plat thereof, recorded in Plat Book 5, Page 10, of the Public Records of Palm Beach County, Florida, said lands now being situate, lying and being in Broward County, Florida.

FOLIO NUMBERS: 484235-25-0120; 484235-25-0130

**PARCEL 2:**

Lot 16 and 17, Block 2, Smoaks Addition to Pompano, according to the map or plat thereof as recorded in Plat Book 5, Page 10, Public Records of Palm Beach County, Florida, together with the South 1/2 of vacated 14 foot alley lying North of, and adjacent to said lots, said property now lying and being situate in Broward County, Florida.

FOLIO NUMBER: 484235-25-0150

**PARCEL 3:**

Lot 11, in Block 1, of SMOAKS ADDITION TO POMPANO, a Subdivision, according to the Plat thereof, recorded in Plat Book 5, Page 10, Public Records of Palm Beach County, Florida. Said lands lying, being and situated in Broward County, Florida.

FOLIO NUMBER: 484235-25-0041

**PARCEL 4:**

Lot 7, Block 2 of SMOAKS ADDITION TO POMPANO, according to the Plat thereof, recorded in Plat Book 5, Page 10, of the Public Records of Palm Beach, Florida. Said lands lying, being and situated in Broward County, Florida. LESS the North 10 feet (as measured along the north boundary of the property) having been conveyed to the City of Pompano Beach, Florida by instrument dated 9/18/56 and recorded 10/24/56 in O.R. Book 751, Page 348, Public Records of Broward County, Florida.

FOLIO NUMBER: 484235-25-0110



**PARCEL 5:**

Lots 14 and 15, Block 2 of SMOAKS ADDITION TO POMPARNO, Plat Book 5, Page 10, Public Records of Palm Beach County, Florida. Said lands lying, being and situated in Broward County, Florida.

FOLIO NUMBER: 484235-25-0140

**PARCEL 6:**

Lots 5 and 6, and the North 1/2 of 14 foot vacated alley in Block 2, SMOAKS ADDITION TO THE TOWN OF POMPARNO, according to the map or plat thereof, as recorded in Plat Book 5, Page 10, Public Records of Palm Beach County, Florida, said lands now being situate, lying and being in Broward County, Florida.

FOLIO NUMBER 484235-25-0100

### **Partnership and Ownership Information**

Old Town Square (the "Property") is owned by CP, Old Town Square LLC. Cavache Properties, LLC is the "Manager" and owns all of the controlling interests in the Property. All of the major decisions and day to day operations are the sole responsibility of the manager. The Key Principals of the Manager are Adam Adache, Daniel Adache and Anthony Cavo. In addition, the Property has a small group of limited partners or shareholders ("Members") which have no operational control and consist of friends and family.

To complete the project we are in discussion with larger, institutional investor(s). We anticipate this process to be completed prior to vertical construction. At that point the ownership structure will change but not the development team and we'll be able to proceed with construction. We have not yet finalized a source, but are in discussion with multiple capital providers who are waiting on the outcome of our CRA partnership discussions.

# **POMPANO BEACH CRA**

## **ANALYSIS OF ECONOMIC IMPACT OF OLD TOWN SQUARE**

**June 2019**



**PMG Associates, Inc.**

**MEASUREMENT OF ECONOMIC IMPACTS  
OLD TOWN SQUARE  
POMPAÑO BEACH CRA**

**INTRODUCTION**

The firm of PMG Associates, Inc. (PMGA) has been engaged by the Pompano Beach CRA to determine the economic impact of the proposed mixed use development by Cavache Properties, LLC located on 1.71 acres at NE 1<sup>st</sup> Avenue and NE 2<sup>nd</sup> Street. The project will consist of 282 units and 5,433 square feet of commercial space. The net square footage for all uses is 486,521 square feet.

The developers have requested a tax subsidy of \$8 million for the project due to the limited lease rates that do not permit the development to generate a sufficient return on investment. This report will evaluate the revenue generated from the project to determine if the project will sustain itself.

This analysis will address two aspects of the proposals including: (1) measure the economic impact of the proposals including funds accruing to the CRA, and (2) funds accruing to the General Fund of the City of Pompano Beach.

**1. DEVELOPMENT PROGRAM**

The components of the project are as follows;

**TABLE 1  
DEVELOPMENT SCENARIO**

Use	Square Footage
Commercial	5,433
Storage	6,624
Parking	134,000
Pool Deck	14,224
Colonnade	10,085
Balconies	8,382
Unit Terraces	3,766
Amenities	8,302
Net Square Footage Units	204,381
Roof, Mezzanine, Eye Brows	69,566
Total	486,521

The units average 713 square feet and are distributed as follows:

2 Bedroom	65
1 Bedroom	186
Studio	31

## **2. REVENUE IMPACT TO THE CRA**

The revenue source for the CRA from this project consists of Tax Increment Financing (TIF).

To arrive at the Taxable Value, methods used by the Broward County Property Appraiser's Office were evaluated. Typically, the initial valuation of an income producing asset will be at 85% of Project Cost. Later, this method will be altered to account for lease rates, vacancies and other use factors. For this valuation, the 85% of the construction portion of the Project Cost factor was used.

We acknowledge that the report submitted by Walker and Dunlop sets a Capitalized Value of \$80.3 million. However, this value is established based on a Net Income and a Capitalization Rate. For the TIF projections, it is necessary to use the Taxable Value. The Taxable Value estimate is described above.

The next factor is the rate applied for TIF purposes. Under State law, TIF is applied to operating millage rates only. Those rates that apply for Debt Service are excluded. Additionally, millage rates for School Districts and those taxing authorities that cross county boundaries are also exempt. Under the agreement with Broward County, the County millage rate ends in the year 2020. For this analysis the City millage rate of 5.1361 is the only one that applies.

The TIF amount is further reduced by the 5% Administrative Charge that is retained by the City.

The Taxable Values for the project are estimated to grow at a rate of 4%. As expressed in Table 2, the full TIF amount collected over the 20 years is estimate at \$7.8 million.



**TABLE 2**  
**TIF PROJECTIONS**

<b>Program Year</b>	<b>Calendar Year</b>	<b>Taxable Value</b>	<b>TIF</b>	<b>Cumulative TIF</b>
1	2021	\$53,550,000	\$261,286	\$261,286
2	2022	\$55,692,000	\$271,738	\$533,024
3	2023	\$57,919,680	\$282,607	\$815,631
4	2024	\$60,236,467	\$293,911	\$1,109,543
5	2025	\$62,645,926	\$305,668	\$1,415,211
6	2026	\$65,151,763	\$317,895	\$1,733,105
7	2027	\$67,757,833	\$330,610	\$2,063,716
8	2028	\$70,468,147	\$343,835	\$2,407,551
9	2029	\$73,286,873	\$357,588	\$2,765,139
10	2030	\$76,218,348	\$371,892	\$3,137,031
11	2031	\$79,267,081	\$386,767	\$3,523,798
12	2032	\$82,437,765	\$402,238	\$3,926,036
13	2033	\$85,735,275	\$418,328	\$4,344,364
14	2034	\$89,164,686	\$435,061	\$4,779,425
15	2035	\$92,731,274	\$452,463	\$5,231,888
16	2036	\$96,440,525	\$470,562	\$5,702,450
17	2037	\$100,298,146	\$489,384	\$6,191,834
18	2038	\$104,310,072	\$508,960	\$6,700,794
19	2039	\$108,482,474	\$529,318	\$7,230,112
20	2040	\$112,821,773	\$550,491	\$7,780,602

### **3. IMPACT TO THE CITY**

The City of Pompano Beach General Fund will also generate revenue from the new project. Revenue from the following sources is considered here.

- The 5% Administrative Fee from the TIF
- Utility Taxes
- Franchise Fees
- Communication Service Taxes
- Intergovernmental Revenue (State Shared Revenue, ½ Penny Sales Tax, Gas Tax, etc.)

The Annual Budget was the source to estimate the revenue collected from these categories.

Many of the revenue sources are estimated based on the increase in population. The estimate for the 282 units is a population of 482, based on the bedroom configuration.

#### **5% Administrative Fee**

Over the 20 years, this source will generate \$409,500.

#### **Utility Taxes**

Based on an estimate of \$74.92 per capita, this source generates \$36,111 annually, or \$722,200 over the 20 years.

#### **Franchise Fees**

Based on an estimate of \$74.01 per capita, this source generates \$35,673 annually, or \$713,500 over the 20 years.

#### **Communications Services Taxes**

Based on an estimate of \$45.69 per capita, this source generates \$22,023 annually, or \$440,400 over the 20 years.

#### **Intergovernmental Revenue**

Based on an estimate of \$120.71 per capita, this source generates \$58,182 annually, or \$1,163,600 over the 20 years.

Other sources such as Water and Sewer Charges and Sanitation Fees are not considered here since they are not part of the General Fund.

**TABLE 3**  
**REVENUE ACCRUING TO THE CITY OF POMPANO BEACH**

Source	20 Year Revenue
Administrative Fee	\$ 409,500
Utility Taxes	\$ 722,200
Franchise Fees	\$ 713,500
Communications Service Taxes	\$ 440,400
Intergovernmental Revenue	\$1,163,600
Total	\$3,449,200

Note: These projections are based on current values and do not include a rate increase.

#### **4. COMMUNITY BENEFITS**

##### Employment

The project will generate a significant amount of jobs during the construction period. An estimate is based on the distribution of the project cost between materials and labor. For large projects of this size, the typical distribution is 60% materials and 40% labor. For the \$63 million project cost, this distribution results in an estimate of \$25,200,000 in labor costs.

Using an average salary expense of \$50,000 per job (direct salary and fringes), this assumption results in a total of 504 Full Time Equivalent (FTE) positions. Although many construction workers spend various time on the project, the FTE equates to a person working full time on the project. The 504 construction jobs cover a two year construction period, making an annual FTE estimate of 252.

Permanent employment is generated through the commercial space in the project as well as administrative, support and maintenance personnel for the residential segment of the project. The estimate for the residential and parking segment is an FTE of 6. For the commercial space, the estimate of employment is one employee for every 350 square feet of space, resulting in an employment figure of 15.

The total employment for the project is as follows:

Period	Number of Employees (Annual FTEs)
Construction	252
Permanent	21

##### Spin-Off Impact

Due to the size of the project and the lack of existing signature projects in the immediate area, the Old Town Square will likely spin-off additional development and economic impact. Spin-off economic impact is due to the spending of the residents of the housing units and increased activity in the vicinity of Old Town Square.

The best measure of the spin-off effect is the use of the RIMS II Model by the United States Department of Commerce. This model develops a Multiplier for individual counties and industries. The Multiplier for a project like Old Town Square is 1.83. This figure means the total impact is 1.83 times higher than the direct spending and employment generation.

The designation of the economic impact is referred to as Throughput. Throughput is defined as the aggregate economic activity generated from a project. For Old Town Square, Throughput is measured by the lease payments of the tenants, Retail Sales from the commercial space and Retail Sales generated from the residents of the apartments.

#### Leases

As stated in the Walker & Dunlop report, the annual lease payment are \$4,014,193.

#### Retail Sales from Commercial Space

The average Retail Sales per square foot as defined by Environics Analytics is \$300 annually, generating total sales of \$1,629,900.

#### Retail Sales from Residents

Environics Analytics has established the annual Retail Sales per household for this area at \$13,422, generating a total of \$3,785,004.

Applying the Multiplier results in the figures in Table 4.

**TABLE 4  
DIRECT AND TOTAL ECONOMIC IMPACTS**

Category	Direct Impact	Total Impact
<b>Throughput</b>		
Lease Payments	\$4,014,193	\$ 7,345,973
Retail Sales – Commercial Space	\$1,629,900	\$ 2,982,717
Retail Sales – Residents	\$3,785,004	\$ 6,926,557
Total	\$9,429,097	\$17,255,247
<b>Employment</b>		
Permanent Employment	21	38

#### **SUMMARY**

It is assumed that the subsidy will be paid out on an annual basis as Tax Revenues are generated. The TIF projections from the project is sufficient to meet the subsidy requested. The TIF generation over the 20 years is \$7.8 million.

In addition, the City of Pompano Beach also generates revenue which could be considered when addressing subsidies. The City General Fund generates an additional \$3.4 million over the 20 years.

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**June 2019**



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