AGENDA

City Commission Workshop Meeting

5:30 PM - Thursday, August 26, 2021 - Community Building, 601 Northshore Drive, Eustis

Page

CALL TO ORDER

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

1. WORKSHOP ITEM INCLUDING COMMISSION DISCUSSION, PUBLIC INPUT AND COMMISSION DIRECTION

3 - 102 1.1 Discussion regarding Resolution Number 21-62: Approving a Eustis Development and Acquisition Agreement for redevelopment of the former Florida Hospital Waterman site and Resolution Number 21-63: Approving a parking facility easement agreement with Waterman Square LLC to support the redevelopment of the former Florida Hospital Waterman site

Staff Report #21-0227 - Html
Staff Report - Aug 26 Workshop City Res 21-62 and City Res 21-63
Atrium Purchase Agreement ADA
City Resolution 21-62 Atrium Agreement
Waterman Square Development Agreement Final Draft with Exhibits
City Resolution 21-63 Atrium Parking Agreement ADA
Parking Facility Easement Agreement Final Draft

2. ADJOURNMENT

This Agenda is provided to the Commission only as a guide, and in no way limits their consideration to the items contained hereon. The Commission has the sole right to determine those items they will discuss, consider, act upon, or fail to act upon. Changes or amendments to this Agenda may occur at any time prior to, or during the scheduled meeting. It is recommended that if you have an interest in the meeting, you make every attempt to attend the meeting. This Agenda is provided only as a courtesy, and such provision in no way infers or conveys that the Agenda appearing here is, or will be the Agenda considered at the meeting.

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (Florida Statutes, 286.0105). In accordance with the Americans with Disabilities Act of 1990, persons needing a special accommodation to participate in this proceeding should contact the City Clerk 48 hours prior to any meeting so arrangements can be made. Telephone (352) 483-5430 for assistance.

City of Eustis
P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission

FROM: Ronald Neibert, City Manager

DATE: August 26, 2021

RE: DISCUSSION REGARDING RESOLUTION NUMBER 21-62: APPROVING A EUSTIS DEVELOPMENT AND ACQUISITION AGREEMENT FOR REDEVELOPMENT OF THE FORMER FLORIDA HOSPITAL WATERMAN SITE AND RESOLUTION NUMBER 21-63: APPROVING A PARKING FACILITY EASEMENT AGREEMENT WITH WATERMAN SQUARE LLC TO SUPPORT THE REDEVELOPMENT OF THE FORMER FLORIDA HOSPITAL WATERMAN SITE

Introduction:
At the August 19, 2021, regular Commission meeting, the Commission requested a workshop to further discuss the proposed development and acquisition agreement with Waterman Square LLC for the purchase and redevelopment of the CRA-owned former Florida Hospital Waterman site.

Attachments:
Staff Report - Aug 26 Workshop City Res 21-62 and City Res 21-63 Atrium Purchase Agreement ADA
City Resolution 21-62 Atrium Agreement
Waterman Square Development Agreement Final Draft with Exhibits
City Resolution 21-63 Atrium Parking Agreement ADA
Parking Facility Easement Agreement Final Draft

Reviewed by:

Ronald Neibert, City Manager	Pending
Mary Montez, City Clerk	None

City of Eustis
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TO: EUSTIS CITY COMMISSION

FROM: RONALD R. NEIBERT, CITY MANAGER

DATE: AUGUST 26, 2021

RE: RESOLUTION NO. 21-62
APPROVING AND RATIFYING A EUSTIS DEVELOPMENT AND ACQUISITION AGREEMENT BY AND BETWEEN WATERMAN SQUARE LLC, THE DOWNTOWN AND EAST TOWN REDEVELOPMENT AGENCY, AND THE CITY OF EUSTIS FOR THE REDEVELOMENT OF THE FORMER FLORIDA HOSPITAL WATERMAN SITE

And

RESOLUTION NO. 21-63
APPROVING AND RATIFYING A PARKING FACILITY EASEMENT AGREEMENT WITH WATERMAN SQUARE LLC TO SUPPORT THE REDEVELOPMENT OF THE FORMER FLORIDA HOSPITAL WATERMAN SITE

Introduction:
Resolution No. 21-62 approves a development and acquisition agreement between Waterman Square LLC, the Downtown and East Town Redevelopment Agency, and the City of Eustis for the purchase and redevelopment of the former Florida Hospital Waterman site.

Resolution No. 21-63 approves a parking facility easement agreement with Waterman Square LLC to support the redevelopment of the former Florida Hospital Waterman site.

Recommended Action
Staff recommends approval of Resolution No. 21-62 and Resolution No. 21-63.

Background:
In September 2020, the CRA purchased the three blocks that were formerly occupied by Florida Hospital Waterman. On September 21, 2020, the City/CRA issued Request for Proposals (RFP) No. 009-20 – 4.8 Acre Redevelopment Opportunity in Downtown Eustis. The RFP was advertised in the Daily Commercial, posted on DemandStar (a bid

and RFP service), and sent directly to 50 interested parties. The team of Atrium Management Company & PRN Real Estate & Investments, LTD was the sole respondent to the RFP.

A selection committee including the City Manager, Development Services Director, Public Works Director, Finance Director, and Economic Development Director reviewed the developer's response with the entire process being facilitated by the Director of Purchasing. The selection committee met to discuss the proposal and interact with the proposed development team at public meetings on December 14, 2020 and January 14, 2021. At the January 14 meeting, the consensus of the selection committee was to invite the proposed development team to make a presentation to the CRA Board. The committee also recommended that the CRA Board authorize staff to further explore the proposed project and negotiate developer agreements and/or purchase agreements to facilitate the redevelopment of the property. On February 4, 2021, the CRA Board unanimously authorized staff to negotiate exclusively with the Atrium Management team on a development and purchase agreement for the former Waterman site.

Staff has been working with the Atrium Management team and their representatives to negotiate the draft Eustis Development and Acquisition Agreement approved by Resolution No. 21-62. The agreement is with Waterman Square LLC, which is the entity formed by Atrium Management to purchase and develop the project. As the City has some responsibility under the agreement, the City of Eustis is also a party to the agreement. Below is a summary of the development and acquisition agreement.

Proposed Project

- Phase 1 – Five-story mixed-use apartment building with a minimum of 75 apartments and a minimum of 6,000 sf of commercial space. A food hall with a minimum of 8,000 sf. Estimated cost of $14,038,000.
- Phase 2 – A parking garage lined with first floor commercial and potentially live-work space. Estimated cost of $11,095,900.
- Phase 3 – Approximately five-story mixed-use apartment building with up to 180 apartments with first floor commercial space. Estimated cost of $25,564,000.
- Phase 4 – Approximately four-story hotel with approximately 60 guest rooms. Estimated cost of $15,000,000.
- Total Estimated cost of $65,697,900.

Proposed Project Timeline

- 2021 – Due diligence, entitlements, close on Phase 1 Parcel, permitting.
- 2022 – Proposed Phase 1 construction.
- 2023 – Proposed Phase 1 completion.
- 2024 – Proposed Phase 1 Operation. Potentially close on Parcel 2 and 3.
- 2025 – Potential Phase 2 and 3 construction, but not required per agreement until 2027.
- 2026 – Potential Phase 2 and 3 completion, but not required per agreement until 2027.

- 2027 – Deadline to close on Parcel 2 and 3. Deadline to commence construction on hotel.

Price of Land

- CRA to invest Phase 1 parcel at no cost ($1,000,000 value).
- Developer to provide a performance bond to ensure completion of the project and guarantee tax increment for the CRA.
- Price set for Parcels 2 and 3 at $1,500,000 each or $3,000,000 total.
- Developer will pay a total of $30,000 annually in non-refundable deposit every year through 2024 for Parcels 2 and 3.
- If necessary, in 2025, 2026, and 2027, the developer will pay $50,000 annually in non-refundable deposit.

Incentives

- Parcel 1 at no cost ($1,000,000 value).
- Developer will get 64 spaces in the Lake Mechanical garage (estimated value of approximately $1,280,000)
- If the developer moves forward with Phase 2 and 3, developer will receive up to $4,720,000 net from the CRA toward the Phase 2 parking garage.
- Limited to $20,000 per space.
- Total of $6,000,000 less $1,280,000 credit for developer's 64 spaces in the Lake Mechanical garage.

Other Terms

- The development entity is Waterman Square LLC.
- The City's liability is limited to its specific responsibilities under the agreement.
- Developer has until December 31, 2027 to close on Parcels 2 and 3.
- If the developer does not commence construction of a hotel by December 31, 2027, the CRA can recapture the land where the hotel would have been located at no cost.
- Developer will develop a conceptual master plan and a Project PUD consistent with City LDR's and comprehensive plan. The City will explore transfer of development rights to support proposed densities.
- Developer has a 120-day feasibility period and 275 days to secure entitlements.
- Sale includes all impact fee credits.
- The developer needs written permission to transfer or assign the agreement unless it is being assigned to an entity controlled by Atrium Management or PRN Real Estate & Investments.
- Developer will own and operate the parking garage on Parcel 2.

Exhibit G of the Eustis Development and Acquisition Agreement also lays out the Parking Facility Easement Agreement that will be executed upon closing of the Phase 1 parcel. As that agreement is solely with the City of Eustis, it does not need to be approved by the CRA. Resolution No. 21-63 provides for City approval of the parking agreement. Below is a summary of that agreement.

Parking Agreement

- City will provide 64 spaces to the developer in perpetuity in the Lake Mechanical garage to serve Phase 1 of the Atrium project.
- The garage will be completed by an agreed upon date. Proposed at 20 months from the signing of the Eustis Development and Acquisition Agreement.
- The City will maintain the garage with the exception of access control gates and elevator access control.
- The 64 spaces assigned to the developer will be on the top floor of the facility.
- The developer needs written permission to transfer or assign the agreement unless it is being assigned to an entity controlled by Atrium Management, PRN Real Estate & Investments, or the owner of any portion of the Phase 1 project.

Community Input:
There have been numerous opportunities for public input on the former Florida Hospital Waterman site. There will be an opportunity for additional public input at the August 19, 2021 CRA and City Commission meetings. It is anticipated there will be future opportunities for public input as the developer works through the development of the project.

Budget and Staffing Impact:
The CRA paid $3,000,000 to acquire the subject property. The debt service on the acquisition comes to approximately $200,000 annually. While the agreement does give the land for Phase 1 at no cost, if the developer moves forward with Phases 2 and 3, the purchase price of Parcels 2 and 3 is set at $3,000,000, which covers the entire original purchase price for all three blocks.

The agreement also calls for a total of $6,000,000 to support parking for the project. The parking agreement provides 64 spaces for the developer in the City's proposed garage on the Lake Mechanical lot at a value of $1,280,000. If the developer moves forward with Phases 2 and 3, the agreement sets the CRA commitment to the Atrium Phase 2 parking garage at up to $4,720,000. The CRA would borrow the $4,720,000 at approximately 3% interest for 20 years, which puts the annual debt service at approximately $315,000.

On the revenue side, Phase 1 of the project is estimated to generate approximately $160,000 in new annual CRA revenue, while the entire project is estimated to generate almost $750,000 for the CRA annually. In addition to CRA revenue, the project will also generate general fund revenue (sales tax, utility tax, and franchise fees) and water/sewer revenue. It is estimated that Phase 1 will generate over $41,000 annually in general fund revenue and over $102,000 annually in water/sewer revenue. The entire project is estimated to generate almost $150,000 annually for the general fund and over $385,000 annually in water/sewer revenue.

Using these revenues, it is possible to calculate the payback period for the proposed incentives. The agreement delivers Parcel 1 to the developer at no cost (value of $1,000,000). The estimated CRA revenue as a result of Phase 1 is approximately $160,000 annually with over $41,000 annually in general fund revenue and over $102,000 annually in water/sewer revenue. If the developer closes on Parcel 1, the Phase 1 revenue is guaranteed through the performance bond. The payback period for the $1,000,000 in land is 6.25 years using just CRA revenue and 3.3 years when factoring in all revenue sources.

The incentive to support parking is a total of $6,000,000, which is made up of 64 parking spaces (valued at $1,280,000) and up to $4,720,000 in CRA support for the Atrium Phase 2 parking garage. Combining land and parking support, the total incentive package for the project is $7,000,000. Total revenue for the project includes almost $750,000 annually for the CRA, almost $150,000 annually for the general fund, and over $385,000 annually in water/sewer revenue. The payback period for the entire project is 9.35 years for the CRA and 5.45 years when factoring in all revenue sources.

Prepared by:
Tom Carrino, Economic Development Director

Attachments
Resolution No. 21-62 with accompanying Eustis Development and Acquisition Agreement

Resolution No. 21-63 with accompanying Parking Facility Easement Agreement

RESOLUTION NO. 21-62

A RESOLUTION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA APPROVING AND RATIFYING A EUSTIS DEVELOPMENT AND ACQUISITION AGREEMENT, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Eustis Downtown and East Town Redevelopment Agency ("Community Redevelopment Agency of the City of Eustis, Florida" or "Agency") and the City of Eustis have identified certain areas in the City as blighted and slum areas as defined by §163.340 Florida Statutes ("Areas"); and

WHEREAS, blighted and slum Areas should be eliminated for all the reasons set forth in §163.335 Florida Statutes; and

WHEREAS, the subject property is identified as Blocks 30, 31, and 35, Official Map of Eustis, according to the plat thereof recorded in Plat Book "1", page 79, Public Records of Lake County, Florida; and

WHEREAS, the subject property was purchased by the Agency in September 2020 for the purpose of redevelopment; and

WHEREAS, the City of Eustis and the Agency jointly issued Request for Proposals No. 009-20 advertising the availability of the subject property for redevelopment; and

WHEREAS, the Atrium Management Company and PRN Real Estate & Investments, LTD were the sole respondent to the Request for Proposals; and

WHEREAS, on February 4, 2021, the CRA Board unanimously authorized staff to negotiate exclusively with the Atrium Management team for the sale and redevelopment of the subject property; and

WHEREAS, The Atrium Management team has created Waterman Square LLC to carry out the purchase and development of the subject property; and

WHEREAS, the subject property is identified as a "catalyst site" targeted for redevelopment in both the 2008 Eustis Downtown Plan and the City of Eustis 2016 Redevelopment Plan; and

WHEREAS, the City and the Agency deem the sale and development of the Property to be a proper public purpose, and that said sale and development will achieve important City and Agency objectives such as stimulating economic development in the City, increasing property values and ad valorem taxes, and creating jobs, and that the Property is surplus real property; and

WHEREAS, the City and the Agency are authorized to enter into this Agreement; and

WHEREAS, the City and the Agency hereby find that this Agreement is in the best interests of its citizens; and

WHEREAS, redevelopment of the subject property is necessary in the interest of the public health, safety, morals and welfare of the Agency and the City of Eustis; and

WHEREAS, it is in the best interests of the Agency and the City of Eustis to enter into a development and acquisition agreement to facilitate the sale of the subject property for the purpose of redevelopment.

NOW, THEREFORE, BE IT RESOLVED by the City of Eustis, Lake County, Florida as follows:

The foregoing whereas clauses are incorporated herein as findings of fact and law.

1. The Eustis Development and Acquisition Agreement is hereby ratified and approved.
2. The City of Eustis authorizes the Mayor to execute the necessary documents to effectuate the agreement.

DONE AND RESOLVED, this 19th day of August 2021, in regular session of the City Commission of the City of Eustis, Lake County, Florida.

CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA

____
Michael L Holland, Mayor/Commissioner

ATTEST:

____
Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me, by means of physical presence, this 19th day of August, 2021, by Michael L. Holland, Mayor/Commissioner, and Mary C. Montez, City Clerk, who are personally known to me.

____
Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document has been reviewed and approved as to form and legal content, for use and reliance of the City Commission of the City of Eustis, Florida.

____
City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Resolution No. 21-62 is hereby approved, and I hereby certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Parks & Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

____
Mary C. Montez, City Clerk

EUSTIS DEVELOPMENT AND ACQUISITION AGREEMENT

THIS EUSTIS DEVELOPMENT AND ACQUISITION AGREEMENT (the "Agreement") is entered into as of the _____ day of ______, 2021 (the "Effective Date"), by and between WATERMAN SQUARE LLC, a Florida Limited Liability Company ("Developer"), the CITY OF EUSTIS, a Florida municipal corporation (the "City"), and the DOWNTOWN AND EAST TOWN REDEVELOPMENT AGENCY (the "CRA") (with Developer, the City and the CRA being collectively referred to as the "Parties" and sometimes referred to individually as a "Party").

RECITALS

WHEREAS, the CRA owns the property generally bounded by Clifford Avenue on the north, North Grove Street on the east, East Magnolia Avenue on the south, and North Bay Street on the west, containing approximately 4.8 acres and described in Exhibit "A" attached hereto (the "Property"); and

WHEREAS, the City and the CRA issued a notice requesting proposals for the sale of the Property to a developer for the redevelopment of the Property which would provide commercial, residential and hotel uses (collectively, the "Project"), and after reviewing the proposals and qualifications for a developer of the Project, the City and the CRA selected Developer; and

WHEREAS, the City, the CRA and Developer desire to enter into this Eustis Development and Acquisition Agreement to establish the terms and conditions under which the Parties will (i) engage in the feasibility analysis, master planning, due diligence, development approvals, permitting and approval process, and establishment of development and design guidelines and standards for the Project, and (ii) proceed with the acquisition, development and construction of the Property for the Project by Developer, all as more particularly set forth below; and

WHEREAS, the City and the CRA deem the sale and development of the Property to be a proper public purpose, and that said sale and development will achieve important City and CRA objectives such as stimulating economic development in the City, increasing property values and ad valorem taxes, and creating jobs, and that the Property is surplus real property; and

WHEREAS, the City and the CRA are authorized to enter into this Agreement; and

WHEREAS, the City and the CRA hereby find that this Agreement is in the best interests of its citizens; and

WHEREAS, Developer, the City and the CRA are in voluntary agreement with the conditions, terms and restrictions hereinafter recited, and have agreed voluntarily to their imposition as an incident to the development of the Property.

NOW THEREFORE, in consideration of the premises and mutual covenants herein contained, the Parties agree as follows:

PART 1 – GENERAL

1.1 *Recitals; Exhibits; Definitions*. The above Recitals are true and correct, are incorporated herein by reference and form a material part of this Agreement. The Exhibits attached to this Agreement are incorporated herein by reference and form a material part of this Agreement. Unless otherwise specifically defined in this Agreement, words and terms used in this Agreement shall have the same meaning and definition as in the City's Code of Ordinances and/or Land Development Regulations. For the purposes of this Agreement, the following definitions will apply:

(a) "Applicable Law" shall mean (x) any statute, law, treaty, rule, code, ordinance or regulation within the jurisdiction of the Governmental Authority promulgating the same, including the ADA and Environmental Laws, that is applicable to the Project or to Persons, facilities or activities within the Project (including, without limitation, the City's Code of Ordinances and the City's Land Development Regulations); or (y) any judgment, decision, decree, injunction, writ, order or like action of any court, arbitrator or other Governmental Authority with respect to any of the foregoing, the enforceability of which has not been stayed or appealed.

(b) "Base Property Condition" shall mean the condition of the Property as reflected in the Property Reports (defined in Section 1.1(x)), Due Diligence Reports (defined in Section 4.4), and Permitted Exceptions (defined in Section 1.1(v)).

(c) "Changed Conditions" shall mean that conditions of a Takedown Parcel differ from the Base Property Condition thereof, normal wear and tear excepted, and that such different or changed conditions materially and adversely affect the intended development and use of the Takedown Parcel.

(d) "Closing" shall mean the consummation of a Takedown transaction pursuant to which the CRA conveys a Parcel to Developer, in accordance with Part 4 hereof. A Closing may also be referred to as a "Takedown Closing".

(e) "Comprehensive Plan" shall mean the plan adopted by the City pursuant to Florida Statutes Sections 163.3177 and 163.3178, as the same may be amended from time to time.

(f) "Conceptual Master Plan" shall mean the conceptual master development plan for the Project attached hereto as Exhibit "B", as the same may be amended from time to time or superseded by a final master plan if approved by the City.

(g) "County" shall mean Lake County, Florida, a political subdivision of the State of Florida.

(h) "Earnest Money Deposit" shall mean the Periodic Earnest Money Deposits and/or the Extension Fee(s), collectively and as applicable, together with all interest earned thereon.

(i) "Entitlements" shall mean the Project PUD, the Comp Plan Amendment, the PSP and the Site Plan, collectively (all as defined in Section 2.2).

(j) "Environmental Laws" shall mean all laws, including any consent decrees, settlement agreements, judgments, or orders, issued by or entered into with a Governmental Authority, pertaining or relating to: (w) pollution or pollution control; (x) protection of human health or the environment; (y) the presence, use, management, generation, processing, treatment, recycling, transport, storage, collection, disposal or release or threat of release of Hazardous Materials; and (z) the protection of endangered or threatened species.

(k) "Escrow Agent" means Lowndes, Drosdick, Doster, Kantor & Reed, P.A., 215 North Eola Drive, Orlando, Florida 32801, Attention: Rebecca Wilson, Esquire. The Escrow Agent also shall serve as the closing agent for the Closings.

(l) "Extension Fee" means a payment by Developer to the Escrow Agent, at Developer's option, to extend either (i) a development deadline pursuant to Section 3.1 or Section 3.4 of this Agreement, or (ii) a Closing Date pursuant to Section 5.1 of this Agreement. Any Extension Fee paid by Developer shall be non-refundable once paid except in the event of a default by either the City or the CRA or as otherwise specifically set forth in this Agreement, but all Extension Fees shall be applicable to a purchase price hereunder.

(m) "Feasibility Period" shall mean the period of time commencing on the first (1st) business day after the Effective Date and terminating one hundred twenty (120) days thereafter.

(n) "Final Plat" shall mean a final, recorded subdivision plan for one or more Parcels if approved in accordance with Section 102-26 of the Land Development Regulations.

(o) "Force Majeure" shall mean the occurrence of any of the following: acts of God; acts of the public enemy; the confiscation or seizure by any Government Authority; insurrections; wars or war-like action (whether actual or threatened); arrests or other restraints of government (civil or military); strikes, labor unrest or disputes (in each case without regard to the reasonableness of any Party's demands or ability to satisfy such demands); unavailability of or delays in obtaining labor or materials; pandemics or epidemics; landslides, lightning, earthquakes, fires, hurricanes, storms, floods or other severe weather; explosions; civil disturbance or disobedience; riot, sabotage, terrorism or threats of sabotage or terrorism; injunctions; other governmental action or change in law which prohibits or materially interferes with development or construction of the Project; power failure; or other cause, whether of the kind herein enumerated or otherwise, that is not within the reasonable control of the Party claiming the right to delay or excuse performance on account of such occurrence. Notwithstanding the foregoing, for purposes of this Agreement, no action of any Governmental Authority shall, as applied to the CRA in its capacity as owner of any Parcel or as a Party and as applied to the City in its capacity as a Party (and provided such action of the CRA or the City is in its proprietary capacity as opposed to its regulatory capacity), be considered governmental actions that excuse or may permit delay in performance by the CRA or the City, and “Force Majeure” shall not include an inability to pay debts or other monetary obligations in a timely manner.

If a Party determines, in good faith, that the performance of its duties or obligations under this Agreement in a timely manner is or will be barred or rendered reasonably impracticable as a result of a Force Majeure event, such Party shall give the other Parties prompt written notice thereof, whereupon the notifying Party shall be afforded a reasonable extension of the relevant time otherwise designated (which extension of the relevant time shall equal at least twice the duration of the Force Majeure event). Notwithstanding the foregoing, unless otherwise set forth in this Agreement to the contrary, a Party shall not be excused from any duties, obligations or deadlines under this Agreement merely due to financial hardship, lack of demand or economic downturns. Any extension of relevant time as a result of Force Majeure shall be memorialized by the Parties in writing.

(p) “Governmental Authority(ies)” shall mean any and all jurisdictions, entities, courts, boards, agencies, commissions, authorities, offices, divisions, subdivisions, departments or bodies of any nature whatsoever and any and all governmental units (federal, state, county, municipality or otherwise) whether now or hereafter in existence. The term “Governmental Authorities” shall include, without limitation, the City, the CRA, the County, the St. Johns River Water Management District (“SJRWMD”), and the Florida Department of Transportation (“FDOT”). Notwithstanding the foregoing, for purposes of this Agreement: (x) the CRA, acting in its capacity as owner of the Property or as a Party to this Agreement, shall not be considered a Governmental Authority; and (y) the City, in the proper exercise of its policy powers, shall be considered a Governmental Authority.

(q) “Hazardous Materials” means all toxic or hazardous materials, chemicals, wastes, pollutants or similar substances, including, without limitation, Petroleum (as hereinafter defined), asbestos insulation and/or urea formaldehyde insulation, which are regulated, governed, restricted or prohibited by any federal, state or local law, decision, statute, rule, regulation or ordinance currently in existence or hereafter enacted or rendered, including, but not limited to, those materials or substances defined as “hazardous substances,” “hazardous materials,” “toxic substances” or “pollutants” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., the Clean Air Act, 42 U.S.C. Section 7401 et seq., the Clean Water Act, 33 U.S.C. Section 1251 et seq., and any applicable statutes, ordinances or regulations under the laws of the State in which the Property is located, and any rules and regulations promulgated thereunder, all as presently or hereafter amended. “Petroleum” for purposes of this Agreement shall include, without limitation, oil or petroleum of any kind and in any form including but not limited to oil, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with other waste, crude oil, gasoline, diesel fuel and kerosene.

(r) "Initial Takedown Parcel" shall mean Developer's initial takedown and acquisition of both the Phase 1 Parcel and the Phase 4 Parcel pursuant to Section 3.1 and Part 4 of this Agreement.

(s) "Parcel" shall mean any of the Phase 1 Parcel, the Phase 2 Parcel, the Phase 3 Parcel and/or the Phase 4 Parcel. Each of the Parcels constitutes a portion of the Property, and each of the Parcels is described in Exhibit "A" attached hereto.

(t) "Periodic Earnest Money Deposit(s)" shall mean the annual earnest money deposit(s) to be delivered by Developer to Escrow Agent pursuant to Section 4.3 of this Agreement, together with all interest earned thereon.

(u) "Permits" means all permits, consents, approvals, authorizations, variances, waivers, certificates and approvals from all Governmental Authorities, utility companies and any other Person which are required for the planning, design, construction, furnishing, completion, use and occupancy of the Project and/or a Takedown Parcel, as the case may be and the context may require. Notwithstanding the foregoing, the term "Permits" shall specifically exclude the Entitlements.

(v) "Permitted Exceptions" shall mean those matters of title listed on Exhibit "C" attached hereto, together with those matters of title either approved or waived by Developer pursuant to Sections 4.5 and 4.6 of this Agreement.

(w) "Person" shall mean any natural person, firm, partnership, association, corporation, limited liability company, trust, entity, public body, authority, governmental unit or other entity, as applicable.

(x) "Property Reports" shall mean the studies, reports, analyses and other information relating to the Property delivered by the City and/or the CRA to Developer pursuant to Section 4.4 below, which Property Reports are listed on Exhibit "D" attached hereto.

(y) "PSP" shall mean the preliminary subdivision plan for the Initial Takedown Parcel pursuant to Chapter 102 of the City's Land Development Regulations (including any waivers necessary in connection therewith).

(z) "Project PUD" shall mean the planned unit development for the Property and the Project.

(aa) "Site Plan" shall mean the final site plan for the development of the Initial Takedown Parcel pursuant to Chapter 102 of the City's Land Development Regulations (including any waivers necessary in connection therewith).

(bb) "Takedown" shall mean Developer's election to acquire a Parcel in accordance with the terms and conditions of this Agreement, exercised by Developer delivering a Takedown Notice to the City and the CRA.

(cc) "Takedown Notice" shall mean the written notice of a Takedown delivered by Developer to the City and the CRA in accordance with the terms and conditions of this Agreement, which Takedown Notice shall identify the Parcel(s) which is/are the subject of the Takedown Notice and which Developer intends to acquire as provided herein. The Parcel(s) which is/are the subject of a Takedown Notice are sometimes referred to as the "Takedown Parcel".

(dd) "Takedown Schedule" shall mean the schedule and required timing for the acquisition and closing of Parcels, as described in Section 4.1 hereof.

1.2 *Captions*. The captions used herein are for convenience only and shall not be relied upon in construing this Agreement.

1.3 *Binding Effect*. This Agreement and the rights, restrictions, duties, covenants, conditions and obligations created hereby shall create mutual benefits, obligations and servitudes that (i) remain in full force and effect for the term of this Agreement as set forth in Section 1.5 below, (ii) run with the title to the Property and any portion thereof, and (iii) are and shall be binding upon and inure to the benefit of each Party, together with all tenants, mortgagees, customers and invitees of such Party, and their respective successors and assigns. Notwithstanding the foregoing, the terms and conditions of this Agreement shall terminate as to any Parcel which has been conveyed by the CRA to Developer, and upon such conveyance and without the execution or recordation of any further document or instrument, such Parcel shall be released from and no longer be subject to or burdened by the provisions of this Agreement. This Agreement shall be recorded in the Lake County Public Records no later than fourteen (14) days after full execution. Recording costs shall be paid by Developer.

1.4 *Third Party Beneficiaries*. The provisions of this Agreement are for the exclusive benefit of the Parties and not for the benefit of any third person, nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any third person unless otherwise expressly provided for herein.

1.5 *Duration*. The duration of this Agreement shall be for a term ending upon the earlier of (i) December 31, 2027 (subject to extension based on events of Force Majeure or as otherwise extended pursuant to the provisions hereof), or (ii) when all of the Parcels have been conveyed by the CRA and acquired by Developer. Notwithstanding the foregoing, at any time prior to the first (1^{st}) anniversary of the Effective Date and provided the Closing for the Initial Takedown Parcel has not occurred, Developer may terminate this Agreement for any reason or no reason by written notice thereof to the City and the CRA, in which case this Agreement shall be of no further force and effect and the initial Periodic Earnest Money Deposit shall be refunded to the Developer. Upon the termination of this Agreement, the Parties shall cooperate in good faith to execute and record a notice of such termination among the Public Records of Lake County, Florida.

PART 2 - PLANNING AND DESIGN; LAND USE APPROVALS

2.1 *Conceptual Master Plan*. The Project shall be developed substantially in accordance with the Conceptual Master Plan, except as otherwise agreed by the City, the CRA and Developer. The Parties acknowledge and agree that the Conceptual Master Plan contemplates that the Project shall include, without limitation:

(i) Phase 1. Phase 1 will be developed on the Phase 1 Parcel and will include, without limitation: (a) a five-story mixed use apartment building having a minimum of 75 multi-family dwelling units and a minimum of 6,000 square feet of ground-floor retail/restaurant/commercial space; (b) a food hall containing a minimum of 8,000 square feet; and (c) courtyard/patio areas open to the public. In addition, Phase 1 will include the development of the Interim Parking described in Section 3.2(i) below.

(ii) Phase 2. Phase 2 will be developed on the Phase 2 Parcel and will consist of a parking garage containing sufficient parking spaces as determined by that certain parking study prepared or to be prepared by or on behalf of Developer (the "Parking Study"), with the garage building being lined with ground-floor retail/commercial/office space (potentially including live-work units) (the "Parking Garage"). The Parking Garage will serve Phase 1, Phase 2, Phase 3 and Phase 4.

(iii) Phase 3. Phase 3 will be developed on the Phase 3 Parcel and will include an approximately five-story apartment building containing up to 180 multi-family dwelling units, together with retail/commercial/office uses.

(iv) Phase 4. Phase 4 will be developed on the Phase 4 Parcel and is intended to consist of an approximately four-story hotel containing approximately 60 guest rooms, together with other accessory uses, to support tourists, business travelers and other visitors to the City. Notwithstanding the foregoing, in the event Parcel 4 is not developed as a hotel prior to the termination or expiration of this Agreement, Parcel 4 may be used and operated as permanent parking serving Phase 1, as provided below.

Nothing herein shall waive or diminish Developer's obligation to comply with all other Applicable Laws of the City governing the development of the Project which are not inconsistent with the express terms of this Agreement.

2.2 *Entitlements*.

(i) Project PUD. The Parties acknowledge and agree that development of the Project on the Property will require City Commission approval of the "Project PUD", which if approved by the City Commission will be a site-specific planned development providing for a mixture of residential and non-residential uses and which will allow the development and use of the Project substantially in accordance with the Conceptual Master Plan and this Agreement. The Project PUD shall permit and provide for those permitted uses, development standards, and general building and site standards that will permit and accommodate the Project, including, without limitation: principal uses and accessory uses; short-term rentals (such as Airbnb and VRBO lodging) and transient lodging; sales of alcoholic beverages; hours of operation for retail/commercial/restaurant uses; gross and net densities; floor area ratio; gross floor areas; minimum and maximum impervious surface areas; minimum lot sizes; required setbacks (including zero lot line setbacks); open space requirements; permitted heights (including parapets); minimum required parking ratios for various uses (including shared parking by uses within the Project); access; lighting; signage (including types of signage, location of signage, permitted copy area, etc.); concurrency management The terms and conditions of the Project PUD shall be considered by the City Commission and City Commission approval is required. Developer, with the consent of the CRA, will initiate and pursue the Project PUD review process for the Property pursuant to and in accordance with the Conceptual Master Plan and this Agreement.

(ii) Comp Plan Amendment. If and to the extent the Comprehensive Plan must be amended to accommodate the Project and the Project PUD (including, without limitation, the adoption and implementation of an overlay district and/or additional policies and objectives), the Developer (with the consent of the CRA) will initiate and pursue any required Comprehensive Plan amendment(s) (the "Comp Plan Amendment") at its sole cost and expense. The Comp Plan Amendment shall be pursued and processed concurrently with the Project PUD review process. The Comp Plan Amendment, including all the terms and conditions thereof, shall be subject to the approval of Developer in its sole discretion.

(iii) Site Plan and PSP. Developer shall initiate and pursue (with the consent of the CRA), at its expense, the Site Plan and PSP (if required) for the development of the Phase 1 Parcel. The Site Plan and PSP, including all the terms and conditions thereof, shall be acceptable to Developer in its sole discretion.

(iv) Final Approval of Entitlements. Developer will pursue the Entitlements diligently and in good faith. In the event Final Approval of the Comp Plan Amendment, the Project PUD, the Site Plan and the PSP has not occurred within two hundred seventy-five (275) days after Developer's application for said entitlements , then Developer may, at its option, either (i) extend the time period for Final Approval of the Project PUD, the Comp Plan Amendment, the Site Plan, and/or the PSP, or (ii) terminate this Agreement by written notice thereof to the City and the CRA, in which case the initial Periodic Earnest Money Deposit shall be refunded to the Developer and this Agreement shall be of no further force and effect. Further, in the event the development standards, development conditions, mitigation conditions, and other terms and conditions of the Final Approval of any of the Entitlements (a) are not substantially consistent with the terms and conditions of this Agreement, or (b) in the reasonable judgment of Developer, materially and adversely affect the development, construction or operation of the Project, then Developer may terminate this Agreement by written notice thereof delivered to the City and the CRA within fifteen (15) days after the Final Approval of the Project PUD, the Comp Plan Amendment, the Site Plan or the PSP (whichever is objectionable). For the purposes of this Section 2.2, "Final Approval" shall not be deemed satisfied unless and until (w) the Entitlements have been reviewed and finally approved by the appropriate Governmental Authorities, (x) the time has passed for appeal of the Entitlements, (y) no notice of referendum or initiative with respect thereto has been published or publicized, and (z) any appeals or litigation with respect to (y) above have been prosecuted and resolved in a manner which is not subject to remand to lower courts or Governmental Authorities.

(v) Concurrency; Impact Fee Credits. The City hereby acknowledges and agrees that, if the Entitlements are approved as provided above, then upon the Final Approval of the Entitlements the Project will be vested and/or exempt under Florida law.

In addition to the foregoing, the City acknowledges and agrees that impact fee credits are available with respect to the Parcels, of the types and in the amounts set forth on Exhibit "F" attached hereto (collectively, the "Impact Fee Credits"). The Impact Fee Credits shall be assigned or allocated by the City to Developer for the Phase 1 Parcel at the time of the Phase 1 Closing and shall be available for use by Developer in connection with the development of Phase 1.

2.3 *No Agreement for Development Approvals and Obligation Limitation*. The Parties acknowledge the City has no obligation to approve any of Developer's Entitlements requests and that such requests are subject to notice requirements, public hearings, public input, and consideration by the City Commission based on evidence presented at the public hearings. Nothing in this Agreement binds or obligates the City to approve any of the Entitlements requests. Furthermore, a Party is bound by only those terms in this Agreement which specifically reference and obligate that particular Party.

PART 3 – OBLIGATIONS OF THE PARTIES

3.1 *Timing of Project Improvements*.

(i) Phase 1. The City and the CRA acknowledge and agree that Developer's obligation to acquire the Initial Takedown Parcel shall be conditioned and contingent upon: (a) Developer electing to proceed with this Agreement beyond the expiration of the Feasibility Period, pursuant to Section 4.4 below; (b) Final Approval of the Entitlements pursuant to Section 2.2 above; and (c) issuance of the final building permit by the City for the development and construction of Phase 1 of the Project (subject to such conditions and requirements as are acceptable to Developer in its sole discretion) (collectively, the "Initial Takedown Contingencies"). The building permit application for the Phase 1 improvements shall be submitted to the City within one hundred eighty (180) days after Final Approval of the Entitlements. Upon receipt of the building permit and the full performance and satisfaction of the Initial Takedown Contingencies, Developer shall issue and deliver its Takedown Notice for the acquisition of the Initial Takedown Parcel.

With respect to the development of Phase 1, the Parties also will negotiate in good faith for (i) temporary construction easements encumbering the Phase 2 Parcel and/or the Phase 3 Parcel, to benefit Developer and provide staging and laydown areas, storage areas, and other construction uses for the development and construction of Phase 1; and (ii) a parking easement for the Interim Parking to be located on the Phase 2 Parcel to benefit the Phase 1 Parcel.

(ii) Phase 2 and Phase 3. Developer shall issue and deliver its Takedown Notice for the acquisition of both the Phase 2 Parcel and Phase 3 Parcel together no later than December 31, 2027 (the "Second Takedown Deadline").

(iii) Phase 4. Developer shall commence construction of the hotel on the Phase 4 Parcel, if at all, no later than December 31, 2027 (the "Phase 4 Commencement Deadline"). In the event Developer does not commence construction of the hotel on the Phase 4 Parcel by the Phase 4 Commencement Deadline, then the CRA shall have the one-time right to recapture the Phase 4 Parcel, provided that the City or CRA provides alternate parking to replace the Interim Parking (defined below) pursuant to Section 3.2(i) below.

3.2 *Parking*.

(i) Parking Facility on Lake Mechanical Property. The CRA and/or the City shall pay for and arrange for the construction of a parking garage (the "Lake Mechanical Garage") on the "Lake Mechanical" property owned by the City described and depicted on Exhibit "E" attached hereto (the "Lake Mechanical Property"). In connection therewith, at the Closing of the Initial Takedown Parcel, Developer and the City shall enter into a parking easement agreement for sixty-four (64) spaces in the Lake Mechanical Garage serving the Phase 1 Parcel and the Phase 4 Parcel (the "Developer Spaces"), in the form attached hereto as Exhibit "G" (the "Lake Mechanical Parking Agreement"). In the event the Lake Mechanical Garage is not completed by the completion deadline set forth in the Lake Mechanical Parking Agreement, then the CRA shall be obligated to provide interim parking on the Phase 2 Parcel until the Lake Mechanical Garage is completed, such interim parking to be (x) provided at the CRA's cost and expense, including paving, striping and signage as may be required or reasonably necessary for such parking use, and (y) memorialized in a written use and easement agreement between Developer and the CRA, in form and substance acceptable to both Parties in their reasonable discretion.

(ii) Interim Phase 1 Parking. Notwithstanding that Developer will acquire the Phase 4 Parcel as part of the Initial Takedown Parcel, the Parties acknowledge and agree that the Phase 4 Parcel initially shall be improved and used as surface parking to serve the Phase 1 improvements exclusively until such time as the Parking Garage is constructed on the Phase 2 Parcel and a hotel is developed on the Phase 4 Parcel (the "Interim Parking"). The Interim Parking shall be operated and maintained at the cost and expense of Developer. In the event Developer does not commence construction of the hotel on the Phase 4 Parcel by the Phase 4 Commencement Deadline and the CRA does not exercise its one-time right to recapture the Phase 4 Parcel as provided in Section 3.4 below, then such Interim Parking may become permanent parking owned and operated by Developer to serve the Phase 1 Improvements.

(iii) Parking Garage. In the event Developer issues and delivers its Takedown Notice for the acquisition of both the Phase 2 Parcel and Phase 3 Parcel together, Developer shall design, construct, and operate the Parking Garage on the Phase 2 Parcel as a private parking facility, serving the occupants, patrons, guests, employees, contractors, and invitees of Phase 1, Phase 2, Phase 3 and/or Phase 4. The CRA will provide partial reimbursement towards the cost of development and construction of the Parking Garage (the "Parking Garage Reimbursement"). The CRA will provide a total of $6,000,000 toward the cost of parking serving the Project (including the Developer

Spaces described above, but excluding the cost of providing interim parking on the Phase 2 Parcel as provided in Section 3.2(i) above as a result of the Lake Mechanical Garage not being completed by the completion deadline). Accordingly, provided the Lake Mechanical Garage is completed and the Developer Spaces are provided as described above, the CRA contribution of $6,000,000 toward the Parking Garage on the Phase 2 Parcel shall be reduced by an amount equal to the number of Developer Spaces multiplied by Twenty Thousand Dollars ($20,000). For example, if the Developer Spaces consist of 64 parking spaces, then the Parking Garage Reimbursement applicable to the Parking Garage shall be reduced by $1,280,000 to a total of $4,720,000. In no event shall the CRA's reimbursement exceed $4,720,000.00 and in no event shall the CRA's reimbursement per parking space exceed $20,000.00.

After completion of the Parking Garage, Developer shall provide the CRA with all invoices and proof of payments for the design and construction of the Parking Garage. In the event the CRA disputes any of the invoices and/or payments, the parties shall negotiate in good faith to resolve any dispute. Any amount which is not paid and not disputed in writing within sixty (60) days after the date of receipt of such invoices and payments shall bear interest at the lesser of eighteen percent (18%) per annum or the maximum amount permitted by law until paid.

3.2 *Phase 1 Security*. As additional security for Developer's performance of this Agreement with respect to Phase 1, at the Closing of the Initial Takedown Parcel Developer shall provide a performance bond, completion guarantee, or other similar security for its development and construction of Phase 1 pursuant to this Agreement and the Entitlements. Such security (i) shall be acceptable to the City and the CRA in their reasonable discretion, (ii) shall be issued by a bonding company with no less than an A rating during the year the performance bond is first issued (rating provided by A.M. Best Company, Inc.), (iii) shall be for the benefit of the City and the CRA (and may also be for the benefit of the lender providing acquisition and construction financing for Phase 1), and (iv) may allow such lender to be the primary beneficiary or obligee of such bond or guarantee.

3.3 *Interim Use of Phase 2 Parcel and Phase 3 Parcel*. Prior to the development and construction of or on the Phase 2 Parcel and/or the Phase 3 Parcel as provided herein, the City and/or the CRA shall be entitled to use either or both such undeveloped Parcel(s) for festivals or other temporary events, provided that: (i) the City and/or the CRA, as applicable, obtains the prior written consent of the Developer for any such use or event, such consent not to be unreasonably withheld, conditioned or delayed; and (ii) any damage to or destruction of such Parcel(s) resulting from or caused by such use shall not be considered normal wear and tear and shall constitute Changed Conditions to the extent such damage or destruction materially and adversely affects the intended development and use of the Phase 2 Parcel and/or the Phase 3 Parcel, as applicable.

3.4 *Recapture of Phase 4 Parcel*. In the event Developer has not commenced construction of a hotel (or other use approved by the City and the CRA) on the Phase 4 Parcel by the Phase 4 Commencement Deadline, the CRA shall have the one-time right to recapture the Phase 4 Parcel provided that the City or CRA, at its expense, provides alternate parking to replace the Interim Parking. In the event the CRA is entitled to recapture the Phase 4 Parcel as provided herein (the "Recapture Right"), then the CRA shall exercise the Recapture Right by delivering written notice thereof to Developer within thirty (30) days after the Phase 4 Commencement Deadline. If the CRA fails to deliver such Recapture Notice within such thirty (30) day period, then the Recapture Right shall automatically terminate and be of no further force and effect (and upon the request of Developer, the CRA shall execute a written acknowledgement of such termination in recordable form and provide the same to Developer).

If the CRA properly and timely exercises the Recapture Right, then the CRA and Developer shall negotiate diligently and in good faith a parking easement agreement by which alternate parking to replace the Interim Parking is provided to serve the Phase 1 Parcel (the "Alternate Parking Agreement"). Within thirty (30) days after Developer and the CRA have agreed on the form of Alternate Parking Agreement, the Phase 4 Parcel shall be conveyed by Developer to the CRA in accordance with the following: (i) Developer shall convey the Phase 4 Parcel to the CRA by special warranty deed, subject only to the Permitted Exceptions and to such other title exceptions and matters as are reasonable or necessary for the development and use of the Phase 1 Parcel; (ii) the conveyance of the Phase 4 Parcel shall be for no additional consideration or purchase price; (iii) at the time of such conveyance, the Phase 4 Parcel shall not, due to any acts or omissions of Developer, contain any Hazardous Materials in violation of any applicable Environmental Laws; (iv) the CRA shall take title to the Phase 4 Parcel in its then-current "AS IS" and "WHERE IS" condition; (v) the Parties each shall deliver the closing documents, duly executed in accordance with applicable law, contemplated in Sections 4.11(b)(ii)-(v) below; (vi) the CRA shall be responsible for the payment of the Florida documentary stamp tax payable on the special warranty deed, if any, and for the per-page cost of recording the deed and any other documents to be recorded in connection therewith, and each Party shall pay their own attorney fees; (vii) taxes and other assessments shall be prorated consistent with Section 4.11(d) below; (viii) the CRA shall not have the right to assign the Recapture Right without the prior written consent of Developer, which consent shall be within Developer's sole and absolute discretion; and (ix) the Parties otherwise shall exercise diligent, good faith efforts to consummate the reconveyance of the Phase 4 Parcel to the CRA consistent with the terms, conditions and intent of this Agreement.

PART 4 - PARCEL TAKEDOWNS AND CLOSINGS

4.1 *Parcel Takedowns*. The CRA hereby grants to Developer the exclusive right and option to acquire the Parcels during the term of this Agreement, subject to and upon the terms and conditions set forth in this Agreement (the "Option"). The Option shall be exercisable by Developer during the term of this Agreement only in accordance with and subject to the terms and conditions hereinafter set forth.

For the purposes of this Section 4.1, Developer shall exercise its Option with respect to a Parcel by delivering a Takedown Notice with respect to such Parcel to the CRA. The Option with respect to such Takedown Parcel shall be properly and effectively exercised in such Takedown Notice if, and only if, the Option is exercised in accordance with the provisions of this Agreement, and at the time of such exercise, Developer shall be in substantial compliance with all of its covenants and obligations under and pursuant to this Agreement. Upon the proper exercise of the Option with respect to a Parcel by Developer, this Agreement thereupon shall mature into and constitute an agreement for sale and purchase between the CRA and Developer with respect to the Takedown Parcel. Such agreement shall be and constitute an agreement of the CRA to sell and convey the Takedown Parcel to Developer and the agreement of Developer to acquire the Takedown Parcel from the CRA, upon the terms and conditions set forth in this Agreement. The CRA and Developer shall execute a written acknowledgement and confirmation of their respective obligations to sell and purchase the Takedown Parcel within thirty (30) days after the later of: (1) the completion of the tests, studies and investigations process as provided in Section 4.4 below, (2) the completion of the title review and cure process as provided in Section 4.5 below, or (3) the completion of the survey review and cure process as provided in Section 4.6 below. Further, the Closing with respect to such Takedown Parcel shall be subject to all the other terms, conditions and contingencies set forth in this Agreement.

The Parties acknowledge and agree that the proposed development of the Project by Developer is a material consideration for the CRA's willingness to enter into this Agreement. Developer acknowledges and agrees that it intends to pursue the approval, development and construction of the Project diligently and in good faith. However, the CRA hereby acknowledges and agrees that Developer's willingness and ability to proceed with development of the Project is dependent upon demand, market conditions and the ability to secure financing for each portion of the Project. Accordingly, the Parties have agreed that the acquisition, development and construction of Parcels shall be subject to and in accordance with the Takedown schedule and the various contingencies set forth in this Agreement, to allow Developer the reasonable ability to develop based on demand, market conditions and availability of financing while ensuring that Developer will proceed with the acquisition and development of Parcels diligently and in good faith.

Notwithstanding anything in this Section 4.1 to the contrary, however, Developer shall not be deemed in default hereunder if and to the extent Developer is unable, in good faith, to meet any of the foregoing deadlines as a result of Force Majeure. For the purposes of this paragraph, "Force Majeure" also shall mean that Developer is unable, in good faith, to meet any of the deadlines set forth in this Agreement as a result of a Force Majeure event. Further, for the purposes of this Section 4.1 only, "Force Majeure" also shall mean and include the general unavailability of development and construction financing unrelated to the Developer's financial condition, or mutually recognized and severe economic conditions. In the event of any of the circumstances described in the foregoing clause, the Takedown schedule shall be tolled and extended by a reasonable period until such Force Majeure condition(s) have terminated or subsided.

4.2 *Purchase Price and Method of Payment*. The CRA shall convey the Initial Takedown Parcel to Developer for no additional consideration beyond Developer's agreement to perform the terms and conditions of this Agreement diligently and in good faith, and for and in consideration of the public purpose served by the development of Phase 1 and, potentially, the remainder of the Project, in accordance with this Agreement. Subject to adjustments and prorations provided in this Agreement, the purchase price for the Phase 2 Parcel shall be One Million Five Hundred Thousand Dollars ($1,500,000.00) and the purchase price for the Phase 3 Parcel shall be One Million Five Hundred Thousand Dollars ($1,500,000.00).

The purchase price for a Takedown Parcel shall be paid in cash by wire transfer paid to the CRA at Closing, plus such lesser or greater amounts as may be required as a result of prorations and adjustments in accordance with this Agreement.

4.3 *Consideration and Periodic Earnest Money Deposits*. The Parties acknowledge that the money expended by Developer in connection with this Agreement, including but not limited to preparation of plans, the Parking Study, and other due diligence shall serve as the consideration for entering into this Agreement. In addition, concurrently with the full execution of this Agreement by the Parties and continuing on each anniversary of the Effective Date thereafter until (and including) ________, 2024, Developer shall deposit with Escrow Agent a Periodic Earnest Money Deposit in the amount of Thirty Thousand Dollars ($30,000.00). Commencing on ________, 2025 and continuing on each anniversary of the Effective Date thereafter until (and including) ________, 2027, Developer shall deposit with Escrow Agent a Periodic Earnest Money Deposit in the amount of Fifty Thousand Dollars ($50,000.00). Developer's obligation to deliver Periodic Earnest Money Deposits hereunder shall terminate upon the acquisition of Parcel 2 and Parcel 3. Each Periodic Earnest Money Deposit shall be at risk and non-refundable to Developer, except in the event of a default by the City or the CRA or as otherwise specifically set forth in this Agreement; notwithstanding the foregoing, all Periodic Earnest Money Deposits shall be applicable to the purchase price for the Phase 2 Parcel and the Phase 3 Parcel.

4.4 *Feasibility Period*. During the Feasibility Period, Developer and its agents, employees and representatives, upon reasonable prior notice to the CRA, shall have the right to enter upon the Property and investigate the condition of the Property at Developer's expense, including, without limitation, the survey, title, environmental, geotechnical, physical, market, and economic condition thereof, and determine whether the same is acceptable in Developer's sole discretion. For purposes of this Agreement, all reports, studies and analyses of the Property prepared by or on behalf of Developer during the Feasibility Period are collectively referred to as the "Due Diligence Reports". The CRA has provided the Property Reports to Developer on or before the Effective Date.

Developer and its representatives, agents, employees and consultants shall exercise due care and ordinary prudence in performing such inspections, examinations, investigations and tests and shall be responsible for all liabilities and obligations arising from such inspections, examinations, investigations and tests and shall, prior to entering onto the Property, and provide the CRA evidence of a general liability insurance policy in an amount of not less than $1,000,000.00 which names the City and the CRA as additional insureds. After completion of such inspections and tests, Developer, at its sole cost, shall restore the Property disturbed by such inspections, tests and surveys, to the condition existing immediately prior thereto.

Developer may terminate this Agreement for any reason by notifying the City and the CRA in writing on or before the expiration of the Feasibility Period. Upon any termination of this Agreement by Developer pursuant to this Section 4.4, the initial Periodic Earnest Money Deposit shall be refunded to the Developer and the Parties shall have no further obligations or liability hereunder except those which specifically survive the termination hereof, and Developer shall deliver to the City and the CRA copies of all Due Diligence Reports (excluding any of Developer's proprietary or confidential information). Such documents delivered to the City and the CRA shall become the property of the City and the CRA, with the understanding that Developer makes no representations or warranty with regard to, and the City and the CRA shall have no rights of reliance on, such Due Diligence Reports except to the extent the same are certified to the City and the CRA. The City and the CRA each hereby specifically acknowledge and agree that in no event shall Developer be obligated to provide the City or the CRA with any of Developer's marketing, financial, proprietary or confidential information or materials.

In the event Developer does not terminate this Agreement within the Feasibility Period, Developer shall be deemed to have approved the Property in its Base Property Condition. Notwithstanding the foregoing, with respect to the Phase 2 Parcel and the Phase 3 Parcel, Developer shall have a period of sixty (60) days after the date of delivery of the Takedown Notice for such Parcels (the "Takedown Inspection Period") within which to perform any additional or updated surveys, soil test borings, environmental testing, environmental audit, or any other studies, tests or investigations on or about the Takedown Parcel as Developer may desire or deem necessary in order to update the Base Property Condition of the Takedown Parcels. Developer may extend the Takedown Inspection Period by thirty (30) days (to a total of 90 days), upon written notice to the City and the CRA delivered within forty (40) days after the date of the Takedown Notice. In the event any new tests, studies and investigations conducted by Developer during the Takedown Inspection Period disclose or reveal Changed Conditions with respect to the Takedown Parcel then Developer, at its election and in its sole and absolute discretion, may either: (i) provide the CRA a period of time, not to exceed sixty (60) days, within which to remedy or cure the Changed Conditions at the CRA's sole cost and expense; (ii) proceed with the Closing for the Takedown Parcels notwithstanding the Changed Conditions, provided that Developer shall receive a credit at Closing equal to the reasonable cost to cure and remedy such Changed Conditions; or (iii) terminate this Agreement with respect to the Takedown Parcels only, in which case neither Developer nor the CRA shall have any further obligation to the other under the terms of this Agreement with respect to such Takedown Parcels. Notwithstanding the foregoing, in the event the Changed Conditions result from acts of God, the CRA shall have no obligation under clause (i) above to remedy or cure the Changed Conditions.

Developer agrees to indemnify, defend and hold the City and the CRA harmless from and against all fines, expenses, penalties, costs, claims, liabilities and expenses, including reasonable attorneys' fees and other costs, incurred, sustained by, or asserted against the City and the CRA arising from the inspections and entries by or on behalf of Developer pursuant to this Section 4.4. The foregoing indemnification shall survive the Takedown Closings or the earlier termination of this Agreement.

4.5 *Title Insurance*. Within twenty (20) days following (i) the Effective Date with respect to the Property and (ii) the delivery of the Takedown Notice with respect to a Takedown Parcel, Developer shall cause the title company of its choice (the "Title Company") to issue and deliver to Developer, at Developer's expense, an ALTA title commitment (the "Title Commitment") accompanied by one copy of each document supporting any exception to the Title Commitment. For purposes hereof, the term "Title Commitment" shall mean the Title Company's commitment to issue an Owner's Policy of Title Insurance insuring the fee simple title to the Takedown Parcel subject only to the Permitted Exceptions.

If the Title Commitment reflects matters other than the Permitted Exceptions and the standard pre-printed exceptions for ad valorem real estate taxes for the current year and those matters which will be discharged at or prior to Closing, then Developer shall give the CRA written notice thereof before the expiration of ten (10) business days after receipt of the Title Commitment. In such event, Developer shall state which exceptions to the Title Commitment are objectionable, and the CRA shall undertake to eliminate such exceptions. In the event the CRA is unable with the exercise of reasonable diligence to satisfy said objections prior to Closing, Developer may, in its sole and absolute discretion, either: (a) accept title subject to the objections raised, in which event said objections shall be deemed to be waived for all purposes, or (b) terminate this Agreement with respect to the applicable portion of the Property, in which case the Earnest Money Deposit shall be refunded to the Developer and neither Developer nor the CRA shall have any further obligation to the other under the terms of this Agreement with respect to such portion of the Property. For the purposes of this Section 4.5, all matters and exceptions reflected in the Title Commitment that are either (x) included in Exhibit "D" attached hereto, or (y) accepted by Developer, shall be collectively referred to as "Permitted Exceptions".

4.6 *Survey*. Developer may, at its election and at its expense, within thirty (30) days after (i) the Effective Date with respect to the Property and (ii) the delivery of the Takedown Notice with respect to a Takedown Parcel, obtain a current survey of the applicable portion of the Property (a "Survey"). Any Survey shall be prepared by a duly licensed land surveyor selected by Developer, in accordance with the minimum technical standards for surveyors in the State of Florida. If the Survey reveals any encroachment, hiatus, overlap, or other survey defect that (a) with respect to a Survey obtained during the Feasibility Period, reflects matters objectionable to Developer in its commercially reasonable discretion, or (b) with respect to a Survey obtained during a Takedown Inspection Period, constitutes Changed Conditions, then in either event the same shall be treated as an objection to title, which objection must be made, if at all, by Developer by written notice to the CRA before the expiration of five (5) business days after receipt of the Survey. In such event, Developer shall state what matters depicted in the Survey are objectionable, and the CRA shall undertake to eliminate such objections in accordance with the same standards and requirements set forth in Section 4.5 for title objections. In the event the CRA is unable with the exercise of reasonable diligence to satisfy said objections prior to Closing, Developer may, in its sole and absolute discretion, either: (1) accept title subject to the objections raised, in which event said objections shall be deemed to be waived for all purposes, or (2) terminate this Agreement with respect to the applicable portion of the Property only, in which case the Earnest Money Deposit shall be refunded to the Developer and neither Developer nor the CRA shall have any further obligation to the other under the terms of this Agreement with respect to such portion of the Property. For the purposes of this Section 4.6, all matters and exceptions reflected in the Survey that are either (x) included in Exhibit "D" attached hereto, or (y) accepted by Developer, shall be collectively referred to as "Permitted Exceptions.

4.7 *Environmental*. The CRA represents and warrants to Developer, to the best of the knowledge of the CRA, and except as disclosed in the Property Reports, that each Takedown Parcel does not contain any Hazardous Materials in violation of any applicable Environmental Laws. Without limiting the foregoing, Developer acknowledges and agrees that it is aware of the following environmental matters as and to the extent described in the Property Reports: (i) soil and groundwater contamination on Parcel 1, for which a monitoring well is currently installed;

and (ii) shallow and deep organic soil deposits located on Parcel 2. The terms and conditions of this Section 4.7 shall survive the Closings or the earlier termination of this Agreement.

4.8 *Access to the Properties; Records and Other Information*. For the purposes of this Section 4.8: (i) during the term of this Agreement Developer or its agents shall be the "inspecting party" with respect to those portions of the Property which have not been the subject of a Takedown Closing, and (ii) during a Takedown Inspection Period, Developer or its agents shall be the "inspecting party" with respect to a Takedown Parcel. The Parties agree that the inspecting party shall have the right to enter upon the applicable portions of the Property (the "Inspected Property") to make such surveys, tests, inspections, analyses and similar examinations as the inspecting party may desire with respect to the Inspected Property. The inspecting party shall have the right to enter upon the Inspected Property for such activities provided said activities shall not materially damage the Inspected Property. The inspecting party agrees to deliver copies of all such tests, reports, surveys, and examinations to the CRA in the event the inspecting party elects not to acquire the Inspected Property. The inspecting party agrees to restore the Inspected Property to substantially the same condition as existed prior to its access thereto. Within five (5) days after the date of any Takedown Notice, the City and the CRA shall deliver to the inspecting party all analyses, studies, reports and records generated or prepared after the Effective Date, including all environmental reports and related data, pertaining to the Inspected Property, including the permits, plans, building inspection reports, and any other records or information or documents that the inspecting party may reasonably request, with respect to the Inspected Property that are in the City's and/or the CRA's possession or control.

4.9 *Representations and Warranties*. The following representations and warranties made by the City and the CRA to Developer are true and correct as of the Effective Date and shall be true and correct as of each Closing Date, and the truthfulness and correctness thereof shall constitute conditions precedent to Developer's obligation to close on the Takedown Property. For the purposes of this Section 4.9, the term "Takedown Parcel" shall mean all of the Property as of the Effective Date of this Agreement. Each of the following representations and warranties are, however, subject to and limited by the disclosures set forth elsewhere in this Agreement.

(a) Marketable Title. The CRA shall convey and deliver at Closing good and marketable title to the Takedown Parcel by Special Warranty Deed, in form and content reasonably acceptable to Developer, free and clear of all mortgages, liens, encumbrances, leases, security interests, covenants, conditions, restrictions, rights-of-way, easements, judgments and other matters affecting title, except for Permitted Exceptions.

(b) No Condemnation Pending or Threatened. The City and the CRA have no knowledge of any pending or threatened condemnation or similar proceeding affecting the Takedown Parcel or any portion thereof, nor does the CRA have knowledge that such action is contemplated.

(c) Adverse Information. The City and the CRA have no knowledge of any changes contemplated in any Applicable Laws, or any action by adjacent landowners, or natural or artificial conditions upon the Takedown Parcel, which would prevent, limit, impede or render more costly, the current or proposed use of the Takedown Parcel.

(d) Compliance with Laws. The City and the CRA have no knowledge of any violation of any Applicable Laws pertaining to or affecting the Takedown Parcel. The City and the CRA have no knowledge that performance of this Agreement would result in any breach of or constitute any default under or result in the imposition of any lien or encumbrance upon the Takedown Parcel under any agreement or other instrument to which the City or the CRA is a party or to which the City, the CRA or the Takedown Parcel might be bound. The City and the CRA have received no notices from any association, city, county, state, or other governmental authority of building, land use, zoning or health code violations in respect to the Takedown Parcel that have not been corrected.

(e) Pending Litigation. There are no legal actions, suits, or other legal or administrative proceedings including condemnation cases pending against, relating to or affecting the Takedown Parcel. The City and the CRA have no knowledge of any legal actions, suits, or other legal or administrative proceedings threatened against the Takedown Parcel. The City and the CRA are not aware of any facts which might result in any such action, suit or other proceedings.

(f) No Special Assessments or Obligations for Improvements. The City and the CRA have no knowledge that any portion of the Takedown Parcel is affected by any special assessments or obligations for roads or other improvements.

(g) Access to Highways and Roads. The City and the CRA have no knowledge of any fact or condition which would result in the termination of ingress and egress to publicly maintained and dedicated streets and access ways affecting the Takedown Parcel.

(h) Commitments to Governmental Authority. To the City's and the CRA's knowledge, no commitments have been made to any Governmental Authority, utility company, school board, church or other religious body or any property owners' association or to any other organization, group or individual relating to the Takedown Parcel which would impose an obligation upon Developer or its successors and assigns to make any contribution or dedications of money or land or to construct, install, or maintain any improvements of a public or private nature on or off the Takedown Parcel. There is no requirement that any owner of the Takedown Parcel pay directly or indirectly any special fees or contributions or incur any expenses or obligations in connection with any development of the Takedown Parcel. The provisions of this Section 4.9(h) shall apply to any regular or non-discriminatory local real estate taxes assessed against the Takedown Parcel.

(i) Subsurface Conditions. Except as otherwise disclosed in this Agreement or in the Base Property Condition, the City and the CRA have no knowledge of any environmental, soil, or subsurface conditions located on the Takedown Parcel which would impair the usability or developability of such Takedown Parcel for its proposed use.

(j) Environmental. To the City's and the CRA's knowledge, all of the statements regarding environmental matters contained in this Agreement and in the Property Reports are true and correct.

(k) Contracts. The City and the CRA represents that there are no leases, rights of first refusal, options or contracts, oral or written, in existence pertaining to the Takedown Parcel. Neither the City, the CRA nor any person authorized to act on their behalf, is a party to any written, oral or implied contract, agreement, lease or other commitment affecting or relating to the Takedown Parcel, including, without limitation, agreements for the purchase of goods or the rendering of services.

(l) Physical Condition of Improvements. Except as may be set forth in the representations and warranties contained herein, the City and the CRA make no representation or warranty as to the condition of the buildings, structures and other improvements located on the Takedown Parcel, or any systems or components thereof, said buildings, structures and other improvements to be acquired in their "AS IS" and "WHERE IS" condition.

4.10 *Permit Contingency*. The City and the CRA hereby acknowledge and recognize that Developer will acquire the Takedown Parcel hereunder with the intent to use and develop such Takedown Parcel for either residential or commercial development, as applicable, and that Developer is unwilling to acquire the Takedown Parcel unless such Takedown Parcel can be used and developed for residential or commercial purposes upon such acquisition. Accordingly, Developer's obligation to acquire a Takedown Parcel hereunder shall be specifically subject to and contingent upon Developer's receipt prior to Closing of all Permits for the contemplated development and construction on such Takedown Parcel. In the event Developer determines in its sole discretion that the Takedown Parcel is not suitable for Developer's intended purpose for any reason whatsoever, Developer shall be relieved from the obligations of this Agreement with respect to the purchase and acquisition of such Takedown Parcel.

4.11 *Provisions with Respect to Closing*.

(a) Closing Date. The consummation of a Takedown transaction contemplated by this Part 4 ("Closing") shall occur within thirty (30) days following the satisfaction of the Permit contingency set forth in Section 4.10 above (the "Closing Date"), at the offices of Developer's counsel, Lowndes, Drosdick, Doster, Kantor & Reed, P.A. ("Closing Agent").

(b) Obligations at Closing. On the Closing Date, Developer, the CRA and the City (as applicable) shall each deliver all of the following closing documents, duly executed in accordance with applicable law (together, the "Closing Documents"):

(i) Special warranty deed conveying the Takedown Parcel subject only to the Permitted Exceptions. The legal description of the Takedown Parcel on the deed shall be as contained in the Survey and the Title Commitment;

(ii) Standard form owner's affidavit attesting (among other things) to the lack of any parties in possession of the Takedown Parcel, the lack of any unrecorded easements affecting the Takedown Parcel and certifying that no improvements have been undertaken thereon within the preceding ninety (90) days for which the cost thereof has not been paid;

(iii) Such other affidavits as may reasonably be required by either Party, the Title Company, or Closing Agent;

(iv) A closing statement, and such other documents and instruments or assignments as may reasonably be requested by either Party to consummate the conveyance of the Takedown Parcel;

(v) Such other documents and agreements as may be reasonably required by either Party or as are contemplated by this Agreement to effectuate the Closing; and

(vi) With respect to the Closing for the Initial Takedown Parcel, the Lake Mechanical Parking Agreement.

(c) Closing Expenses. Each Party shall deliver to Closing Agent its share of the Closing expenses. The CRA shall be responsible for the payment of the Florida documentary stamp tax payable on the special warranty deed, if any (regardless of the provisions of Florida law exempting the CRA from the payment thereof). Developer shall be responsible for the premium for the title insurance policy. Developer shall be responsible for the per-page cost of recording the deed and for one-half (½) of the per-page cost of recording the other documents to be recorded in connection therewith. Each Party shall pay their own attorney fees.

The Parties may mutually agree to close the transaction in escrow, in order to execute the Closing Documents in advance and be prepared to consummate the transaction contemplated at a later date, all in accordance with an escrow agreement to be mutually agreed upon by the Parties.

(d) Proration of Rents, Taxes, Utilities, and Miscellaneous Expenses. Taxes for all years prior to the year of the Closing, and taxes for the year of Closing if then due, if any, shall be paid by the CRA. The conveyance shall be subject to taxes for subsequent years. Taxes for the tax year of Closing shall be prorated to the date of Closing, based upon the amount of taxes due for such year, if known, or the taxes for the preceding year, based upon the maximum discount allowable as of the date of Closing; provided, however, that upon the issuance of the actual tax statement or bill for the year of the Closing, if the actual tax varies from the amount prorated by more than five percent (5%), the Parties shall promptly make such re-prorations as may be necessary to ensure that the actual amount of such taxes for the year of Closing shall be prorated between the Parties, said agreement to survive Closing hereunder. All special assessments which have been levied or certified prior to Closing, if any, shall be paid in full by the CRA and any pending assessments shall be assumed by Developer.

4.12 *Assignment*. Developer may not assign its rights or obligations to acquire a Takedown Parcel under this Agreement without the prior written consent of the CRA, which consent not to be unreasonably withheld, conditioned, or delayed; provided, however, Developer may assign its rights and obligations to acquire a Takedown Parcel prior to Closing, without the CRA's consent and in whole or in part, to an entity that is affiliated with Developer. For purposes of this Section 4.12, "affiliate" means any other entity that Atrium Management Company, LLC (or its principals) and/or PRN Real Estate & Investments, Ltd. (or its principals) controls or manages. For the purposes of this definition, the term "controls or manages" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the entity in question, whether by the ownership of voting securities, contract or otherwise. Any reference to "Developer" in this Agreement shall mean and refer to an assignee under this Section 4.12 upon such assignment and with respect to the Takedown Parcel with respect to which such rights or obligations are assigned.

4.13 *Brokerage/Hold Harmless*. Developer, the City and the CRA each hereby represents and warrants that no broker, agent or finder has been employed by them in connection with this Agreement. Each Party shall indemnify and hold harmless the other Party from and against any commissions or fees or claims for commissions or fees arising under the indemnifying Party, which indemnification shall expressly survive any Closing.

4.14 *Tax Reporting Numbers*. The Parties agree to provide their tax identification numbers to the Closing Agent prior to Closing.

4.15 *Land Use*. Prior to Closing, the CRA will maintain each Takedown Parcel in a condition comparable to its condition as of the Effective Date and will not engage in or permit any activity that would materially alter the Takedown Parcel's condition without Developer's prior written consent.

4.16 *Non-Merger*. The provisions of all paragraphs of this Agreement which by their sense and context are intended to survive the Closing, shall so survive, and shall not be merged in the deed of conveyance from the CRA to Developer at Closing.

4.17 *1031 Exchange*. The Parties mutually agree that Developer may structure a Takedown transaction as part of an exchange in such a manner as shall qualify under the provisions of the Internal Revenue Service Code Section 1031. Developer and the CRA agree to cooperate in executing contracts or documents necessary to the exchange. Developer and the CRA shall bear all of their own costs and/or expenses not anticipated by this Agreement or occasioned by the exchange. This provision shall survive the Closing.

PART 5 - MISCELLANEOUS

5.1 *Default; Dispute Resolution*. In regard to any disputes that may arise under this Agreement, it is the intent of the Parties that any such disputes be resolved amicably and, to the extent reasonably possible, without litigation. In that regard, in the event any dispute should arise and is not resolved at a management level, any Party shall have the right, exercisable by written notice to the other Party (an "Impasse Notice"), to refer such matter for resolution by the Parties' designated representatives. In the event an Impasse Notice is sent, then the Parties shall meet and attempt to resolve said matter in an amicable fashion within thirty (30) days after the date of the Impasse Notice (or sooner, if possible). If said dispute cannot be resolved within said thirty (30) day period, then the dispute shall be submitted to non-binding mediation as provided below.

Non-binding mediation shall be a condition precedent to initiating litigation or other dispute resolution relating to an Impasse Notice. The Parties shall endeavor to resolve the dispute which is the subject of the Impasse Notice by mediation using a third-party mediator mutually approved by the Parties. A request for mediation shall be made in writing, delivered by one Party to the other Party, and filed with the Person administering the mediation. The Parties shall endeavor in good faith to settle the dispute in an amicable manner within forty-five (45) days of submission to non-binding mediation.

The Parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Lake County, Florida, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Any Party may, within thirty (30) days from the date that mediation has been concluded without resolution of the dispute or sixty (60) days after mediation has been demanded without resolution of the dispute, proceed to pursue its other remedies at law or in equity pursuant to this Agreement.

The foregoing shall not be construed to limit or impede any Party's right to seek any available injunctive or similar equitable relief, nor to enforce a monetary award from mediation, in the courts.

Notwithstanding anything in this Section 5.1 to the contrary, however, the following provisions shall apply to a default by Developer with respect to the Closing of the Phase 2 Parcel and Phase 3 Parcel. In the event Developer fails to consummate the Closing for the Phase 2 Parcel and Phase 3 Parcel by the Closing Date established pursuant to Section 4.11(a) above, and such failure represents a default on the part of Developer hereunder, then Developer shall have the right to extend the Closing Date for up to three (3) additional periods of thirty (30) days each, upon delivery of written notice thereof to the CRA and delivery of an Extension Fee in the amount of Ten Thousand Dollars ($10,000.00) to Escrow Agent for each extension. In the event Developer fails to consummate the Closing for the Phase 2 Parcel and Phase 3 Parcel by the Closing Date (as the same may be extended), then the CRA's sole remedy shall be to terminate this Agreement and receive the Earnest Money Deposit as liquidated damages, and not as a penalty. The Parties agree it would impractical or difficult to fix the actual damages to the CRA in the event of Developer's foregoing default, and the Parties have agreed that a reasonable estimate of such damages is the amount of the Earnest Money Deposit.

5.2 *Notices*. Whenever any notice, demand, or request is required or permitted, the notice, demand, or request will be sent by United States Mail, registered or certified, by hand delivery, or by overnight delivery, postage prepaid, to the addresses below.

If to the CRA or City:	City of Eustis CRA Attn: Economic Development Director 10 North Grove Street Eustis, FL 32726 Telephone: ____________

With a copy to:	Derek A. Schroth, City Attorney Bowen & Schroth, P.A. 600 Jennings Avenue Eustis, FL 32726 Telephone: 352-589-1414
If to Developer	Adam Wonus Atrium Management 1509 S. Orange Avenue Orlando, FL 32806 Telephone: 407-585-2721 AND Nancy A. Rossman PRN Real Estate & Investments, Ltd. 3200 S. Hiawassee Road Suite 205 Orlando, FL 32835 Telephone: 407-230-2536
With copy to:	M. Rebecca Wilson, Esquire Lowndes, Drosdick, Doster, Kantor & Reed, P.A. 215 N. Eola Drive Orlando, Florida 32801 Telephone: 407-418-6250
If to Escrow Agent:	M. Rebecca Wilson, Esquire Lowndes, Drosdick, Doster, Kantor & Reed, P.A. 215 N. Eola Drive Orlando, Florida 32801 Telephone: 407-418-6250

Any notice, demand, or request served on either of the Parties in the previous manner will be deemed sufficiently given for all purposes under this Agreement on the day the notices, demands, or requests are posted, postage prepaid, in the United States Mail in accordance with the preceding portion of this Section 5.2; however, the time for response to any notice, demand, or request will commence three days after the posting or on actual receipt, whichever is earlier. Any Party will have the right to designate, from time to time by written notice to the other Parties, any other persons or other places in the United States that such Party may desire written notices to be delivered to. However, at no time will any Party be required to send more than an original and two copies of any notice, demand, or request required or permitted. Written requirements of the Agreement shall be strictly construed and such requirements are a condition precedent to pursuing any rights or remedies hereunder. No Party may claim any waiver by another Party of such notice requirements based upon such other Party having actual knowledge, implied, oral or constructive notice, lack of prejudice or any other ground as a substitute for failure of a Party to comply with the express written notice requirements herein. Electronic e-mails do not constitute effective notice under this Agreement.

5.3 *Estoppel Certificate*. Each of the Parties shall, upon the reasonable request of another Party (or any current or prospective source of financing for Developer), and in each case within ten (10) business days after the other Party has requested it, execute and deliver to the appropriate Parties a certificate in recordable form stating:

(a) that this Agreement is unmodified and is in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect as modified and stating the modifications or, if this Agreement is not in full force and effect, that such is the case);

(b) to the knowledge of the Party providing the certificate, that there are no defaults by it or the other Parties (or specifying each such default as to which it may have knowledge);

(c) to its knowledge, whether there are any counterclaims against the enforcement of any Party's obligations; and

(d) any other matters reasonably requested.

5.4 *Applicable Law*. This Agreement will be interpreted and construed under and governed by the laws of Florida.

5.5 *Amendment; Waiver*. No alteration, amendment or modification hereof shall be valid unless executed by an instrument in writing by the Parties hereto with the same formality as this Agreement. The failure of any Party to insist in any one or more instances upon the strict performance of any of the covenants, agreements, terms, provisions or conditions of this Agreement or to exercise any election herein contained shall not be construed as a waiver or relinquishment for the future of such covenant, agreement, term, provision, condition, election or option, but the same shall continue and remain in full force and effect. No waiver by any Party of any covenant, agreement, term, provision or condition of this Agreement shall be deemed to have been made unless expressed in writing and signed by an appropriate official on behalf of either the applicable Party.

5.6 *Consent*. Unless otherwise specifically provided herein, no consent or approval by a Party permitted or required under the terms of this Agreement shall be valid or be of any validity whatsoever unless the same shall be in writing, signed by the Party by or on whose behalf such consent is given.

5.7 *Parties in Interest; Limitations on Rights of Others*. The terms of this Agreement shall be binding upon, inure to the benefit of and be enforceable solely by the Parties and their permitted successors and assigns, and nothing in this Agreement or by virtue of the transactions contemplated hereby, whether express or implied, shall be construed to constitute, create or confer rights, remedies or claims in or upon any Person (as third-party beneficiary or otherwise) not a party hereto, or to create obligations or responsibilities of the Parties to such Persons, or to permit any Person other than the Parties hereto and their respective successors and assigns to rely upon or enforce the covenants, conditions and agreements contained herein, except as otherwise specifically provided herein.

5.8 *Relationship of Parties*. The relationship of the Parties under this Agreement is that of independent parties, each acting in its own best interests. Notwithstanding anything in this Agreement to the contrary, no partnership, joint venture relationship of principal and agent is established or intended hereby between or among the Parties.

5.9 *Further Assurances*. The Parties shall execute, acknowledge and deliver, after the date hereof, without additional consideration, such further assurances, instruments and documents, and shall take such further actions, as any Party shall reasonably request of the other in order to fulfill the intent of this Agreement and the transactions contemplated thereby.

5.10 *No Personal Liability*. All costs, obligations and liabilities under this Agreement on the part of the Parties are solely the responsibility of the respective Party, and no partner, stockholder, member, director, officer, official, employee, agent or elected or appointed official of any Party to this Agreement shall be personally or individually liable for any costs, obligations or liabilities of such Party under this Agreement and each such Person may raise this Section 5.10 as a defense to any action brought seeking to impose such costs, obligations or liabilities on it. Except as any Party to this Agreement may otherwise agree in writing with regard to its liability, all Persons extending credit to, contracting with or having any claim against any Party to this Agreement, may look only to the funds and property of such Party for payment of any such suit, contract or claim to the extent such Party is liable therefor, or for the payment of any costs that may become due or payable to them from any Party to this Agreement.

5.11 *Attorneys' Fees*. In the event of any controversy, claim or dispute between the Parties arising from or relating to this Agreement (including the enforcement of any indemnity provisions), the prevailing Party shall be entitled to recover reasonable costs, expenses and attorneys' fees. For all purposes of this Agreement and any other documents relating to this Agreement, the terms "attorneys' fees" or "counsel fees" shall be deemed to include paralegals, and wherever provision is made herein or therein for the payment of attorneys' or counsel fees or expenses, such provision shall include such fees and expenses (and any applicable sales taxes thereon) incurred in any and all judicial, bankruptcy, reorganization, administrative or other proceedings, including appellate proceedings, whether such fees or expenses arise before proceedings are commenced or after entry of a final judgment.

5.12 *Good Faith*. In exercising their rights and fulfilling obligations under this Agreement, each Party acknowledges that the other Party has acted to date in good faith and each Party agrees to continue to act in good faith. Each Party acknowledges that in each instance under this Agreement where a Party is obligated to exercise good faith or to use good faith, diligent or other similar efforts, such Party shall not be required to expend any funds, or grant any other consideration of any kind, in the performance of such undertaking, and each Party further acknowledges that the obligation of any Party to act in good faith, or undertake good faith, diligent or other similar efforts does not constitute a warranty, representation or other guaranty that the result that the Parties are attempting to achieve shall be successfully achieved and no Party shall be liable for any failure to achieve the result or results intended so long as the Party has complied with its obligation to act in good faith.

5.13 *Radon*. Radon is a naturally occurring radioactive gas that when accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon or radon testing may be obtained from your County Public Health Unit.

5.14 *Risk of Loss*. Until the Closing is consummated, risk of loss with respect to the Property shall remain with the CRA.

5.15 *Condemnation*. If any authority having the right of eminent domain shall commence negotiations with the CRA or shall commence legal action against the CRA for the damaging, taking or acquiring of all or any part of the Property either temporarily or permanently, by condemnation or by exercise of the right of eminent domain, the CRA shall immediately give notice of the same to Developer. Upon the occurrence of any of the foregoing events, Developer shall have the right, at its option, to (i) terminate this Agreement by giving notice thereof to the CRA on or before thirty (30) days following Developer's receipt of notice of the same, in which event Developer shall be released of all further obligations hereunder and the Earnest Money Deposit shall be returned to Developer, or (ii) waive any objection and proceed with this Agreement and receive any and all condemnation proceeds allocated (or allocable) to Parcels which are or have been acquired by Developer hereunder.

5.16 *Escrow Agent*. The Escrow Agent shall not be liable for any actions taken in good faith, but only for its gross negligence or willful misconduct. The Parties hereby indemnify and hold harmless the Escrow Agent from and against any loss, liability, damage, claim, cost, fee or expense whatsoever (including reasonable attorney's fees at all trial and appellate levels) which the Escrow Agent may incur or be exposed to in its capacity as Escrow Agent hereunder except for its gross negligence or willful misconduct. If there be any dispute as to disposition of the Earnest Money Deposit or any proceeds held by the Escrow Agent pursuant to the terms of this Agreement, the Escrow Agent is hereby authorized to interplead said amount with any court of competent jurisdiction and thereby be released from all obligations hereunder. The City and the CRA hereby acknowledge that the Escrow Agent is the attorney for Developer. In the event of any dispute between the Parties arising from this Agreement, the City and the CRA hereby waive any claim of conflict of interest arising from the service of Developer's attorney as Escrow Agent and agrees that said law firm may represent Developer in any such dispute.

5.17 *Captions*. The captions of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision hereof.

5.18 *Successors*. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors, assigns and legal representatives.

5.19 *Time*. Time is of the essence with respect to all matters contained herein. Whenever any time period is to be computed hereunder, the day from which the period shall run is not to be included, and any period ending on a Saturday, Sunday or legal holiday will be extended to the next business day. The term "business day" means any day other than a Saturday, Sunday or any federal legal holiday.

5.20 *Validity*. In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed or deleted as such authority determines, and the remainder of this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this instrument to be executed by their duly authorized representatives as of the day and year first written above.

[SIGNATURES TO FOLLOW]

ATTEST: THE CITY

CITY OF EUSTIS

______________________________________	By: ______________________________
____________________________, City Clerk	Name: ______________________________
	Title: ______________________________

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this ____ day of ______________, 2021, by _____________________, as ________________ of the City of Eustis, who is personally known to me.

NOTARY SEAL

____
Notary Public

Print Name: _____________________________

My Commission expires: __________________

Witnesses:

CRA

DOWNTOWN AND EAST TOWN
REDEVELOPMENT AGENCY

______________________________ By: ______________________
Name: ______________________
Print Name: Title: ______________________
____

____

Print Name:
____

STATE OF FLORIDA
COUNTY OF ____________

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this ____ day of __________, 2021, by ________________, as ____________ of Downtown and East Town Redevelopment Agency, on behalf of the agency and who is personally known to me or has produced ________________________ as identification.

NOTARY SEAL

____
Notary Public

Print Name: ______________________

My Commission expires: ______________

Witnesses: DEVELOPER

____
____

____
Print Name: ____________________________

By: ____________________________
Name: ____________________________
Title: ____________________________

____
Print Name: ____________________________

STATE OF FLORIDA
COUNTY OF ______________

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this ____ day of __________, 2021, by ____________________, as _______________ of _______________________________, a ____________________, on behalf of ______________, who is personally known to me or has produced ________________________________ as identification.

NOTARY SEAL

____
Notary Public

Print Name: ___________________________

My Commission expires: _________________

JOINDER OF ESCROW AGENT

The undersigned, Lowndes, Drosdick, Doster, Kantor & Reed, P.A., joins in the execution hereof solely for the purpose of agreeing to act as Escrow Agent hereunder, as set forth herein.

LOWNDES, DROSDICK, DOSTER,
KANTOR & REED, P.A.

By: ________________________________
Name: ________________________________

EXHIBIT "A"

DESCRIPTION OF PROPERTY

Description of Phase 1 Parcel

Block 31, Official Map of Eustis, according to the map or plat thereof as recorded in Plat Book 1, Page 79, Public Records of Lake County, Florida
Less Phase 4 Parcel described below.

Description of Phase 2 Parcel

Block 30, Official Map of Eustis, according to the map or plat thereof as recorded in Plat Book 1, Page 79, Public Records of Lake County, Florida

Description of Phase 3 Parcel

Block 35, Official Map of Eustis, according to the map or plat thereof as recorded in Plat Book 1, Page 79, Public Records of Lake County, Florida

Description of Phase 4 Parcel

Sketch attached. Phase 4 Parcel is area labeled "Hotel." Description to be determined.

LEGEND

1. OUTDOOR FOOD COURT
2. PROMENADE
3. INDUSTRIAL THEME TOWER LIGHT FEATURE
4. SHUFFLE BOARD COURT
5. PACKING CRATE BENCHES
6. OUTDOOR DINING PATIO
7. ELEVATED PACKING CRATE STAGE WITH INTERACTIVE LIGHTING
8. SERVICE LOADING AREA

NAK design strategies

DOWNTOWN EUSTIS DEVELOPMENT PLAN | PUBLIC COURTYARD

DATE | 2020-10-30
SCALE | NTS

2

EXHIBIT "B"

CONCEPTUAL MASTER PLAN

Exhibit B – Page 1

EXHIBIT "C"

PERMITTED EXCEPTIONS

This exhibit is subject to change based on updated title work to be performed as part of the proposed transaction.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

AMERICAN LAND TITLE ASSOCIATION
COMMITMENT

Exceptions for Block 1

Schedule B-II

Issuing Office File Number: 20-0021

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the Commitment Date hereof but prior to the date the Proposed Insured acquires for value of record the estate or interest or Mortgage thereon covered by this Commitment.

2. a. General or special taxes and assessments required to be paid in the year ~~2020~~ 2021and subsequent years.
   b. Rights or claims of parties in possession not recorded in the Public Records.
   c. Any encroachment, encumbrance, violation, variation or adverse circumstance that would be disclosed by an inspection or an accurate and complete land survey of the Land and inspection of the Land.
   d. Easements or claims of easements not recorded in the Public Records.
   e. Any lien, or right to a lien, for services, labor or material furnished, imposed by law and not recorded in the Public Records.

3. Any Owner's Policy issued pursuant hereto will contain under Schedule B the following exception: *Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Land insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.*

4. Any lien provided by County Ordinance or by Chapter 159, F.S., in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.

5. Rights of the lessees under unrecorded leases.

6. All matters contained on the Plat of Town of Eustis, as recorded in Plat Book 1, Page 79, Public Records of Lake County, Florida.

7. Restrictions, conditions, reservations, easements, and other matters contained on the Plat of Cliffords Division in the City of Eustis, as recorded in Plat Book 1, Page 21, Public Records of Lake County, Florida.

8. Resolution recorded in O.R. Book 2284, Page 451, Public Records of Lake County, Florida.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

AMERICAN LAND TITLE ASSOCIATION
COMMITMENT

Schedule B-II

Issuing Office File Number: 20-0021

9. Ordinance recorded in O.R. Book 1368, Page 1368, Public Records of Lake County, Florida.
10. Amendment to ordinances recorded in O.R. Book 2203, Page 54, Public Records of Lake County, Florida.
11. Easement in favor of City of Eustis, contained in instrument recorded March 15, 1984, in O.R. Book 802, Page 1328, Public Records of Lake County, Florida.
12. Reservations in favor of the State of Florida, as set forth in the deed from the Trustees of the Internal Improvement Fund of the State of Florida, recorded in Deed Book 195, Page 531, Public Records of Lake County, Florida.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

AMERICAN LAND TITLE ASSOCIATION
COMMITMENT

Schedule B-II **Parcels 2 and 3 Exceptions**

Issuing Office File Number: 20-0022

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the Commitment Date hereof but prior to the date the Proposed Insured acquires for value of record the estate or interest or Mortgage thereon covered by this Commitment.

2. a. General or special taxes and assessments required to be paid in the year 2021 ~~2020~~ and subsequent years.
   b. Rights or claims of parties in possession not recorded in the Public Records.
   c. Any encroachment, encumbrance, violation, variation or adverse circumstance that would be disclosed by an inspection or an accurate and complete land survey of the Land and inspection of the Land.
   d. Easements or claims of easements not recorded in the Public Records.
   e. Any lien, or right to a lien, for services, labor or material furnished, imposed by law and not recorded in the Public Records.

3. Any Owner's Policy issued pursuant hereto will contain under Schedule B the following exception: *Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the Land insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.*

4. Any lien provided by County Ordinance or by Chapter 159, F.S., in favor of any city, town, village or port authority, for unpaid service charges for services by any water systems, sewer systems or gas systems serving the land described herein; and any lien for waste fees in favor of any county or municipality.

5. All matters contained on the Plat of OFFICIAL MAP OF THE TOWN OF EUSTIS, as recorded in Plat Book 1, Page 79 being affected by Resolution No. 79-38 as recorded in O.R. Book 690, Page 2020 and by Resolution No. 82-13 as recorded in O.R. Book 757, Page 2362, Public Records of Lake County, Florida.

6. Easement as contained in Resolution No. 82-13 recorded in O.R. Book 757, Page 2362, Public Records of Lake County, Florida.

7. Easement in favor of City of Eustis, Florida recorded in O.R. Book 906, Page 1220, Public Records of Lake County, Florida.

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

AMERICAN LAND TITLE ASSOCIATION
COMMITMENT

Schedule B-II

Issuing Office File Number: 20-0022

8. Distribution Easement in favor of Florida Power Corporation recorded in O.R. Book 1023, Page 1161, Public Records of Lake County, Florida.
9. Ordinance No. 95-11 recorded in O.R. Book 1368, Page 1368, Public Records of Lake County, Florida.
10. Ordinance No. 02-73 recorded in O.R. Book 2203, Page 54, Public Records of Lake County, Florida.
11. Distribution Easement in favor of Florida Power Corporation doing business as Progress Energy Florida, Inc., a Florida corporation recorded in O.R. Book 3333, Page 2022, Public Records of Lake County, Florida.
12. Resolution No. 06-66 recorded in O.R. Book 3343, Page 2295, Public Records of Lake County, Florida.
13. Storm Water and Sewer Utility Easement in favor of City of Eustis, a Florida Municipal corporation recorded in O.R. Book 4012, Page 1015, Public Records of Lake County, Florida.

EXHIBIT "D"

PROPERTY REPORTS

Appraisals

- Folder: "2020 Appraisals"
  - "Northern Lot 200305C City of Eustis"
    - Parcel 2 Appraisal - 3/23/2020
  - Southern Lot 200305B City of Eustis"
    - Parcel 3 Appraisal - 3/23/2020
  - "Surface Parking Lot 200305A City of Eustis"
    - Parcel 1 Appraisal - 3/23/2020
- "Grove Street Blocks AICF"
  - Combination of Parcels 2 and 3 - 4/15/2009
- "Surface Lot Appraisal AICF"
  - Parcel 1 Appraisal - 4/15/2009
- "Surface Lot Appraisal Covert Appraisal Services"
  - Parcel 1 Covert Appraisal - 5/4/2009

Environmental

- Folder: "Nov 2019 Universal Report"
  - "Nov 2019 Universal Report Appendix B"
    - Appendix B of 2019 Environmental Report - Multiple Attachments and Figures of Varying Dates
  - "Nov 2019 Universal Report Appendix C and D"
    - Appendices C and D of 2019 Environmental Report - Multiple Charts and Data Readouts
  - "Nov 2019 Universal Report with Appendix A"
    - Universal Groundwater Sampling Report with Appendix A - 11/19/2019
- "Feb 2020 FDEP Response"
  - FDEP Approval of Site Closure Plan - 2/13/2020
- "Jan 2020 Letter from Universal to FDEP"
  - Universal Correspondence re: Site Closure Plan - 1/22/2020
- "Limited Site Assessment Bay Street Parcel July 2005"
  - Parcel 1 Environmental Site Assessment from Universal - 06/2005
- "Phase 1 Summary All Foundation Parcels July 2004"
  - Phase 1 Environmental for Multiple Parcels throughout Downtown Eustis - 07/2004
- "Phase 2 Map All Foundation Parcels Except Bay October 2004"

- Map for Phase 2 Summary Below - 10/2004

- "Phase 2 Summary All Foundation Parcels Except Bay October 2004"
    - Phase 2 Environmental for Multiple Parcels throughout Downtown Eustis - 10/2004
- "Supplemental Environmental Bay Parcel April 23 2009"
    - Supplemental Environmental Report from Universal for Parcel 1 - 4/23/2009
- "Greenfield Environment"
    - Supplemental Environmental Report from Greenfield Environmental - 1/30/2017
- "ECS – General Assessment Report"
    - Supplemental Environmental Report from ECS - 11/21/2006

Geotechnical

- "Geotechnical Grove Blocks July 28 2005"
    - Universal Geotechnical Report for Combined Parcels 2 and 3 - 7/28/2005
- "Geotechnical Summary All Foundation Properties August 10 2004"
    - Universal Preliminary Geotechnical Report for multiple parcels throughout Downtown Eustis - 08/10/2004
- "Limited Geo Exploration Report Bay Block March 7 2020"
    - Universal Geotechnical Exploration Report for 4-Story Office Building on Parcel 1 - 3/7/2020

Impact Fees

- "Combined Impact Fee Docs"
    - All Impact Fee Documents Combined
- "Waterman Site School Impact Fees"
- "Waterman Site Transportation Impact Fees"
- "Waterman Site Water and Sewer Impact Fees"

Surveys

- "FS Stevenot Survey"
    - Survey for Combined Parcels 2 and 3 - 06/18/2013
- "FS Webb Survey 1"
    - Survey for Parcel 1 - 04/02/1999
- "FS Webb Survey 2"
    - Survey for Combined Parcels 2 and 3 - 06/14/1999

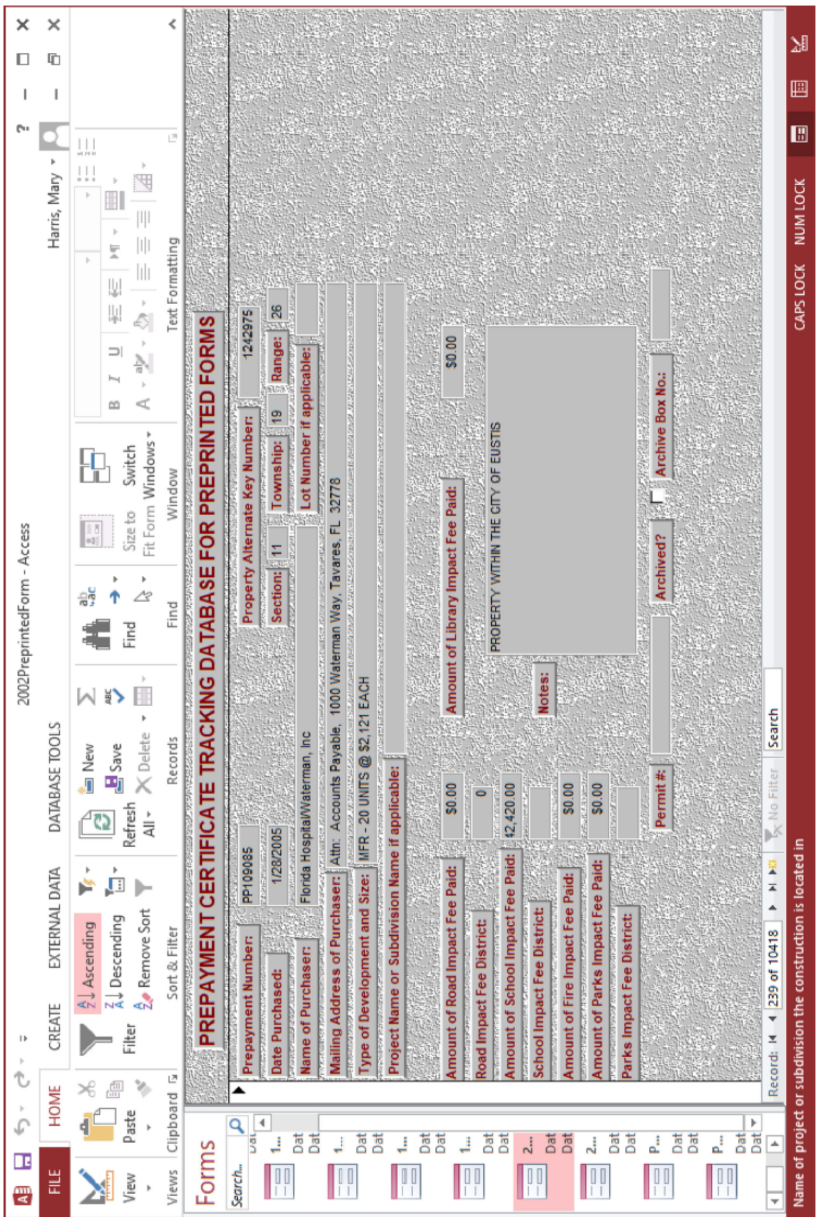
EXHIBIT “E”

DESCRIPTION/DEPICTION OF LAKE MECHANICAL PROPERTY

Lots 1, 2, 3, 4, 13, 14, 15, and 16, Block 15, Official Map of Eustis, according to the map or plat thereof as recorded in Plat Book 1, Page 79, Public Records of Lake County, Florida

EXHIBIT "F"

<u>IMPACT FEE CREDITS</u>



TRANSPORTATION

DEPARTMENT OF BUDGET AND ADMINISTRATIVE SERVICES

Impact Fee Coordinator

BOARD OF COUNTY COMMISSIONERS · LAKE COUNTY, FLORIDA · Since 1887

315 West Main Street
P.O. Box 7800
Tavares, FL 32778
352-343-9451

August 1, 2003

Steven J. Richey, P.A.
P.O. Box 492460
Leesburg, FL 34749-2460

Re: Florida Hospital Waterman Impact Fee Credits

Dear Mr. Richey:

Your letter to Mr. Gregg Welstead, Director of Growth Management, on the above subject dated July 23, 2003 was forwarded to me for response.

Based on the information provided the transportation impact fee credit determination for the following can be determined.

Facility	Impact Fee Category	Rate per 1000 sf	Area of Facility	Amount of Credit
Hospital	Hospital	$ 2,444.00	266216.8	$650,633.86
Outpatient Center	Medical Office	$ 6,717.00	6597.0	$ 44,312.05
EMS Administration	Single Tenant Office	$ 2,275.00	1142.0	$ 2,598.05
Child Care	Day Care Center	$ 4,507.00	5598.0	$ 25,230.19
Credit Total				**$722,774.14**

More information on type of use is required for the following facilities before an appropriate impact fee category can be determined.

Physical Therapy – YMCA
Home Health
Resource Center
Goodyear Building

Please call me at (352)343-9451 if I can be of any further assistance.

Sincerely,

Wendy S. Wickwire

Wendy S. Wickwire
Impact Fee Coordinator

cc: Gregg Welstead, Growth Management Director

"Earning Community Confidence Through Excellence in Service"

Lake Eustis Institute

From: Kramer, Dianne [KramerD@ci.eustis.fl.us]
Sent: Tuesday, June 19, 2012 3:48 PM
To: 'Lake Eustis Institute'
Cc: Hoon, Richard; Jrpproperties@aol.com
Subject: RE: Lake Community Foundation
Attachments: Copy of Waterman ERU Conversion Impact Fees.pdf

I have attached a spreadsheet that shows the impact fee credit calculations. As you can see, you had a credit for 118.10 ERU (equivalent residential units) for water and the same for sewer. You now have a balance of 107.63 in water and 107.65 in sewer. The current water impact fee is $854 and the sewer impact fee is $2,668. Please feel free to contact me if you have a questions. Thank you.

Dianne L. Kramer
City of Eustis
Director of Development Services
4 North Grove St. PO Drawer 68
Eustis, FL 32727

(352) 483-5460
www.eustis.org

From: Lake Eustis Institute [mailto:lakeeustis135@comcast.net]
Sent: Tuesday, June 19, 2012 9:30 AM
To: Kramer, Dianne
Cc: Hoon, Richard; Jrpproperties@aol.com
Subject: Lake Community Foundation

Dianne,
I understand you are looking into the foundation's sewer and water impact fee credits on the old hospital site. Would it be possible for you to have something for us this week?
Virginia

Virginia Barker
Executive Director
Lake Community Foundation
129 N. Grove St.
P.O. Box 1060
Eustis, FL 32727
352.357.7259
info@lakecommunityfoundation.org
www.lakecommunityfoundation.org

EUSTIS WATER & SEWER

City of Eustis
Waterman Hospital
Water & Sewer Impact Fee Credits
Based on Equivalent Residential Units (ERU's)
Original Computation 11-7-2007

Water	
Orignal Impact Water Meter 1	88.40
Orignal Impact Water Meter 2	29.70
Total Water ERU's	118.10

Sewer	
Original Impact Sewer Meter 1	88.40
Original Impact Sewer Meter 2	29.70
Total Sewer ERU's	118.10

			Water				Sewer			
Property Location Credited	Permit Number	Date	Total Charged	Current Impact Fee	Converted ERU Charged	Balance	Total Charged	Current Impact Fee	Converted ERU Charged	Balance
127 N. Bay St. Alt. Key #3880475	2011-128	2/16/2011	1,494.50	854.00	1.75	116.35	4,669.00	2,668.00	1.75	116.35
128 N. Eustis St. Alt. Key #3880473	2011-737	8/24/2011	7,443.00	854.00	8.72	107.63	23,212.00	2,668.00	8.70	107.65

WATER
CURRENT ERU BALANCE
107.63

CURRENT FEE x BALANCE
854.00 x 107.63 = 91,916

SEWER
CURRENT ERU BALANCE
107.65

CURRENT FEE x BALANCE
2,668 x 107.65 = 287,210

EXHIBIT “G”

<u>FORM OF LAKE MECHANICAL PARKING AGREEMENT</u>

PARKING FACILITY EASEMENT AGREEMENT

THIS PARKING FACILITY EASEMENT AGREEMENT (the "Agreement") is made and entered into this _____day of _______, 202___ (the "Effective Date"), by and between the **CITY OF EUSTIS,** a Florida municipal corporation ("City"), and WATERMAN SQUARE LLC, a Florida Limited Liability Company ("Developer"), with reference to the facts set forth below. City and Developer may each individually be referred to as a "Party" and may together be referred to as the "Parties".

RECITALS

WHEREAS, City is the owner of fee simple title to certain real property located in Lake County, Florida, more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Parking Garage Property"); and

WHEREAS, Developer is the owner of fee simple title to certain real property located in Lake County, Florida, more particularly described in Exhibit "B" attached hereto and by this reference made a part hereof (the "Benefitted Property"); and

WHEREAS, the Benefitted Property is intended to be developed as a mixed-use development containing: (i) a mixed-use apartment building containing multi-family dwelling units and ground-floor retail/restaurant/commercial space; (ii) a food hall; (iii) courtyard/patio areas open to the public; (iv) potentially a hotel together with accessory uses; and (v) such other uses as may be permitted and approved under Applicable Laws (collectively, the "Project"); and

WHEREAS, a structured parking facility will be constructed and operated by the City on the Parking Garage Parcel (the "Parking Garage"), which Parking Garage will consist of one integrated parking facility serving both the general public and the Benefitted Property, and containing a total of approximately two hundred and fifty (250) parking spaces, more or less; and

WHEREAS, the Parking Garage will include separate parking and access areas such that certain areas and sixty-four (64) spaces within the Parking Garage will be allocated to and used exclusively by the residents, employees, patrons, guests, service providers, and invitees of the Project (the "Project Parking"); and

WHEREAS, in order to facilitate the orderly development and operation of the Project, the City desires to grant and create parking easements for the benefit of the Developer and the Benefitted Property, as hereinafter specified, and enter into certain covenants and agreements respecting the operation of the Parking Garage.

NOW THEREFORE, for and in consideration of the premises hereof, of the mutual covenants and benefits herein provided and for other good valuable considerations, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree, and hereby declare, create, and impose the covenants, conditions, easements and restrictions set forth herein.

PART 6
DEFINITIONS

The following capitalized terms shall have the meanings set forth below for purposes of this Agreement:

6.1 **Access Gate(s)**. The term "Access Gate(s)" refers to the gate(s) and other devices, equipment and improvements located in the Parking Garage which will restrict access to the Project Parking. The type, location, configuration and operation of the Access Gate(s) shall be subject to the prior approval of Developer, such approval not to be unreasonably withheld. The Access Gate(s) shall be adequately maintained by Developer at its sole expense.

6.2 **Agreement**. The term "Agreement" means this Parking Facility Easement Agreement as it may be amended or supplemented from time to time.

6.3 **Applicable Laws**. The term "Applicable Laws" means the entitlements for the Parking Garage and the Project and any law, regulation, rule, order and ordinance of any governmental agencies having jurisdiction over the Parking Garage and the Project.

6.4 **City**. The term "City" means the City of Eustis, Florida.

6.5 **Completion of Construction**. The term "Completion of Construction" means construction has been completed for the Parking Garage and the Parking Garage is open and operational for the use thereof by the Project as contemplated herein, within twenty (20) months of the effective date of the Eustis Development and Acquisition Agreement.

6.6 **Developer** The term "Developer" means Waterman Square LLC, and any person(s) or entity(ies) to whom the Developer's rights and obligations hereunder shall be expressly assigned pursuant to Section 8.6 of this Agreement and pursuant to a written assignment or other instrument recorded in the Official Records of Lake County, Florida. Any such assignment of rights and/or delegation of duties may be as to all or any portion of the Project and may include only certain specific rights and/or duties of the Developer and may be subject to such conditions as Developer may impose in its sole discretion and subject to Section 8.6 of this Agreement.

6.7 **Emergency**. The term "Emergency" means any situation, condition or event which threatens substantial imminent danger or injury to any person or property subject to this Agreement.

6.8 **Mortgage**. The term "Mortgage" means any duly recorded mortgage encumbering any portion of the Benefitted Property.

6.9 **Mortgagee**. The term "Mortgagee" means the mortgagee or beneficiary under any Mortgage.

6.10 **Occupant**. The term "Occupant" means any person or entity, other than an Owner, who has the right to use and occupy any portion of the Project, including, without limitation, an Owner's family members, guests, invitees, licensees, tenants, subtenants, customers, patrons, and/or assignees.

6.11 **Owner**. The term "Owner" means any and all persons or entities who alone or collectively are the record owners of all or any portion of the Benefitted Property (but excluding those having any such interest merely as security for the performance of an obligation).

6.12 **Parking Garage**. The term "Parking Garage" shall mean and refer to the structured parking facility located on the Parking Garage Property together with all fixtures, equipment, systems, personal property, signage, Utility Facilities, and other improvements forming a part of such parking facility and used or useful in connection with the use and operation thereof.

6.13 **Parking Plan**. The term "Parking Plan" refers to the designation of the sixty-four (64) parking spaces on the top floor of the Parking Garage allocated exclusively to the Benefitted Property, and any modifications thereto.

6.14 **Party or Parties**. The term "Party" or Parties" refers individually or collectively as the context requires to the City and to the Developer.

6.15 **Permitted Users**. The term "Permitted Users" means the Owners and Occupants, and the employees, customers, patrons, guests, agents, contractors, vendors and other invitees of any Owner and/or any Occupant.

6.16 **Project Parking**. The term "Project Parking" refers to the sixty-four (64) parking spaces (including parking for persons with disabilities, if permitted by Applicable Laws) allocated exclusively to Developer and the Benefitted Property for the exclusive use of the Project as shown on the Parking Plan.

6.17 **Utility Facilities**. The term "Utility Facilities" means all utility, communication, lighting, heating, ventilation and other similar systems and facilities including, without limitation, intake and exhaust systems, any back flow preventers, any drainage systems, ducting systems for ventilation and utility services, lighting systems (including light fixtures), water systems, sanitary sewer systems, natural gas systems, electrical systems, fire life safety systems (including the fire suppression system), water systems, central plants, exhaust fans, lightning rods, vaults, switchgears, heating, ventilation and air conditioning systems, (including, without limitation, all machinery controls and vents relating thereto), Emergency generators, central utility services and all other utility systems, conduits, cabling and facilities servicing the Parking Garage which are situated in, on, over, under or across the Parking Garage Property.

PART 7
PARKING AND OTHER RIGHTS AND EASEMENTS

7.1 Easements in Favor of the Project.

(a) **Commencement of Easements Granted.** All of the easement and other rights granted in this Agreement shall automatically become effective as of the Effective Date.

The Parties acknowledge and agree that as to each easement granted to an Owner as set forth herein, such Owner may delegate its right to use such easement to its respective Occupants.

(b) **Non-Exclusive Access Easements.** City grants to the Developer non-exclusive, perpetual easements for vehicular and pedestrian ingress, egress and access in, on, over, through and across the walkways, traffic lanes and drive aisles within the Parking Garage Property to and from the Parking Garage.

(c) **Exclusive Use Parking Easements.** City grants to Developer, for the use and benefit of the Benefitted Property, the Owners, the Occupants and the Project, exclusive easements for vehicular parking purposes in, on, over, through and across the Project Parking. The foregoing parking easement (and the use of the Project Parking) shall be available every day, seven (7) days per week, twenty-four (24) hours per day. The intent of this paragraph is to confirm that the Project Parking shall be available for use at all times and that the use thereof shall not be restricted or prevented during any particular times of day or on any particular days (except in the case of an Emergency).

(d) **Non-Exclusive Elevator Easements.** City grants to Developer, the Owners and the Occupants a non-exclusive easement for access to and use of the Parking Garage elevators between the street level and the level(s) of the Parking Garage which include the Project Parking, and between other levels as needed for access to the Project Parking. The Parties acknowledge that such easement also includes the exclusive right of Developer to install, operate, maintain, repair and replace a device within the elevators (including, without limitation, a card reader) to control access to any Project Parking for the benefit of the Owners and Occupants, which device shall be maintained by the Developer.

(e) **Easement for Signage**. City grants to Developer a non-exclusive easement to install and maintain reasonable signage within the Parking Garage which the Developer deems necessary or appropriate for the designation, identification, way-finding, and use of the Project Parking. All signage must comply with Applicable Laws unless the City grants a waiver.

7.2 **Easements Run with the Land**. Each easement and other right set forth and granted in this Agreement shall run with and bind the Parking Garage Property and the Benefitted Property and shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors, assigns and grantees.

7.3 **Term of Easements**. The easements and other rights granted herein shall be in perpetuity. Notwithstanding the foregoing, in the event the Downtown and East Town Redevelopment Agency ("CRA") exercises its right to recapture that portion of the Benefitted Property described on Exhibit "C" attached hereto and by this reference made a part hereof (the "Hotel Parcel") pursuant to Section 3.4 of the Eustis Development and Acquisition Agreement dated __________, 2021 and recorded in Official Records Book _____, Page _____ of the Public Records of Lake County, Florida (the "Development Agreement"), then upon such conveyance and acquisition of the Hotel Parcel by the CRA or its assignee/designee, this Agreement and the easements and other rights granted herein shall terminate automatically with respect to the Hotel Parcel and the Hotel Parcel shall no longer be subject to or benefit from the provisions of this

Agreement. Upon any such termination of this Agreement with respect to the Hotel Parcel, the Parties shall cooperate in good faith to execute and record a notice of such termination among the Public Records of Lake County, Florida.

PART 8
CONSTRUCTION AND MAINTENANCE

8.1 **Construction of Parking Garage**. The Completion of Construction of the Parking Garage shall occur within twenty (20) months of the effective date of the Eustis Development and Acquisition Agreement. In the event Completion of Construction does not occur within twenty (20) months of the effective date of the Eustis Development and Acquisition Agreement, then Developer's rights and remedies on account thereof shall be governed by Section 3.2(i) of the Development Agreement.

8.2 **Maintenance**.

(a) **Maintenance.** Unless the context otherwise requires, as used in this Agreement, "maintenance'', "maintain" or "maintaining" means the inspection, maintenance, repair, sweeping, replacement, reconstruction and/or restoration of the Parking Garage on a regularly scheduled basis, to ensure that the Parking Garage is maintained and repaired in good order and repair and to a commercially reasonable standard consistent with the quality of development of the Project. To the extent repair, replacement, reconstruction and/or restoration is required as a result of damage or destruction under **ARTICLE 6,** then the repair, replacement, reconstruction and restoration shall be governed by the provisions of **ARTICLE 6.**

(b) **Maintenance Responsibilities**. The City shall, at its sole cost and expense, have the responsibility for maintaining the Parking Garage, which shall include, without limitation, the following:

(i) The structural integrity of the Parking Garage, including, without limitation, the foundation, roof, walls, floors, columns, beams, and all other structural components;

(ii) The wearing surface (i.e., the floor) of all portions of the Parking Garage (including the Project Parking), and the interior and exterior walls of the Parking Garage (including painting, graffiti removal and mold remediation for all such interior and exterior walls);

(iii) All stairwells and elevators;

(iv) All ventilation fans;

(v) Any Utility Facilities which serve the Parking Garage (including, without limitation, all lighting fixtures and bulbs, [including, replacement and disposal of fixtures and/or bulbs], and all electrical charges per the assigned meters);

(vi) Any landscaped areas; and

(vii) All public streetlights.

The City shall perform all of its maintenance obligations so as to keep the Parking Garage and other areas in a neat, clean and safe condition and in good operating condition for the intended purpose. Such maintenance shall include the obligation to sweep the Parking Garage on a regularly scheduled basis, remove debris, trash and other litter, and re-stripe the parking areas as needed. All grass in the landscaped areas, if any, shall be mowed on a regularly scheduled basis so as to keep same in a neat, clean, safe and attractive condition at all times. All irrigation systems shall be inspected regularly to ensure there are no malfunctions. All aesthetic features shall be maintained in a neat, clean and attractive condition.

(c) **Right to Cure Upon Failure to Maintain**. If the City fails to perform such obligations in accordance with the standards set forth herein, the Developer may notify the City of its failure to perform its obligations hereunder, such notice to specifically set forth the obligations which were not performed. Within ten (10) days following such notice, the Parties shall meet and confer to establish reasonable procedures for the City to implement. If, following such meeting, the City fails to complete the performance of its maintenance obligations in accordance with the reasonable procedures established at the meeting within thirty (30) days (or, if such maintenance obligations cannot be completed within thirty [30] days, if the City either fails to commence to perform such maintenance obligations within such thirty (30) day period, or if the City timely commences to perform such maintenance obligations but thereafter fails to diligently prosecute such maintenance obligations to completion), the Developer shall have the right, but not the obligation, to cure the City's default of its obligations pursuant to the terms of this Agreement by delivering at least fifteen (15) days prior written notice to the City of the Developer's exercise of its right to cure the default. Notwithstanding the foregoing, in the event of an Emergency, either Party may take such actions as may be reasonable under the circumstances without the obligation for prior notice but shall after taking such actions provide notice to the other Party. After the Developer completes any responsibilities of the City as provided above, the Developer shall deliver an invoice to the City for the costs and expenses incurred in performing such maintenance ("Maintenance Expenses"). The City shall reimburse the Developer within thirty (30) days after receipt of such invoice. All Maintenance Expenses not paid for when due shall bear interest at the highest rate allowed by law commencing from the date of delinquency and the Developer shall be entitled to reasonable costs of collection, including, without limitation, attorneys' fees and costs.

PART 9

COVENANTS REGARDING USE, OPERATION AND ENFORCEMENT

9.1 **Usage**. The Parking Garage shall be open and available for use every day, seven (7) days per week, twenty-four (24) hours per day.

9.2 **Enforcement of Parking Restrictions**. The Parties acknowledge and agree that the general public shall not have any right of access into the Project Parking except as may be approved by Developer. The City shall be solely responsible for enforcing the parking restrictions applicable to the Parking Garage and the Project Parking. All vehicles violating any parking restriction may be subject to towing or other enforcement rights and remedies by Developer or by the City, as the case may be.

9.3 **Fees.** The Owners or Permitted Users may charge a fee to their tenants, customers, patrons, guests or invitees for access to, or use of, any of the Parking Spaces.

9.4 **Security**. The Parties acknowledge that the Parking Garage will have reasonable attendants or security services or devices, in accordance with a security plan mutually acceptable to the Parties in their reasonable discretion. The costs of such security shall be part of the maintenance expenses for which the City is responsible.

9.5 **Establishment of Rules and Enforcement**. The City may establish rules and regulations relating to the use and operation of the Parking Garage and shall monitor and enforce such rules and regulations (including, but not limited to, citing and towing vehicles and taking any other action permitted by law to enforce such rules and regulations). Notwithstanding the foregoing, such rules and regulations shall be acceptable to Developer, in its reasonable discretion, as they relate to the use and operation of the Project Parking.

9.6 **Garbage and Refuse Disposal**. All rubbish, trash and garbage shall be regularly removed from the Parking Garage and shall not be allowed to accumulate thereon or therein. Trash, garbage and other waste shall only be kept in sanitary containers.

9.7 **Hazardous Materials**. No flammable, toxic or hazardous materials shall be stored, kept or used within the Parking Garage except in accordance with all Applicable Laws. Further, no flammable, toxic or hazardous materials shall be disposed or dumped into the garbage containers, down the drains, or otherwise, within the Parking Garage except in accordance with Applicable Laws.

PART 10
INSURANCE

10.1 **Property Insurance**. The City shall, at its sole cost and expense, obtain and maintain a policy of property insurance (a/k/a/ fire and casualty insurance) with an extended coverage ("all risk") endorsement for the Project Garage. Such insurance shall be maintained, if feasible, in an amount equal to one hundred percent (100%) of the then current replacement cost of the Parking Garage and portions thereof (without deduction for depreciation or co-insurance).

10.2 **Other Insurance**. The City shall, at its sole cost and expense, maintain such other insurance coverage as the City determines in its reasonable discretion or as required to comply with Applicable Laws.

10.3 **Review of Insurance**. The Parties shall review the adequacy of all insurance required by this Agreement to be maintained by the City at least once every year. The review shall include a reasonable determination of the replacement cost of the Parking Garage, without regard to depreciation.

10.4 **General Policy Requirements**.

(a) **Changes in Coverage: Copies of Policies**. Copies of all insurance policies required to be carried by the City hereunder shall be retained by the City and be available for inspection by Developer at reasonable times. All such insurance policies shall provide that they shall not be cancelable or substantially modified by the insurer without first giving at least thirty (30) days prior notice in writing to the Parties. City shall furnish Developer with copies of the original certificates and endorsements naming Developer as a loss payee or as an additional insured, as the case may be, and any amendatory endorsements effecting coverage required by this Agreement. The endorsements shall be on forms provided by the insurer and shall comply with the requirements set forth in this **Article 6.** All certificates and endorsements are to be received and approved by the Parties before this Agreement commences; however, failure to do so shall not operate as a waiver of these insurance requirements.

(b) **General Requirements**. Except as otherwise provided herein, all insurance policies the City is required to obtain pursuant to this Article shall be placed and maintained with companies rated at least "A-/X" by A.M. Best Insurance Service and otherwise reasonably satisfactory to Developer. City's deductibles shall not exceed Ten Thousand and 00/100 Dollars ($10,000.00) or one percent (1%) of the face amount of the policy for the policy of property insurance, whichever is less, unless approved by Developer. The coverage amounts required for such insurance policies may be satisfied by any combination of primary and excess policies that collectively serve to satisfy the requirements of this Article.

PART 11
DAMAGE OR DESTRUCTION

11.1 **Repair and Reconstruction**. Except as otherwise stated in this **ARTICLE 6**, if the Parking Garage or any portion thereof is damaged or destroyed by fire or other casualty, the City shall affect or cause the Repair (as defined below) of such improvements and any other portions of the Parking Garage Property in accordance with the requirements set forth herein. As used in this **ARTICLE 6,** the term "Repair" or "Repaired" refers to any repair, replacement, reconstruction or restoration of the Parking Garage, as the case may be, to the condition that existed prior to such damage or destruction. The insurance proceeds received by the City in connection with any damage or destruction of the Parking Garage ("Insurance Proceeds") shall be used to Repair the Parking Garage. The City shall make such Repairs in accordance with the requirements set forth in this Article, and shall designate a construction consultant, a general contractor and an architect for the Repair. All Insurance Proceeds and any other monies allocated for the Repair shall be deposited into a separate segregated account and shall not be commingled with any other funds. If Insurance Proceeds are not sufficient and readily available to complete such Repair, the City shall provide additional funds needed to complete such Repair.

11.2 **Repair Work**. Any Repair which is required hereunder shall be undertaken with all diligence and commercially reasonable efforts in accordance with the original plans for the Parking Garage, modified as may be required by applicable building codes and regulations in force at the time of such Repair. In all cases, the City shall undertake Repair with all diligence as promptly as reasonably practical under the circumstances and shall diligently pursue the Repair to completion, subject to delays that are beyond the reasonable control of the City.

PART 12
DEFAULT; DISPUTE RESOLUTION

12.1 **Default; Dispute Resolution**. In regard to any disputes that may arise under this Agreement, it is the intent of the Parties that any such disputes be resolved amicably and, to the extent reasonably possible, without litigation. In that regard, in the event any dispute should arise and is not resolved at a management level, either Party shall have the right, exercisable by written notice to the other Party (an "Impasse Notice"), to refer such matter for resolution by the Parties' designated representatives. In the event an Impasse Notice is sent, then the Parties shall meet and attempt to resolve said matter in an amicable fashion within thirty (30) days after the date of the Impasse Notice (or sooner, if possible). If said dispute cannot be resolved within said thirty (30) day period, then the dispute shall be submitted to non-binding mediation as provided below.

Non-binding mediation shall be a condition precedent to initiating litigation or other dispute resolution relating to an Impasse Notice. The Parties shall endeavor to resolve the dispute which is the subject of the Impasse Notice by mediation using a third-party mediator mutually approved by the Parties. A request for mediation shall be made in writing, delivered by one Party to the other Party, and filed with the Person administering the mediation. The Parties shall endeavor in good faith to settle the dispute in an amicable manner within forty-five (45) days of submission to non-binding mediation.

The Parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Lake County, Florida, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Any Party may, within thirty (30) days from the date that mediation has been concluded without resolution of the dispute or sixty (60) days after mediation has been demanded without resolution of the dispute, proceed to pursue its other remedies at law or in equity pursuant to this Agreement.

The foregoing shall not be construed to limit or impede any Party's right to seek any available injunctive or similar equitable relief, nor to enforce a monetary award from mediation, in the courts.

12.2 **No Waiver**. No waiver by either Party of a breach of any of the terms, covenants or conditions of this Agreement by the other party shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained. No waiver of any default by the other Party hereunder shall be implied from any omission by Developer or the City to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect default other than as specified in such waiver. The consent or approval by Developer or the City to or of any act by the other Party requiring Developer's or the City's consent or approval, respectively, shall not be deemed to waive or render unnecessary Developer's or the City's consent or approval to or of any subsequent similar acts by the other party. Without limiting the generality of the foregoing, Developer's or the City's acceptance of any payments hereunder shall not be deemed a waiver of any breach by the other Party under the terms and conditions hereof.

PART 13
GENERAL PROVISIONS

13.1 **Notices**. Any notice, payment, demand, offer, or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if sent by registered or certified mail (return receipt requested), postage and charges prepaid, or by Federal Express or other reputable overnight delivery service requiring a signature upon receipt, addressed as follows:

If to the City:

City of Eustis
Attn: Economic Development Director
10 North Grove Street
Eustis, FL 32726
Telephone: ____________

With a copy to:

Derek A. Schroth, City Attorney
Bowen |Schroth
600 Jennings Avenue
Eustis, FL 32726
Telephone: 352-589-1414

To Developer:

____
____
____
____
Telephone: ______________

With a copy to:

____
____
____
____
Telephone: ______________

Any such notice shall be deemed to be given on the date on which it is received, or receipt thereof is refused. Any Party hereto may change its address for the purpose of receiving notices, demands and other communications as herein provided by a written notice given in the manner aforesaid to the other Party or Parties hereto.

13.2 **Binding Effect**. All of the covenants, conditions, restrictions, easements, rights, terms and provisions contained herein shall attach to and run with the Parking Garage Property and the Benefitted Property, and shall, except as otherwise set forth herein, benefit and be binding upon the successors and assigns of the respective Parties. This Agreement and all the covenants, conditions, restrictions, easements, rights, terms and provisions herein contained shall be enforceable as mutual, equitable servitudes in favor of said properties and any portion thereof, shall create rights and obligations as provided herein between the respective Parties and shall be covenants running with the land. Every person who now or in the future owns or acquires any right, title or interest in or to any of the properties or portion thereof shall be conclusively deemed to have consented to and agreed to every covenant, condition, restriction, easement, right, term and/or provision contained in this Agreement, whether or not the instrument conveying such interest refers to this Agreement.

13.3 **Attorneys' Fees**. In the event of any controversy, claim or dispute between the Parties arising from or relating to this Agreement, the prevailing Party shall be entitled to recover reasonable costs, expenses and attorneys' fees. For all purposes of this Agreement and any other documents relating to this Agreement, the terms "attorneys' fees" or "counsel fees" shall be deemed to include paralegals, and wherever provision is made herein or therein for the payment of attorneys' or counsel fees or expenses, such provision shall include such fees and expenses (and any applicable sales taxes thereon) incurred in any and all judicial, bankruptcy, reorganization, administrative or other proceedings, including appellate proceedings, whether such fees or expenses arise before proceedings are commenced or after entry of a final judgment.

13.4 **Estoppel Certificate**. Each of the Parties shall, upon the reasonable request of the other Party (or any current or prospective source of financing for such Party), and in each case within ten (10) business days after the other Party has requested it, execute and deliver to the appropriate Party a certificate in recordable form stating:

(i) that this Agreement is unmodified and is in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect as modified and stating the modifications or, if this Agreement is not in full force and effect, that such is the case);

(ii) to the knowledge of the Party providing the certificate, that there are no defaults by it or the other Party (or specifying each such default as to which it may have knowledge);

(iii) to its knowledge, whether there are any counterclaims against the enforcement of any Party's obligations; and

(iv) any other matters reasonably requested.

13.5 **Mortgagee Protection**. No portion of this Agreement or any amendment or violation thereof shall operate to defeat or render invalid, in whole or in part, the rights of the beneficiary, insurer, guarantor, or holder of any mortgage or deed of trust encumbering any portion of the properties; provided that, after foreclosure of any such mortgage or deed of trust, the portion of the properties foreclosed upon shall remain subject to this Agreement.

13.6 **Amendment and Assignment**. No alteration, amendment or modification hereof shall be valid unless executed by an instrument in writing by the Parties hereto with the same formality as this Agreement. Developer may not assign its rights or obligations under this Agreement without the prior written consent of the City and the CRA, which consent shall not to be unreasonably withheld, conditioned, or delayed; provided, however, Developer may assign its rights and obligations under this Agreement without the City's and the CRA's consent, in whole or in part, to either (i) an entity that is affiliated with Developer, or (ii) the Owner(s) of any portion of the Benefitted Property. For purposes of this Section 8.6, "affiliate" means any other entity that Atrium Management Company, LLC (or its principals) and/or PRN Real Estate & Investments, Ltd. (or its principals) controls or manages. For the purposes of this definition, the term "controls or manages" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the entity in question, whether by the ownership of voting securities, contract or otherwise. Any reference to "Developer" in this Agreement shall mean and refer to an assignee under this Section 8.6 upon such assignment.

13.7 **Consent**. Unless otherwise specifically provided herein, no consent or approval by a Party permitted or required under the terms of this Agreement shall be valid or be of any validity whatsoever unless the same shall be in writing, signed by the Party by or on whose behalf such consent is given.

13.8 **Relationship of Parties**. The relationship of the Parties under this Agreement is that of independent parties, each acting in its own best interests. Notwithstanding anything in this Agreement to the contrary, no partnership, joint venture relationship of principal and agent is established or intended hereby between or among the Parties.

13.9 **Further Assurances**. The Parties shall execute, acknowledge and deliver, after the date hereof, without additional consideration, such further assurances, instruments and documents, and shall take such further actions, as any Party shall reasonably request of the other in order to fulfill the intent of this Agreement and the transactions contemplated thereby.

13.10 **No Personal Liability**. All costs, obligations and liabilities under this Agreement on the part of the Parties are solely the responsibility of the respective Party, and no partner, stockholder, member, director, officer, official, employee, agent or elected or appointed official of any Party to this Agreement shall be personally or individually liable for any costs, obligations or liabilities of such Party under this Agreement and each such Person may raise this Section 8.10 as a defense to any action brought seeking to impose such costs, obligations or liabilities on it. Except as any Party to this Agreement may otherwise agree in writing with regard to its liability, all Persons extending credit to, contracting with or having any claim against any Party to this Agreement, may look only to the funds and property of such Party for payment of any such suit, contract or claim to the extent such Party is liable therefor, or for the payment of any costs that may become due or payable to them from any Party to this Agreement.

13.11 **Good Faith**. In exercising their rights and fulfilling obligations under this Agreement, each Party acknowledges that the other Party has acted to date in good faith and each Party agrees to continue to act in good faith. Each Party acknowledges that in each instance under this Agreement where a Party is obligated to exercise good faith or to use good faith, diligent or other similar efforts, such Party shall not be required to expend any funds, or grant any other consideration of any kind, in the performance of such undertaking, and each Party further acknowledges that the obligation of any Party to act in good faith, or undertake good faith, diligent or other similar efforts does not constitute a warranty, representation or other guaranty that the result that the Parties are attempting to achieve shall be successfully achieved and no Party shall be liable for any failure to achieve the result or results intended so long as the Party has complied with its obligation to act in good faith.

13.12 **Severability**. In the event any covenant, condition, restriction, easement, right, term or provision contained herein is held to be invalid, void or otherwise unenforceable by any court of competent jurisdiction, such holding shall in no way affect the validity of enforceability of any other covenant, condition, restriction, easement, right, term or provision contained herein.

13.13 **Governing Law**. This Agreement and the obligations created hereunder shall be interpreted, construed, and enforced in accordance with the laws of the State of Florida and venue for any litigation shall be in Lake County, Florida.

13.14 **Captions**. Article and section titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any covenant, condition, restriction, easement, right, term or provision hereof.

13.15 **Counterpart Signatures**. This Agreement may be executed in counterparts, each of which, when taken together, shall constitute one fully executed original.

(Signatures follow on the next page)

IN WITNESS WHEREOF, the Parties have executed this Agreement in manner and form sufficient to bind them as of the day and year first above written.

ATTEST: **"City"**

CITY OF EUSTIS

_________________________________ By: ______________________________

____________________________, City Clerk Name: ______________________________

Title: ______________________________

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this ____ day of ___________, 202___, by ____________________, as _______________ of the City of Eustis, who is personally known to me.

NOTARY SEAL

____
Notary Public

Print Name: ____________________________

My Commission expires: _________________

"**Developer**"

____
a ______________________________

____
Name:__________________________

____
Name:__________________________

By: ______________________________
Name: ______________________________
Title: ______________________________

STATE OF FLORIDA
COUNTY OF ____________

The foregoing instrument was acknowledged before me this ____ day of _____, 202____ by ________________________, as ____________________ of ____________________ ________________________, a ____________________, on behalf of the ____________. He/She is personally known to me or has produced ______________________________ as identification.

(NOTARY SEAL)

____
Notary Public Signature

____
(Name typed, printed or stamped)
Notary Public, State of _________________
Commission No.: _____________________

EXHIBIT "A"

Legal Description of Parking Garage Parcel

Lots 1, 2, 3, 4, 13, 14, 15, and 16, Block 15, Official Map of Eustis, according to the map or plat thereof as recorded in Plat Book 1, Page 79, Public Records of Lake County, Florida.

EXHIBIT “B”

Legal Description of Benefitted Property

Block 31, Official Map of Eustis, according to the map or plat thereof as recorded in Plat Book 1, Page 79, Public Records of Lake County, Florida.

EXHIBIT “C”

Legal Description of Hotel Parcel

Metes and bounds legal description to be determined. Parcel identified as “Hotel” on attached sketch.

RESOLUTION NO. 21-63

A RESOLUTION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA APPROVING AND RATIFYING A PARKING FACILITY EASEMENT AGREEMENT, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Eustis Downtown and East Town Redevelopment Agency ("Community Redevelopment Agency of the City of Eustis, Florida" or "Agency") and the City of Eustis have identified certain areas in the City as blighted and slum areas as defined by §163.340 Florida Statutes ("Areas"); and

WHEREAS, blighted and slum Areas should be eliminated for all the reasons set forth in §163.335 Florida Statutes; and

WHEREAS, the Agency and the City have approved a Eustis Development and Acquisition Agreement with Waterman Square LLC for the redevelopment of the former Florida Hospital Waterman site; and

WHEREAS, the former Florida Hospital Waterman site is identified as a "catalyst site" targeted for redevelopment in both the 2008 Eustis Downtown Plan and the City of Eustis 2016 Redevelopment Plan; and

WHEREAS, the Agency and the City have identified a need for parking to support activity in Downtown Eustis; and

WHEREAS, the Agency, the City, and representatives of Waterman Square have identified a need for parking to support the redevelopment of the former Florida Hospital Waterman site; and

WHEREAS, the City and the Agency deem the redevelopment of the former Florida Hospital Waterman site to be a proper public purpose, and that redevelopment will achieve important City and Agency objectives such as stimulating economic development in the City, increasing property values and ad valorem taxes, and creating jobs; and

WHEREAS, the City is authorized to enter into this Agreement; and

WHEREAS, the City hereby finds that this Agreement is in the best interests of its citizens; and

WHEREAS, the parking provided for in this agreement supports the redevelopment of the former Florida Hospital Waterman site, which is necessary in the interest of the public health, safety, morals and welfare of the Agency and the City of Eustis.

NOW, THEREFORE, BE IT RESOLVED by the City of Eustis, Lake County, Florida as follows:

The foregoing whereas clauses are incorporated herein as findings of fact and law.

1. The Parking Facility Easement Agreement is hereby ratified and approved.
2. The City of Eustis authorizes the Mayor to execute the necessary documents to effectuate the agreement.

DONE AND RESOLVED, this 19th day of August 2021, in regular session of the City Commission of the City of Eustis, Lake County, Florida.

CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA

____
Michael L Holland, Mayor/Commissioner

ATTEST:

____
Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me, by means of physical presence, this 19th day of August, 2021, by Michael L. Holland, Mayor/Commissioner, and Mary C. Montez, City Clerk, who are personally known to me.

____
Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document has been reviewed and approved as to form and legal content, for use and reliance of the City Commission of the City of Eustis, Florida.

____
City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Resolution No. 21-63 is hereby approved, and I hereby certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Parks & Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

____
Mary C. Montez, City Clerk

PARKING FACILITY EASEMENT AGREEMENT

THIS PARKING FACILITY EASEMENT AGREEMENT (the "Agreement") is made and entered into this _____day of _______, 202___ (the "Effective Date"), by and between the **CITY OF EUSTIS,** a Florida municipal corporation ("City"), and WATERMAN SQUARE LLC, a Florida Limited Liability Company ("Developer"), with reference to the facts set forth below. City and Developer may each individually be referred to as a "Party" and may together be referred to as the "Parties".

RECITALS

WHEREAS, City is the owner of fee simple title to certain real property located in Lake County, Florida, more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Parking Garage Property"); and

WHEREAS, Developer is the owner of fee simple title to certain real property located in Lake County, Florida, more particularly described in Exhibit "B" attached hereto and by this reference made a part hereof (the "Benefitted Property"); and

WHEREAS, the Benefitted Property is intended to be developed as a mixed-use development containing: (i) a mixed-use apartment building containing multi-family dwelling units and ground-floor retail/restaurant/commercial space; (ii) a food hall; (iii) courtyard/patio areas open to the public; (iv) potentially a hotel together with accessory uses; and (v) such other uses as may be permitted and approved under Applicable Laws (collectively, the "Project"); and

WHEREAS, a structured parking facility will be constructed and operated by the City on the Parking Garage Parcel (the "Parking Garage"), which Parking Garage will consist of one integrated parking facility serving both the general public and the Benefitted Property, and containing a total of approximately two hundred and fifty (250) parking spaces, more or less; and

WHEREAS, the Parking Garage will include separate parking and access areas such that certain areas and sixty-four (64) spaces within the Parking Garage will be allocated to and used exclusively by the residents, employees, patrons, guests, service providers, and invitees of the Project (the "Project Parking"); and

WHEREAS, in order to facilitate the orderly development and operation of the Project, the City desires to grant and create parking easements for the benefit of the Developer and the Benefitted Property, as hereinafter specified, and enter into certain covenants and agreements respecting the operation of the Parking Garage.

NOW THEREFORE, for and in consideration of the premises hereof, of the mutual covenants and benefits herein provided and for other good valuable considerations, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree, and hereby declare, create, and impose the covenants, conditions, easements and restrictions set forth herein.

ARTICLE 1
DEFINITIONS

The following capitalized terms shall have the meanings set forth below for purposes of this Agreement:

1.1 **Access Gate(s)**. The term "Access Gate(s)" refers to the gate(s) and other devices, equipment and improvements located in the Parking Garage which will restrict access to the Project Parking. The type, location, configuration and operation of the Access Gate(s) shall be subject to the prior approval of Developer, such approval not to be unreasonably withheld. The Access Gate(s) shall be adequately maintained by Developer at its sole expense.

1.2 **Agreement**. The term "Agreement" means this Parking Facility Easement Agreement as it may be amended or supplemented from time to time.

1.3 **Applicable Laws**. The term "Applicable Laws" means the entitlements for the Parking Garage and the Project and any law, regulation, rule, order and ordinance of any governmental agencies having jurisdiction over the Parking Garage and the Project.

1.4 **City**. The term "City" means the City of Eustis, Florida.

1.5 **Completion of Construction**. The term "Completion of Construction" means construction has been completed for the Parking Garage and the Parking Garage is open and operational for the use thereof by the Project as contemplated herein, within twenty (20) months of the effective date of the Eustis Development and Acquisition Agreement.

1.6 **Developer** The term "Developer" means Waterman Square LLC, and any person(s) or entity(ies) to whom the Developer's rights and obligations hereunder shall be expressly assigned pursuant to Section 8.6 of this Agreement and pursuant to a written assignment or other instrument recorded in the Official Records of Lake County, Florida. Any such assignment of rights and/or delegation of duties may be as to all or any portion of the Project and may include only certain specific rights and/or duties of the Developer and may be subject to such conditions as Developer may impose in its sole discretion and subject to Section 8.6 of this Agreement.

1.7 **Emergency**. The term "Emergency" means any situation, condition or event which threatens substantial imminent danger or injury to any person or property subject to this Agreement.

1.8 **Mortgage**. The term "Mortgage" means any duly recorded mortgage encumbering any portion of the Benefitted Property.

1.9 **Mortgagee**. The term "Mortgagee" means the mortgagee or beneficiary under any Mortgage.

1.10 **Occupant**. The term "Occupant" means any person or entity, other than an Owner, who has the right to use and occupy any portion of the Project, including, without limitation, an Owner's family members, guests, invitees, licensees, tenants, subtenants, customers, patrons, and/or assignees.

1.11 **Owner**. The term "Owner" means any and all persons or entities who alone or collectively are the record owners of all or any portion of the Benefitted Property (but excluding those having any such interest merely as security for the performance of an obligation).

1.12 **Parking Garage**. The term "Parking Garage" shall mean and refer to the structured parking facility located on the Parking Garage Property together with all fixtures, equipment, systems, personal property, signage, Utility Facilities, and other improvements forming a part of such parking facility and used or useful in connection with the use and operation thereof.

1.13 **Parking Plan**. The term "Parking Plan" refers to the designation of the sixty-four (64) parking spaces on the top floor of the Parking Garage allocated exclusively to the Benefitted Property, and any modifications thereto.

1.14 **Party or Parties**. The term "Party" or Parties" refers individually or collectively as the context requires to the City and to the Developer.

1.15 **Permitted Users**. The term "Permitted Users" means the Owners and Occupants, and the employees, customers, patrons, guests, agents, contractors, vendors and other invitees of any Owner and/or any Occupant.

1.16 **Project Parking**. The term "Project Parking" refers to the sixty-four (64) parking spaces (including parking for persons with disabilities, if permitted by Applicable Laws) allocated exclusively to Developer and the Benefitted Property for the exclusive use of the Project as shown on the Parking Plan.

1.17 **Utility Facilities**. The term "Utility Facilities" means all utility, communication, lighting, heating, ventilation and other similar systems and facilities including, without limitation, intake and exhaust systems, any back flow preventers, any drainage systems, ducting systems for ventilation and utility services, lighting systems (including light fixtures), water systems, sanitary sewer systems, natural gas systems, electrical systems, fire life safety systems (including the fire suppression system), water systems, central plants, exhaust fans, lightning rods, vaults, switchgears, heating, ventilation and air conditioning systems, (including, without limitation, all machinery controls and vents relating thereto), Emergency generators, central utility services and all other utility systems, conduits, cabling and facilities servicing the Parking Garage which are situated in, on, over, under or across the Parking Garage Property.

ARTICLE 2
PARKING AND OTHER RIGHTS AND EASEMENTS

2.1 **Easements in Favor of the Project**.

2.1.1 **Commencement of Easements Granted.** All of the easement and other rights granted in this Agreement shall automatically become effective as of the Effective Date.

The Parties acknowledge and agree that as to each easement granted to an Owner as set forth herein, such Owner may delegate its right to use such easement to its respective Occupants.

2.1.2 Non-Exclusive Access Easements. City grants to the Developer non-exclusive, perpetual easements for vehicular and pedestrian ingress, egress and access in, on, over, through and across the walkways, traffic lanes and drive aisles within the Parking Garage Property to and from the Parking Garage.

2.1.3 Exclusive Use Parking Easements. City grants to Developer, for the use and benefit of the Benefitted Property, the Owners, the Occupants and the Project, exclusive easements for vehicular parking purposes in, on, over, through and across the Project Parking. The foregoing parking easement (and the use of the Project Parking) shall be available every day, seven (7) days per week, twenty-four (24) hours per day. The intent of this paragraph is to confirm that the Project Parking shall be available for use at all times and that the use thereof shall not be restricted or prevented during any particular times of day or on any particular days (except in the case of an Emergency).

2.1.4 Non-Exclusive Elevator Easements. City grants to Developer, the Owners and the Occupants a non-exclusive easement for access to and use of the Parking Garage elevators between the street level and the level(s) of the Parking Garage which include the Project Parking, and between other levels as needed for access to the Project Parking. The Parties acknowledge that such easement also includes the exclusive right of Developer to install, operate, maintain, repair and replace a device within the elevators (including, without limitation, a card reader) to control access to any Project Parking for the benefit of the Owners and Occupants, which device shall be maintained by the Developer.

2.1.5 Easement for Signage. City grants to Developer a non-exclusive easement to install and maintain reasonable signage within the Parking Garage which the Developer deems necessary or appropriate for the designation, identification, way-finding, and use of the Project Parking. All signage must comply with Applicable Laws unless the City grants a waiver.

2.2 Easements Run with the Land. Each easement and other right set forth and granted in this Agreement shall run with and bind the Parking Garage Property and the Benefitted Property and shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors, assigns and grantees.

2.3 Term of Easements. The easements and other rights granted herein shall be in perpetuity. Notwithstanding the foregoing, in the event the Downtown and East Town Redevelopment Agency ("CRA") exercises its right to recapture that portion of the Benefitted Property described on Exhibit "C" attached hereto and by this reference made a part hereof (the "Hotel Parcel") pursuant to Section 3.4 of the Eustis Development and Acquisition Agreement dated __________, 2021 and recorded in Official Records Book _____, Page _____ of the Public Records of Lake County, Florida (the "Development Agreement"), then upon such conveyance and acquisition of the Hotel Parcel by the CRA or its assignee/designee, this Agreement and the easements and other rights granted herein shall terminate automatically with respect to the Hotel Parcel and the Hotel Parcel shall no longer be subject to or benefit from the provisions of this

Agreement. Upon any such termination of this Agreement with respect to the Hotel Parcel, the Parties shall cooperate in good faith to execute and record a notice of such termination among the Public Records of Lake County, Florida.

ARTICLE 3
CONSTRUCTION AND MAINTENANCE

3.1 **Construction of Parking Garage**. The Completion of Construction of the Parking Garage shall occur within twenty (20) months of the effective date of the Eustis Development and Acquisition Agreement. In the event Completion of Construction does not occur within twenty (20) months of the effective date of the Eustis Development and Acquisition Agreement, then Developer's rights and remedies on account thereof shall be governed by Section 3.2(i) of the Development Agreement.

3.2 **Maintenance**.

3.2.1 **Maintenance.** Unless the context otherwise requires, as used in this Agreement, "maintenance'', "maintain" or "maintaining" means the inspection, maintenance, repair, sweeping, replacement, reconstruction and/or restoration of the Parking Garage on a regularly scheduled basis, to ensure that the Parking Garage is maintained and repaired in good order and repair and to a commercially reasonable standard consistent with the quality of development of the Project. To the extent repair, replacement, reconstruction and/or restoration is required as a result of damage or destruction under **ARTICLE 6,** then the repair, replacement, reconstruction and restoration shall be governed by the provisions of **ARTICLE 6.**

3.2.2 **Maintenance Responsibilities**. The City shall, at its sole cost and expense, have the responsibility for maintaining the Parking Garage, which shall include, without limitation, the following:

(a) The structural integrity of the Parking Garage, including, without limitation, the foundation, roof, walls, floors, columns, beams, and all other structural components;

(b) The wearing surface (i.e., the floor) of all portions of the Parking Garage (including the Project Parking), and the interior and exterior walls of the Parking Garage (including painting, graffiti removal and mold remediation for all such interior and exterior walls);

(c) All stairwells and elevators;

(d) All ventilation fans;

(e) Any Utility Facilities which serve the Parking Garage (including, without limitation, all lighting fixtures and bulbs, [including, replacement and disposal of fixtures and/or bulbs], and all electrical charges per the assigned meters);

(f) Any landscaped areas; and

(g) All public streetlights.

The City shall perform all of its maintenance obligations so as to keep the Parking Garage and other areas in a neat, clean and safe condition and in good operating condition for the intended purpose. Such maintenance shall include the obligation to sweep the Parking Garage on a regularly scheduled basis, remove debris, trash and other litter, and re-stripe the parking areas as needed. All grass in the landscaped areas, if any, shall be mowed on a regularly scheduled basis so as to keep same in a neat, clean, safe and attractive condition at all times. All irrigation systems shall be inspected regularly to ensure there are no malfunctions. All aesthetic features shall be maintained in a neat, clean and attractive condition.

3.2.3 Right to Cure Upon Failure to Maintain. If the City fails to perform such obligations in accordance with the standards set forth herein, the Developer may notify the City of its failure to perform its obligations hereunder, such notice to specifically set forth the obligations which were not performed. Within ten (10) days following such notice, the Parties shall meet and confer to establish reasonable procedures for the City to implement. If, following such meeting, the City fails to complete the performance of its maintenance obligations in accordance with the reasonable procedures established at the meeting within thirty (30) days (or, if such maintenance obligations cannot be completed within thirty [30] days, if the City either fails to commence to perform such maintenance obligations within such thirty (30) day period, or if the City timely commences to perform such maintenance obligations but thereafter fails to diligently prosecute such maintenance obligations to completion), the Developer shall have the right, but not the obligation, to cure the City's default of its obligations pursuant to the terms of this Agreement by delivering at least fifteen (15) days prior written notice to the City of the Developer's exercise of its right to cure the default. Notwithstanding the foregoing, in the event of an Emergency, either Party may take such actions as may be reasonable under the circumstances without the obligation for prior notice but shall after taking such actions provide notice to the other Party. After the Developer completes any responsibilities of the City as provided above, the Developer shall deliver an invoice to the City for the costs and expenses incurred in performing such maintenance ("Maintenance Expenses"). The City shall reimburse the Developer within thirty (30) days after receipt of such invoice. All Maintenance Expenses not paid for when due shall bear interest at the highest rate allowed by law commencing from the date of delinquency and the Developer shall be entitled to reasonable costs of collection, including, without limitation, attorneys' fees and costs.

ARTICLE 4

COVENANTS REGARDING USE, OPERATION AND ENFORCEMENT

4.1 Usage. The Parking Garage shall be open and available for use every day, seven (7) days per week, twenty-four (24) hours per day.

4.2 Enforcement of Parking Restrictions. The Parties acknowledge and agree that the general public shall not have any right of access into the Project Parking except as may be approved by Developer. The City shall be solely responsible for enforcing the parking restrictions applicable to the Parking Garage and the Project Parking. All vehicles violating any parking restriction may be subject to towing or other enforcement rights and remedies by Developer or by the City, as the case may be.

4.3 **Fees.** The Owners or Permitted Users may charge a fee to their tenants, customers, patrons, guests or invitees for access to, or use of, any of the Parking Spaces.

4.4 **Security**. The Parties acknowledge that the Parking Garage will have reasonable attendants or security services or devices, in accordance with a security plan mutually acceptable to the Parties in their reasonable discretion. The costs of such security shall be part of the maintenance expenses for which the City is responsible.

4.5 **Establishment of Rules and Enforcement**. The City may establish rules and regulations relating to the use and operation of the Parking Garage and shall monitor and enforce such rules and regulations (including, but not limited to, citing and towing vehicles and taking any other action permitted by law to enforce such rules and regulations). Notwithstanding the foregoing, such rules and regulations shall be acceptable to Developer, in its reasonable discretion, as they relate to the use and operation of the Project Parking.

4.6 **Garbage and Refuse Disposal**. All rubbish, trash and garbage shall be regularly removed from the Parking Garage and shall not be allowed to accumulate thereon or therein. Trash, garbage and other waste shall only be kept in sanitary containers.

4.7 **Hazardous Materials**. No flammable, toxic or hazardous materials shall be stored, kept or used within the Parking Garage except in accordance with all Applicable Laws. Further, no flammable, toxic or hazardous materials shall be disposed or dumped into the garbage containers, down the drains, or otherwise, within the Parking Garage except in accordance with Applicable Laws.

ARTICLE 5
INSURANCE

5.1 **Property Insurance**. The City shall, at its sole cost and expense, obtain and maintain a policy of property insurance (a/k/a/ fire and casualty insurance) with an extended coverage ("all risk") endorsement for the Project Garage. Such insurance shall be maintained, if feasible, in an amount equal to one hundred percent (100%) of the then current replacement cost of the Parking Garage and portions thereof (without deduction for depreciation or co-insurance).

5.2 **Other Insurance**. The City shall, at its sole cost and expense, maintain such other insurance coverage as the City determines in its reasonable discretion or as required to comply with Applicable Laws.

5.3 **Review of Insurance**. The Parties shall review the adequacy of all insurance required by this Agreement to be maintained by the City at least once every year. The review shall include a reasonable determination of the replacement cost of the Parking Garage, without regard to depreciation.

5.4 **General Policy Requirements**.

5.4.1 Changes in Coverage: Copies of Policies. Copies of all insurance policies required to be carried by the City hereunder shall be retained by the City and be available for inspection by Developer at reasonable times. All such insurance policies shall provide that they shall not be cancelable or substantially modified by the insurer without first giving at least thirty (30) days prior notice in writing to the Parties. City shall furnish Developer with copies of the original certificates and endorsements naming Developer as a loss payee or as an additional insured, as the case may be, and any amendatory endorsements effecting coverage required by this Agreement. The endorsements shall be on forms provided by the insurer and shall comply with the requirements set forth in this **Article 6.** All certificates and endorsements are to be received and approved by the Parties before this Agreement commences; however, failure to do so shall not operate as a waiver of these insurance requirements.

5.4.2 General Requirements. Except as otherwise provided herein, all insurance policies the City is required to obtain pursuant to this Article shall be placed and maintained with companies rated at least "A-/X" by A.M. Best Insurance Service and otherwise reasonably satisfactory to Developer. City's deductibles shall not exceed Ten Thousand and 00/100 Dollars ($10,000.00) or one percent (1%) of the face amount of the policy for the policy of property insurance, whichever is less, unless approved by Developer. The coverage amounts required for such insurance policies may be satisfied by any combination of primary and excess policies that collectively serve to satisfy the requirements of this Article.

ARTICLE 6
DAMAGE OR DESTRUCTION

6.1 Repair and Reconstruction. Except as otherwise stated in this **ARTICLE 6**, if the Parking Garage or any portion thereof is damaged or destroyed by fire or other casualty, the City shall affect or cause the Repair (as defined below) of such improvements and any other portions of the Parking Garage Property in accordance with the requirements set forth herein. As used in this **ARTICLE 6,** the term "Repair" or "Repaired" refers to any repair, replacement, reconstruction or restoration of the Parking Garage, as the case may be, to the condition that existed prior to such damage or destruction. The insurance proceeds received by the City in connection with any damage or destruction of the Parking Garage ("Insurance Proceeds") shall be used to Repair the Parking Garage. The City shall make such Repairs in accordance with the requirements set forth in this Article, and shall designate a construction consultant, a general contractor and an architect for the Repair. All Insurance Proceeds and any other monies allocated for the Repair shall be deposited into a separate segregated account and shall not be commingled with any other funds. If Insurance Proceeds are not sufficient and readily available to complete such Repair, the City shall provide additional funds needed to complete such Repair.

6.2 Repair Work. Any Repair which is required hereunder shall be undertaken with all diligence and commercially reasonable efforts in accordance with the original plans for the Parking Garage, modified as may be required by applicable building codes and regulations in force at the time of such Repair. In all cases, the City shall undertake Repair with all diligence as promptly as reasonably practical under the circumstances and shall diligently pursue the Repair to completion, subject to delays that are beyond the reasonable control of the City.

ARTICLE 7
DEFAULT; DISPUTE RESOLUTION

7.1 **Default; Dispute Resolution**. In regard to any disputes that may arise under this Agreement, it is the intent of the Parties that any such disputes be resolved amicably and, to the extent reasonably possible, without litigation. In that regard, in the event any dispute should arise and is not resolved at a management level, either Party shall have the right, exercisable by written notice to the other Party (an "Impasse Notice"), to refer such matter for resolution by the Parties' designated representatives. In the event an Impasse Notice is sent, then the Parties shall meet and attempt to resolve said matter in an amicable fashion within thirty (30) days after the date of the Impasse Notice (or sooner, if possible). If said dispute cannot be resolved within said thirty (30) day period, then the dispute shall be submitted to non-binding mediation as provided below.

Non-binding mediation shall be a condition precedent to initiating litigation or other dispute resolution relating to an Impasse Notice. The Parties shall endeavor to resolve the dispute which is the subject of the Impasse Notice by mediation using a third-party mediator mutually approved by the Parties. A request for mediation shall be made in writing, delivered by one Party to the other Party, and filed with the Person administering the mediation. The Parties shall endeavor in good faith to settle the dispute in an amicable manner within forty-five (45) days of submission to non-binding mediation.

The Parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Lake County, Florida, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Any Party may, within thirty (30) days from the date that mediation has been concluded without resolution of the dispute or sixty (60) days after mediation has been demanded without resolution of the dispute, proceed to pursue its other remedies at law or in equity pursuant to this Agreement.

The foregoing shall not be construed to limit or impede any Party's right to seek any available injunctive or similar equitable relief, nor to enforce a monetary award from mediation, in the courts.

7.2 **No Waiver**. No waiver by either Party of a breach of any of the terms, covenants or conditions of this Agreement by the other party shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained. No waiver of any default by the other Party hereunder shall be implied from any omission by Developer or the City to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect default other than as specified in such waiver. The consent or approval by Developer or the City to or of any act by the other Party requiring Developer's or the City's consent or approval, respectively, shall not be deemed to waive or render unnecessary Developer's or the City's consent or approval to or of any subsequent similar acts by the other party. Without limiting the generality of the foregoing, Developer's or the City's acceptance of any payments hereunder shall not be deemed a waiver of any breach by the other Party under the terms and conditions hereof.

ARTICLE 8
GENERAL PROVISIONS

8.1 **Notices**. Any notice, payment, demand, offer, or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if sent by registered or certified mail (return receipt requested), postage and charges prepaid, or by Federal Express or other reputable overnight delivery service requiring a signature upon receipt, addressed as follows:

If to the City:	City of Eustis Attn: Economic Development Director 10 North Grove Street Eustis, FL 32726 Telephone: ____________
With a copy to:	Derek A. Schroth, City Attorney Bowen |Schroth 600 Jennings Avenue Eustis, FL 32726 Telephone: 352-589-1414
To Developer:	________________________ ________________________ ________________________ ________________________ Telephone: ______________
With a copy to:	________________________ ________________________ ________________________ ________________________ Telephone: ______________

Any such notice shall be deemed to be given on the date on which it is received, or receipt thereof is refused. Any Party hereto may change its address for the purpose of receiving notices, demands and other communications as herein provided by a written notice given in the manner aforesaid to the other Party or Parties hereto.

8.2 **Binding Effect**. All of the covenants, conditions, restrictions, easements, rights, terms and provisions contained herein shall attach to and run with the Parking Garage Property and the Benefitted Property, and shall, except as otherwise set forth herein, benefit and be binding upon the successors and assigns of the respective Parties. This Agreement and all the covenants, conditions, restrictions, easements, rights, terms and provisions herein contained shall be enforceable as mutual, equitable servitudes in favor of said properties and any portion thereof, shall create rights and obligations as provided herein between the respective Parties and shall be covenants running with the land. Every person who now or in the future owns or acquires any right, title or interest in or to any of the properties or portion thereof shall be conclusively deemed to have consented to and agreed to every covenant, condition, restriction, easement, right, term and/or provision contained in this Agreement, whether or not the instrument conveying such interest refers to this Agreement.

8.3 **Attorneys' Fees**. In the event of any controversy, claim or dispute between the Parties arising from or relating to this Agreement, the prevailing Party shall be entitled to recover reasonable costs, expenses and attorneys' fees. For all purposes of this Agreement and any other documents relating to this Agreement, the terms "attorneys' fees" or "counsel fees" shall be deemed to include paralegals, and wherever provision is made herein or therein for the payment of attorneys' or counsel fees or expenses, such provision shall include such fees and expenses (and any applicable sales taxes thereon) incurred in any and all judicial, bankruptcy, reorganization, administrative or other proceedings, including appellate proceedings, whether such fees or expenses arise before proceedings are commenced or after entry of a final judgment.

8.4 **Estoppel Certificate**. Each of the Parties shall, upon the reasonable request of the other Party (or any current or prospective source of financing for such Party), and in each case within ten (10) business days after the other Party has requested it, execute and deliver to the appropriate Party a certificate in recordable form stating:

(a) that this Agreement is unmodified and is in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect as modified and stating the modifications or, if this Agreement is not in full force and effect, that such is the case);

(b) to the knowledge of the Party providing the certificate, that there are no defaults by it or the other Party (or specifying each such default as to which it may have knowledge);

(c) to its knowledge, whether there are any counterclaims against the enforcement of any Party's obligations; and

(d) any other matters reasonably requested.

8.5 **Mortgagee Protection**. No portion of this Agreement or any amendment or violation thereof shall operate to defeat or render invalid, in whole or in part, the rights of the beneficiary, insurer, guarantor, or holder of any mortgage or deed of trust encumbering any portion of the properties; provided that, after foreclosure of any such mortgage or deed of trust, the portion of the properties foreclosed upon shall remain subject to this Agreement.

8.6 **Amendment and Assignment**. No alteration, amendment or modification hereof shall be valid unless executed by an instrument in writing by the Parties hereto with the same formality as this Agreement. Developer may not assign its rights or obligations under this Agreement without the prior written consent of the City and the CRA, which consent shall not to be unreasonably withheld, conditioned, or delayed; provided, however, Developer may assign its rights and obligations under this Agreement without the City's and the CRA's consent, in whole or in part, to either (i) an entity that is affiliated with Developer, or (ii) the Owner(s) of any portion of the Benefitted Property. For purposes of this Section 8.6, "affiliate" means any other entity that Atrium Management Company, LLC (or its principals) and/or PRN Real Estate & Investments, Ltd. (or its principals) controls or manages. For the purposes of this definition, the term "controls or manages" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the entity in question, whether by the ownership of voting securities, contract or otherwise. Any reference to "Developer" in this Agreement shall mean and refer to an assignee under this Section 8.6 upon such assignment.

8.7 **Consent**. Unless otherwise specifically provided herein, no consent or approval by a Party permitted or required under the terms of this Agreement shall be valid or be of any validity whatsoever unless the same shall be in writing, signed by the Party by or on whose behalf such consent is given.

8.8 **Relationship of Parties**. The relationship of the Parties under this Agreement is that of independent parties, each acting in its own best interests. Notwithstanding anything in this Agreement to the contrary, no partnership, joint venture relationship of principal and agent is established or intended hereby between or among the Parties.

8.9 **Further Assurances**. The Parties shall execute, acknowledge and deliver, after the date hereof, without additional consideration, such further assurances, instruments and documents, and shall take such further actions, as any Party shall reasonably request of the other in order to fulfill the intent of this Agreement and the transactions contemplated thereby.

8.10 **No Personal Liability**. All costs, obligations and liabilities under this Agreement on the part of the Parties are solely the responsibility of the respective Party, and no partner, stockholder, member, director, officer, official, employee, agent or elected or appointed official of any Party to this Agreement shall be personally or individually liable for any costs, obligations or liabilities of such Party under this Agreement and each such Person may raise this Section 8.10 as a defense to any action brought seeking to impose such costs, obligations or liabilities on it. Except as any Party to this Agreement may otherwise agree in writing with regard to its liability, all Persons extending credit to, contracting with or having any claim against any Party to this Agreement, may look only to the funds and property of such Party for payment of any such suit, contract or claim to the extent such Party is liable therefor, or for the payment of any costs that may become due or payable to them from any Party to this Agreement.

8.11 **Good Faith**. In exercising their rights and fulfilling obligations under this Agreement, each Party acknowledges that the other Party has acted to date in good faith and each Party agrees to continue to act in good faith. Each Party acknowledges that in each instance under this Agreement where a Party is obligated to exercise good faith or to use good faith, diligent or other similar efforts, such Party shall not be required to expend any funds, or grant any other consideration of any kind, in the performance of such undertaking, and each Party further acknowledges that the obligation of any Party to act in good faith, or undertake good faith, diligent or other similar efforts does not constitute a warranty, representation or other guaranty that the result that the Parties are attempting to achieve shall be successfully achieved and no Party shall be liable for any failure to achieve the result or results intended so long as the Party has complied with its obligation to act in good faith.

8.12 **Severability**. In the event any covenant, condition, restriction, easement, right, term or provision contained herein is held to be invalid, void or otherwise unenforceable by any court of competent jurisdiction, such holding shall in no way affect the validity of enforceability of any other covenant, condition, restriction, easement, right, term or provision contained herein.

8.13 **Governing Law**. This Agreement and the obligations created hereunder shall be interpreted, construed, and enforced in accordance with the laws of the State of Florida and venue for any litigation shall be in Lake County, Florida.

8.14 **Captions**. Article and section titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any covenant, condition, restriction, easement, right, term or provision hereof.

8.15 **Counterpart Signatures**. This Agreement may be executed in counterparts, each of which, when taken together, shall constitute one fully executed original.

(Signatures follow on the next page)

IN WITNESS WHEREOF, the Parties have executed this Agreement in manner and form sufficient to bind them as of the day and year first above written.

ATTEST:	**"City"**
	CITY OF EUSTIS
______________________________________	By: ______________________________
____________________________, City Clerk	Name: ______________________________
	Title: ______________________________

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this ____ day of ___________, 202___, by ____________________, as _______________ of the City of Eustis, who is personally known to me.

NOTARY SEAL

____
Notary Public

Print Name: ____________________________

My Commission expires: _________________

"**Developer**"

____

a __________________________________

____

Name:___________________________

By: _________________________________

Name: _________________________________

Title: _________________________________

____

Name:___________________________

STATE OF FLORIDA
COUNTY OF _____________

The foregoing instrument was acknowledged before me this ____ day of _____, 202____ by ___________________________, as ______________________ of _______________________ ___________________________, a ______________________, on behalf of the _____________. He/She is personally known to me or has produced ___________________________________ as identification.

(NOTARY SEAL)

____

Notary Public Signature

____

(Name typed, printed or stamped)
Notary Public, State of __________________
Commission No.: _______________________

EXHIBIT "A"

Legal Description of Parking Garage Parcel

Lots 1, 2, 3, 4, 13, 14, 15, and 16, Block 15, Official Map of Eustis, according to the map or plat thereof as recorded in Plat Book 1, Page 79, Public Records of Lake County, Florida.

EXHIBIT "B"

Legal Description of Benefitted Property

Block 31, Official Map of Eustis, according to the map or plat thereof as recorded in Plat Book 1, Page 79, Public Records of Lake County, Florida.

EXHIBIT "C"

Legal Description of Hotel Parcel

Metes and bounds legal description to be determined. Parcel identified as "Hotel" on attached sketch.