

**ITEM #45**

**ADDITIONAL MATERIAL**

**REGULAR MEETING**

**DECEMBER 10, 2024**

**SUBMITTED AT THE REQUEST OF**

**RESILIENT ENVIRONMENT**

**DEPARTMENT**



**Housing Finance Division**

110 Northeast 3<sup>rd</sup> Street, Suite 300 • Fort Lauderdale, Florida 33301 • 954-357-4900 • FAX 954-357-8221

**MEMORANDUM**

**DATE:** December 5, 2024

**TO:** Board of County Commissioners

**THROUGH:** Monica Cepero, County Administrator

**FROM:** Ralph Stone, Director, Housing Finance Division

**SUBJECT: Additional Material: December 10, 2024 (Item 45)- Ground Lease Agreement for 1201 NW 31<sup>st</sup> Avenue, Pompano Beach**

The following Ground Lease Agreement is provided as Exhibit 4 to the above referenced Agenda Item. For background, the Florida Housing Finance Corporation created a new funding source under their 2024-2013 Request for Applications (“RFA”) Live Local SAIL Financing for Mixed Income, Mixed-Use, And Urban Infill Developments, which has a submittal deadline of December 20, 2024. The RUDG, LLC Application to the County’s RFA for Affordable Housing Development of 1201 NW 31<sup>st</sup> Avenue, Pompano Beach is a strong candidate for funding under this new resource. To take advantage of this potential funding and significantly accelerate the project timeline, staff immediately initiated development of a lease agreement following the Evaluation Committee meeting on November 14, 2024, that would provide site control of the property to RUDG, LLC and enable the developer to apply for funding for RFA 2021-213 by the submittal deadline of December 20, 2024. The Ground Lease Agreement was finalized on December 4, 2024. Staff recommends approval of the Item as amended by the additional material distributed by the Resilient Environment Department.

Please contact Ralph Stone, Director of Housing Finance, regarding questions or additional information.

**Item #45**

**Currently reads:**

A. MOTION TO APPROVE Evaluation Committee final ranking of applications for the Affordable Housing Development of 1201 NW 31st Avenue, Pompano Beach, Florida, Request For Applications ("RFA") for gap financing; authorizing the County Administrator to negotiate and execute all agreements with the highest ranked applicant subject to approval as to legal sufficiency by the Office of the County Attorney, and to take the necessary administrative and budgetary actions.

**Should read:**

A. MOTION TO APPROVE Evaluation Committee final ranking of applications for the Affordable Housing Development of 1201 NW 31<sup>st</sup> Avenue, Pompano Beach, Florida, (**“Property”**) Request For Applications ("RFA") **for a ground lease of the Property and** gap financing **for the development;** ~~authorizing the County Administrator to negotiate and execute all agreements with the highest ranked applicant subject to approval as to legal sufficiency by the Office of the County Attorney, and to take the necessary administrative and budgetary actions.~~

**Currently reads:**

B. MOTION TO ADOPT budget Resolution in the amount of \$7,000,000 for gap financing from the Affordable Housing Trust Fund ("AHTF") for RUDG, LLC for the Cross Creek mixed-use multifamily affordable housing development consisting of 467 total units, including 440 income restricted affordable units; authorizing the County administrator to negotiate and execute all agreements related to gap financing for the project; subject to approval as to legal sufficiency by the Office of the County Attorney, and to take the necessary administrative and budgetary actions.

**Should read:**

B. MOTION TO ADOPT budget Resolution in the amount of \$7,000,000 for gap financing from the Affordable Housing Trust Fund ("AHTF"); **approve the award of \$7,000,000 to** ~~for~~ RUDG, LLC, **or its affiliate,** for the Cross Creek mixed-use multifamily affordable housing development **at the Property** consisting of **at least** 467 ~~total~~ units, including **at least** 440 income restricted affordable units **as provided in the response to the RFA (“Project”);** **and** ~~authorizing~~ the County **A** administrator to negotiate and execute all agreements related to gap financing for the ~~p~~**Project;** subject to approval as to legal sufficiency by the Office of the County Attorney, and to take the necessary administrative and budgetary actions.

**Currently reads:**

C. MOTION TO ADOPT Resolution to enter a ground lease with RUDG, LLC to convey County owned parcels of real property for the purpose of constructing a mixed-use multifamily affordable housing development and enable RUDG, LLC to pursue funding for the development from the Florida Housing Finance Corporation (“FHFC”).

**Should read:**

C. MOTION TO ADOPT **APPROVE** Resolution to enter a **Ground Lease Agreement** with **between Broward County and** RUDG, LLC **in substantially the form attached as Exhibit 4,** ~~to convey County owned parcels of real property for the purpose of constructing a mixed-use multifamily development~~ **the Project** and enable RUDG, LLC to pursue funding for the ~~development~~ **Project** from the Florida Housing Finance Corporation (“FHFC”); **and authorize the County Administrator to execute same**

**and negotiate nonmaterial changes, subject to review and approval as to legal sufficiency by the Office of the County Attorney.**

**Summary Explanation/Background:**

**Currently reads:**

In 2023, the County purchased a 5.19-acre property for the purpose of developing affordable housing (Exhibit 4- Project Location)...

...Therefore, to enable RUDG, LLC to immediately pursue funding for the Cross Creek development from FHFC, including the RFA 2024-2013, which has a submittal deadline of December 20, 2024, staff prepared a proposed ground lease (Exhibit 3) to convey the property to RUDG, LLC.

The lease provides for a 75 year lease term and a \$4,300,000 initial lease payment paid upon the closing of financing...

**Should read:**

In 2023, the County purchased a 5.19-acre property for the purpose of developing affordable housing (Exhibit 4 **3** Project Location)...

...Therefore, to enable RUDG, LLC to immediately pursue funding for the Cross Creek development from FHFC, including the RFA 2024-2013, which has a submittal deadline of December 20, 2024, staff prepared a proposed ground lease (~~Exhibit 3~~) to convey the property to RUDG, LLC.

The lease provides for a 75 year lease term and a ~~\$4,300,000 initial lease~~ **will generate revenues including: (1) base rent payment of \$50,000 (payable upon Effective Date of the Agreement); (2) Additional base rent payment of \$4,250,000 payment (payable upon Commencement Date** paid upon the closing of financing); **and (3) Ten percent (10%) of any cash flow generated from the commercial or retail use of the Project, commencing three years from the Project completion date...**

**Fiscal Impact/Cost Summary:**

**Currently reads:**

The agenda item proposes to utilize \$7,000,000 from the AHTF for construction of a mixed-use multi-family affordable housing rental development in the City of Pompano Beach.

**Should read:**

The agenda item proposes to utilize \$7,000,000 from the AHTF for construction of a mixed-use multi-family affordable housing rental development in the City of Pompano Beach. **The Ground Lease Agreement will generate revenues including: (1) base rent payment of \$50,000 (payable upon Effective Date of the Agreement); (2) Additional base rent payment of \$4,250,000 (payable upon Commencement Date); and (3) Ten percent (10%) of any cash flow generated from the commercial or retail use of the Project, commencing three years from the Project completion date.**

**Additional Exhibit 4- Ground Lease Agreement** (attached)

GROUND LEASE AGREEMENT

By And Between

BROWARD COUNTY

And

RUDG, LLC

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**GROUND LEASE AGREEMENT**

**THIS GROUND LEASE AGREEMENT** (“Lease”) is entered into by and between **BROWARD COUNTY**, a political subdivision of the State of Florida (“Landlord”), and **RUDG, LLC**, a Florida limited liability company (“Tenant”) (Landlord and Tenant are individually referred to as a “Party” and collectively referred to as the “Parties”), and is effective as of the date it is executed by both Parties (“Effective Date”).

**RECITALS:**

A. Landlord owns the real property located at 1201 N.W. 31 Avenue, Pompano Beach, Florida 33069, as legally described in **Exhibit A** (“Leased Premises”).

B. In accordance with the requirements of Section 125.35 (1)(a), Florida Statutes, Landlord has determined that it is in the best interest of Landlord to lease the Leased Premises to Tenant who, pursuant to the criteria established by Broward County in its Request for Applications for Affordable Housing Development of the Leased Premises issued on August 16, 2024, is the highest and best bidder for the purposes and on the terms stated in this Lease, which Landlord has determined is the highest and best use of the Leased Premises.

C. Landlord desires to lease the Leased Premises to Tenant pursuant to this Lease, in exchange for Tenant’s development, construction and operation of the Project, as specifically defined in Section 1(s), upon the Leased Premises.

NOW, THEREFORE, in consideration of the Leased Premises, the foregoing Recitals, the mutual covenants and promises contained in this Lease, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties hereby covenant, represent, warrant, and agree as follows:

1. **Definitions.** The following terms for purposes of this Lease shall have the following meanings:

(a) **“Affordable Housing Units”** means affordable housing residential rental units within the Project.

(b) **“Applicable Law”** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.

(c) **“Base Rent”** means and refers to the base rent set forth in Section 4(a) hereof.

(d) **“Board”** means the Board of County Commissioners of Broward County, Florida.

(e) “Business Day” means any day other than Saturdays, Sundays, or legal holidays recognized by the State of Florida or Broward County, which shall include, but not be limited to, New Year’s Day, Martin Luther King Jr. Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Veteran’s Day, Thanksgiving Day and the day after, and Christmas Day.

(f) “Cash Flow” means the excess of the Project’s Cash Receipts over the Project’s Operating Expenses for the same time period.

(g) “Cash Receipts” means all rental revenue, laundry income, parking revenue, amounts released from escrow accounts, and other incidental revenues on a cash basis, and rental subsidies on an accrual basis, received by Tenant from normal operations of the Project but specifically excluding proceeds from insurance (other than business or rental interruption insurance), loans, proceeds of any capital transaction, or capital contributions.

(h) “Commencement Date” means the closing date of Tenant’s construction financing for the development of the Project, but in no event later than December 31, 2025.

(i) “Completion Date” means February 29, 2028.

(j) “Contract Administrator” means the Director of the Broward County Housing Finance Division or such other person designated by the Director of the Broward County Housing Finance Division in writing.

(k) “County Administrator” means the administrative head of Broward County appointed by the Board.

(l) “County Business Enterprise” or “CBE” means an entity certified as meeting the applicable requirements of Section 1-81 of the Broward County Code of Ordinances.

(m) “County Code” means the Broward County Code of Ordinances.

(n) “Days” means calendar days, not Business Days, unless otherwise specified in this Lease.

(o) “Lease Year” means the twelve (12) month period beginning on the Commencement Date and each twelve-month period thereafter throughout the Term.

(p) “Leasehold Mortgage” means any mortgage, deed to secure debt, security agreement or collateral assignment encumbering Tenant’s estate created hereunder (regardless of the priority thereof), any assignment thereof, and any modification and amendment of any of the terms thereof, including, without limitation, any extension, renewal or refinancing of any indebtedness secured thereby or an additional advance secured by any Leasehold Mortgage or any additional Leasehold Mortgage given to secure the same.

(q) “Leasehold Mortgagee” means the holder, mortgagee, grantee or secured party under any Leasehold Mortgage.

(r) “OESBD” means the Broward County Office of Economic and Small Business Development.

(s) “Operating Expenses” means and refers to all ordinary and necessary operating expenses (including those reasonable replacement and maintenance reserves or accruals required by generally accepted accounting principles) as well as necessary capital improvements and those other reasonable reserves and reasonable accruals that are required to operate, maintain, repair and keep the Leased Premises and the Project in a neat, safe, and orderly condition, as well as the payment of all principal and interest payments for Project debts, the payment of any outstanding Project costs, and the payment of any other customary fees or expenses associated with a low income housing tax credit project.

(t) “Project” means the design, construction, and operation of a mixed-use development on the Leased Premises consisting of a combination of residential units and commercial/retail uses, as more particularly identified in **Exhibit B**.

(u) “State” means the State of Florida, unless clearly indicated otherwise.

2. Lease. Landlord hereby leases to Tenant, and Tenant hereby accepts and leases from Landlord, the Leased Premises upon the terms and conditions stated herein, and subject to all matters of record. The Leased Premises shall be used solely for the purposes authorized in Section 60 and for no other purposes.

TO HAVE AND TO HOLD the Leased Premises unto Tenant for and during the Term set forth hereafter.

3. Term. This Lease shall be effective as of the Effective Date, but the term of this Lease shall commence on the Commencement Date and expire on the seventy-fifth (75<sup>th</sup>) anniversary of the Commencement Date (“Term”), unless this Lease is terminated earlier pursuant to the provisions contained herein. In the event the Commencement Date does not occur by December 31, 2025, this Lease shall be of no effect and shall be deemed automatically terminated, unless the Parties agree otherwise in writing, with Landlord acting through its County Administrator or his or her authorized designee. Tenant shall provide written notice of the Commencement Date to Landlord’s County Administrator within five (5) Days after the Commencement Date.

4. Ground Rent. Tenant covenants and agrees to pay Landlord rent as follows:

(a) Base Rent.

(i) On the Effective Date, Tenant shall make a Base Rent payment to Landlord in the amount of Fifty Thousand Dollars (\$50,000.00), by wire transfer.

(ii) On the Commencement Date, Tenant shall make an additional Base Rent payment to Landlord in the amount of Four Million Two Hundred Fifty Thousand Dollars (\$4,250,000.00), by wire transfer.

(b) Additional Rent. Landlord shall receive the Base Rent free from all taxes, charges, expenses, costs, and deductions of every description, and, as such, Tenant hereby agrees to pay, as “Additional Rent”, all items which would have been chargeable against the Project and payable by Landlord (except for the execution and delivery of this Lease).

(c) Net Commercial/Retail Cash Flow Rent. Starting on the third (3<sup>rd</sup>) anniversary of the Completion Date and continuing throughout the Term, ten percent (10%) of any net Cash Flow generated solely from the commercial/retail use of the Project (“Net Commercial Cash Flow”) shall be paid to Landlord by Tenant, or Tenant’s affiliate that is subleasing the commercial portion of the Leased Premises, on an annual basis. Such Net Commercial Cash Flow rent shall be paid no later than ninety (90) Days following the end of each Lease Year throughout the Term without notice or demand. To the extent Tenant’s affiliate is not a signatory to this Lease, Tenant shall be solely responsible for ensuring that Landlord receives any amount due to Landlord pursuant to this Section 4(c). Such Net Commercial Cash Flow shall be reduced by any reasonable allocation of common area expenses between the residential and commercial portions of the Project.

5. Right to Construct Project.

(a) Tenant shall commence construction of the Project no later than ninety (90) Days after the Commencement Date, and substantially complete the construction of the Project on or before the Completion Date. The foregoing limitation of time for the completion of the Project may be extended by written agreement between the Parties hereto, with Landlord acting through its County Administrator or duly authorized designee.

(b) During the course of construction of the Project, Tenant shall provide to Landlord quarterly written status reports on the Project, and such other reports as may reasonably be requested by Landlord, in a format acceptable to Landlord’s County Administrator or duly authorized designee.

(c) The Project shall be constructed in a good and skillful manner and in accordance with all Applicable Law.

(d) Tenant shall apply for and prosecute, with reasonable diligence, all necessary approvals, permits, and licenses required by Applicable Law for the construction, development, zoning, use, and occupation of the Project upon the Leased Premises. Landlord agrees to cooperate with and publicly support Tenant’s effort to obtain such approvals, permits and licenses, provided that such approvals, permits and licenses shall be obtained at Tenant’s sole cost and expense.

(e) Tenant, or Tenant's affiliate, shall construct the Project in accordance with the requirements set forth in **Exhibit B**.

6. Forced Delay in Performance. Notwithstanding any other provisions of this Lease to the contrary, Tenant shall not be deemed to be in default under this Lease where delay in the construction of the Project is caused by war, revolution, terrorism, labor strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, labor disputes, governmental restrictions, embargoes, adverse weather conditions preventing Project construction for at least 50% of the normal workday on controlling items of work, or any other causes beyond the reasonable control of Tenant or Tenant's contractors, subcontractors, suppliers, or vendors. The time of performance hereunder shall be extended for the period of any forced delay or delays caused or resulting from any of the foregoing causes.

7. Landlord's Representations and Warranties. Landlord hereby represents and warrants to Tenant as follows:

(a) Existence. Landlord has full power and authority to lease the Leased Premises and to comply with the terms of this Lease.

(b) Litigation. To the best of Landlord's knowledge, there are no actions, suits, proceedings or investigations pending or threatened against Landlord or the Leased Premises affecting any portion of the Leased Premises, including, but not limited to, condemnation actions.

(c) Title. Landlord owns fee simple, good and marketable title to the Leased Premises.

8. Tenant's Representations and Warranties. Tenant hereby represents and warrants to Landlord as follows:

(a) Existence. Tenant is, and as of the Commencement Date will be, a duly organized, lawfully existing limited liability company in good standing under the laws of the State.

(b) Authority and Approvals. Tenant (i) has, and as of the Commencement Date will have, the power and authority to own its properties and assets, to conduct its business as presently conducted, and to execute, deliver and perform its obligations under this Lease and (ii) has, and as of the Commencement Date will have, obtained all authorizations and approvals which are necessary for it to execute, deliver, and perform its obligations under this Lease.

(c) Binding Obligation. This Lease has been duly and validly executed and delivered by Tenant and constitutes a legal, valid, and binding obligation of Tenant, enforceable against Tenant in accordance with its terms.

(d) Litigation. There is no pending or, to the best of the Tenant's knowledge, threatened investigation, action or proceeding by or before any court, any governmental entity

or arbitrator which (i) questions the validity or enforceability of this Lease or any action or act taken or to be taken by Tenant pursuant to this Lease or (ii) is likely to result in a material adverse change in the property, assets, liabilities, or condition, financial or otherwise, of the Tenant, or materially impair Tenant's ability to perform its obligations hereunder.

(e) Public Entity Crime Act. Tenant is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Lease will not violate that statute. There has been no determination that Tenant committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and Tenant has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Tenant has been placed on the convicted vendor list.

(f) Discriminatory Vendor List. Tenant has not been placed on the "discriminatory vendor list" as provided in Section 287.134, Florida Statutes.

(g) No Broker. Tenant has not dealt with any broker, agent or finder with regard to the Leased Premises or this Lease, and no commission, fee or compensation of any kind is due and payable in connection herewith to any broker, agent or finder acting for or on behalf of Tenant.

(h) Full Disclosure. No representation, statement, or warranty by Tenant contained in this Lease or in any exhibit attached hereto contains any untrue statement or omits a material fact necessary to make such statement of fact therein not misleading.

9. Condition of Leased Premises, Environmental Matters, Title Inspection Period, Approvals and Financing Contingency.

(a) LANDLORD LEASES AND TENANT TAKES THE LEASED PREMISES AS IS, WHERE IS, AND WITH ALL FAULTS. TENANT ACKNOWLEDGES THAT LANDLORD HAS NOT MADE AND WILL NOT MAKE, NOR SHALL LANDLORD BE DEEMED TO HAVE MADE, ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO THE LEASED PREMISES, INCLUDING ANY WARRANTY OR REPRESENTATION AS TO ITS FITNESS FOR ANY PARTICULAR USE OR PURPOSE. TENANT ACKNOWLEDGES THAT THE LEASED PREMISES ARE OF ITS SELECTION AND TO ITS SPECIFICATIONS AND THAT THE LEASED PREMISES HAVE BEEN INSPECTED BY TENANT AND ARE SATISFACTORY TO TENANT. IN THE EVENT OF ANY DEFECT OR DEFICIENCY IN THE LEASED PREMISES OF ANY NATURE, WHETHER LATENT OR PATENT, LANDLORD SHALL NOT HAVE ANY RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO OR FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT). THE PROVISIONS OF THIS SECTION HAVE BEEN NEGOTIATED, AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY WARRANTIES BY LANDLORD, EXPRESS OR IMPLIED, WITH RESPECT TO THE LEASED PREMISES, ARISING PURSUANT TO ANY LAW NOW OR HEREAFTER IN EFFECT.

(b) Tenant shall, within ninety (90) Days after the Effective Date ("Inspection Period"), review any and all environmental issues related to the development of the Leased

Premises. Tenant may, at least fifteen (15) Days prior to the end of the Inspection Period, obtain any necessary environmental inspection reports (“Environmental Reports”) relating to the development of the Leased Premises. Tenant agrees to provide Landlord with a copy of the Environmental Reports and with a request that Landlord resolve any environmental issues (“Environmental Issues”) set forth in the Environmental Reports or otherwise known to Tenant (“Environmental Notice”). At least two (2) Business Days before the end of the Inspection Period, Landlord shall advise Tenant if Landlord shall resolve the Environmental Issues. In the event that Landlord, in its sole and absolute discretion, decides not to resolve the Environmental Issues, Tenant may terminate this Lease and any and all other agreements relating to the development of the Leased Premises by providing written notice of such termination to Landlord within three (3) Business Days after the end of the Inspection Period. Upon a termination of the Lease under this Section 9(b), the Leased Premises shall automatically and immediately revert to Landlord.

(c) During the Inspection Period (defined above in Section 9(b)), Tenant shall obtain a title commitment for the issuance of an ALTA Title Insurance Policy insuring its leasehold estate and obtain a survey of the Leased Premises. Tenant shall advise Landlord, during the Inspection Period, of any title or survey matters that, in Tenant’s reasonable opinion, are objectionable title matters (“objectionable title matters”). Landlord may, in its sole discretion, take the steps necessary to cause such objectionable title matters to be removed from the title commitment. In the event that Landlord, in its sole and absolute discretion, decides not to resolve the objectionable title matters, Tenant may elect to proceed notwithstanding the objectionable title matters (at which point Tenant shall have no recourse against Landlord in connection with the objectionable title matters), or may terminate this Lease and any and all other agreements relating to the development of the Leased Premises by providing written notice of such termination to Landlord within three (3) Business Days after the end of the Inspection Period. Any easement known (or which should be known after performing a diligent search) to Tenant at the time of the Effective Date shall not be deemed an objectionable title matter. In addition, any and all easements or encumbrances referenced in **Exhibit C** shall not be deemed objectionable title matters. Upon a termination of the Lease under this Section 9(c), the Leased Premises shall automatically and immediately revert to Landlord.

(d) This Lease and Tenant’s obligations (except any obligation specified in Section 4 of this Lease) hereunder shall be expressly contingent on Tenant’s reasonable determination that all zoning, site plan, platting, permits and other governmental approvals (collectively, “Entitlements”) can be secured for the development and construction of the Project. Tenant agrees to adhere to the schedule for development milestones (“Development Schedule”) specified in **Exhibit B**. No later than seven (7) Business Days after a development milestone has been missed, Tenant shall inform Landlord of the failure to reach the milestone. In the event that Tenant reasonably determines, within the twenty four (24) months following the Effective Date (“Approval Period”), that any of the Entitlements cannot be obtained, Tenant may terminate this Lease and any and all other agreements relating to the development of the Leased Premises by providing written notice of such termination to Landlord within three (3)

Business Days after the end of the Approval Period. Upon a termination of the Lease under this Section 9(d), the Leased Premises shall automatically and immediately revert to Landlord.

(e) This Lease and Tenant's obligations (except any obligation specified in Section 4 of this Lease) hereunder shall be expressly contingent on Tenant's reasonable determination that it has secured or will be able to secure commitments for the construction financing, which may include HUD loans, bond loans, local and state government loans, grants and all other debt sources, as well as the equity investment necessary to develop and construct the Project (collectively, "Commitments"). Unless Broward County Housing Finance Authority ("Broward HFA") policy prohibits bond financing in connection with the market rate units, Tenant shall obtain all bond financing through the Broward HFA. In the event that Tenant reasonably determines, within the twenty four (24) months following the Effective Date ("Financing Period"), that the Commitments, or any of them, cannot be obtained, Tenant may terminate this Lease and any and all other agreements relating to the development of the Leased Premises by providing written notice of such termination to Landlord within three (3) Business Days after the end of the Financing Period. Upon a termination of the Lease under this Section 9(e), the Leased Premises shall automatically and immediately revert to Landlord.

10. Access to the Project, Inspection, and Report.

(a) Landlord, or its duly appointed agents, shall have the right, at all reasonable times upon the furnishing of reasonable notice under the circumstances (except in an emergency, when no notice shall be necessary), to enter upon the Leased Premises to examine and inspect the Project. Tenant hereby covenants to execute, acknowledge, and deliver all such further documents and do all such other acts and things necessary to grant Landlord such right of entry.

(b) Tenant shall, on the date the Project receives a certificate of occupancy, and on each yearly anniversary of the date the Project receives a certificate of occupancy, provide Landlord with a report indicating: (i) the length of each lease agreement for each unit at the Project, including the expiration date for each lease agreement, (ii) each unit that has been turned over, including the date that such turnover occurred, (iii) a detailed account of the physical condition of the Project, including any and all significant repairs, maintenance, or replacements that have been performed or must be performed in accordance with this Lease, and (iv) any other information or data requested by Landlord, so long as such request is received by Tenant at least sixty (60) Days prior to the due date specified under this Section 10(b).

11. Affordability Requirements for Housing Units Offered For Rent, and Report.

(a) Affordable Housing Units within the Project shall be rented subject to the following restrictions: (i) at least three hundred twenty-seven (327) Affordable Housing Units shall be rented solely by one or more natural persons or a family whose total annual adjusted gross household income does not exceed eighty percent (80%) of the median annual adjusted gross income for Broward County, adjusted for family size, and (ii) at least one hundred thirteen (113) additional Affordable Housing Units shall be rented solely by one or more natural persons



or a family whose total annual adjusted gross household income does not exceed one hundred twenty percent (120%) of the median annual adjusted gross income for Broward County, adjusted for family size. Said limits are to be published annually by Broward County or other appropriate governmental entity designated by Broward County. For the purposes of this provision, the term "adjusted gross income" shall mean all wages, assets, regular cash or noncash contributions or gifts from persons outside the household and such other resources and benefits as may be determined to be income by the U.S. Department of Housing and Urban Development ("HUD"), adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code ("Code"). For the purposes of this provision, the term "adjusted for family size" means adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, based upon a formula as established by HUD.

(b) On an annual basis for the duration of this Lease, Tenant shall provide Landlord (i) copies of the income certification reports for renters of Affordable Housing Units that it provides to any federal, state, or local authority having a similar requirement for the set-aside of Affordable Housing Units at restricted rents and (ii) any and all additional information or data relied upon by Tenant in ensuring that all Affordable Housing Units are rented in accordance with the requirements of Section 11(a) above. Such reports ("Income Certification Reports") generally contain, but may not be limited to (i) the annual adjusted gross income information for any and all individuals or families renting one of the Affordable Housing Units, and (ii) any and all information or data relied upon by Tenant in ensuring that all Affordable Housing Units are rented in accordance with the requirements of Section 11(a) above. Landlord may also, at any time during the Term, request the Income Certification Reports and Tenant shall provide these reports to Landlord within thirty (30) Days after Landlord's written notice. Landlord may, at any point throughout the Term, following three (3) Business Days' advance written notice to Tenant, perform any investigation with respect to the Affordable Housing Units to ensure that any and all individuals or families renting one of the Affordable Housing Units meet the income eligibility requirements specified in Section 11(a) above. Tenant agrees to fully cooperate in any investigation undertaken by Landlord, including providing Landlord, within fifteen (15) Days of Landlord's request, any and all information or documentation requested by Landlord related to the annual adjusted gross income of any and all individuals and families renting one of the Affordable Housing Units.

12. Land Use.

(a) Development of Land and Construction of Building.

- 1) The Parties agree, for themselves and their successors and assigns, to devote the Leased Premises and Project to the uses specified in this Lease, and to be bound by and comply with all of the provisions and conditions of this Lease.
- 2) The Parties recognize and acknowledge that the manner in which the Leased Premises and Project is developed, used, and operated is a matter of critical importance to Landlord and to the general welfare of the community. Tenant agrees that at all times during the Term, Tenant will use reasonable, good faith efforts to develop, construct, and operate the Project on the Leased Premises in a manner consistent with comparable

projects in Broward County, Florida, including any Florida Housing Finance Corporation tax credit project.

- 3) Tenant shall establish such reasonable rules and regulations governing tenants renting the Affordable Housing Units and other residential rental units ("Space Lessees") as Tenant shall deem necessary or desirable in order to maintain the level of quality and character of operation of the Project and Leased Premises required herein; and Tenant will use reasonable, good faith efforts to enforce such rules and regulations.
- 4) The Parties will reasonably cooperate with each other in effectuating the development of the remainder of the Project and Leased Premises in accordance with the terms of this Lease.

(b) Conceptual Design Plans, Landlord Review, and Coordination Process.

Prior to submittal for the building permits for the Project, Tenant shall submit conceptual design plans and layouts ("Plans") to the Contract Administrator for review and comments. Upon receipt of the Plans, the Contract Administrator shall have a minimum of twenty-one (21) Days, but not more than forty-five (45) Days, to provide written comments to Tenant. Landlord and Tenant shall use commercially reasonable efforts to attempt to resolve any disputes concerning the Plans.

(c) Broward County's Rights as Sovereign.

- 1) It is expressly understood that notwithstanding any provision of this Lease and the fact that Landlord is a political subdivision with certain regulatory authority:
  - i. Landlord's performance under this Lease is as a Party to this Lease and not in its regulatory capacity. If Landlord exercises its regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to Landlord's regulatory authority as a governmental body separate and apart from this Lease, and shall not be attributable in any manner to Landlord as a Party to this Lease.
  - ii. Broward County retains all of its sovereign prerogatives and rights given to a county under Florida laws and shall in no way be estopped from withholding or refusing to issue any approvals of applications for building or zoning; from exercising its planning or regulatory duties and authority; and from requiring development under present or future Applicable Law, of whatever nature, pertaining to the design, construction and development of the Project provided for in this Lease; and
  - iii. Broward County shall not by virtue of this Lease be obligated to grant Tenant, the Leased Premises or the Project any approvals of

applications for building, zoning, planning or development, under present or future Applicable Law, of whatever nature, pertaining to the design, construction and development of the Project provided for in this Lease.

13. Insurance.

(a) At all times during the Term, Tenant shall, at Tenant's sole cost, obtain and maintain commercial general liability insurance coverage with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury and property damage, and Two Million Dollars (\$2,000,000.00) per aggregate, with excess liability "umbrella" coverage in an amount which shall provide, in the aggregate, not less than Four Million Dollars (\$4,000,000.00) of coverage. Such commercial general liability insurance coverage shall insure against the risk of loss resulting from accidents or occurrences on or about the Leased Premises, and in connection with the development, construction, and operation of the Project and in connection with, or related to this Lease.

(b) Prior to commencement of construction activities, Tenant shall provide evidence of, "All Risk" Completed Value Form, Builder's Risk insurance coverage ("Builder's Risk coverage"). The Builder's Risk coverage shall remain in force at least until substantial completion of the Project at which time Tenant shall procure property insurance so that there is continuous coverage in force and effect with no lapse. Upon expiration or termination of the Builder's Risk coverage, Tenant shall provide evidence of property insurance together with fire and extended coverage for the full value of the improvements including coverage for wind. Coverage shall be effective no later than the date of expiration of the builder's risk policy, and shall remain in force thereafter throughout the Term.

(c) During the Term, Tenant and Tenant's developers, contractors and any subcontractors shall, at their sole expense, maintain the minimum insurance coverages designated in **Exhibit D** in accordance with the terms and conditions of this Lease. Tenant shall maintain insurance coverage against claims relating to any act or omission by Tenant and/or Tenant's developers, contractors, agents, representatives or employees in connection with this Lease.

(d) Tenant shall ensure that "Broward County" is listed and endorsed as an additional insured on all insurance policies required under this Lease.

(e) If the Leased Premises is located in a federally designated flood plain, a flood insurance policy acceptable to Landlord shall also be delivered to the Landlord, providing coverage in the entirety of the Term for the maximum amount reasonably necessary to insure against the risk of loss from damage to the Project caused by a flood.

(f) Tenant agrees to cooperate with the Landlord in obtaining the benefits of any insurance or other proceeds lawfully or equitably payable to the Landlord in connection with this Lease.

(g) No later than the Effective Date and thereafter prior to expiration of coverage, Tenant shall provide County with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required under this Lease. If and to the extent requested by Landlord, Tenant shall provide complete, certified copies of all required insurance policies and all required endorsements within five (5) Days after Landlord's request.

(h) Tenant shall ensure that all insurance coverages required under this Lease remain in full force and effect without any lapse in coverage throughout the Term and until all performance required of Tenant has been completed, as determined by the Contract Administrator. Tenant or its insurer shall provide notice to Landlord of any cancellation or modification of any required policy at least thirty (30) Days prior to the effective date of cancellation or modification, and at least ten (10) Days prior to the effective date of any cancellation due to nonpayment, and shall concurrently provide Landlord with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s).

(i) All required insurance policies must be placed with insurers or surplus line carriers authorized to conduct business in the State with an A.M. Best rating of A- or better and a financial size category class VII or greater, unless otherwise approved by Landlord's Risk Management Division in writing.

(j) If Tenant maintains broader coverage or higher limits than the insurance requirements under this Lease, Landlord shall be entitled to all such broader coverages and higher limits. All required insurance coverages shall provide primary coverage and not require contribution from any Landlord insurance, self-insurance, or otherwise, which shall be in excess of and shall not contribute to the required insurance provided by Tenant.

(k) Unless prohibited by the applicable policy, Tenant waives any right to subrogation that any of Tenant's insurers may acquire against Landlord, and shall obtain same in an endorsement of Tenant's insurance policies.

(l) If Tenant or any contractor or subcontractor fails to maintain the insurance required by this Lease, Landlord may pay any costs of premiums necessary to maintain the required coverage and Tenant shall, immediately upon demand, reimburse Landlord the costs incurred to maintain the required coverage. Such amounts due from Tenant shall be charged as Additional Rent under the terms of this Lease. If requested by Landlord, Tenant shall provide, within one (1) Business Day, evidence of each contractor's and subcontractor's compliance with this Section.

(m) Landlord's Risk Management Division reserves the right, but not the obligation, to review and revise any insurance requirements every five (5) years or at the time of any renewal of this Lease or any amendments thereto, including, but not limited to, deductibles, limits, coverages, and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or any changes in the Project, including changes in the scope of work or specifications affecting the applicability of coverage.

(n) Notwithstanding anything contained herein to the contrary, so long as a Leasehold Mortgage encumbers the Leased Premises: (a) all insurance proceeds payable in connection with any casualty, damage or destruction to any portion of the Leased Premises to which Tenant is entitled and/or any awards or sales proceeds which are attributable to any improvements in the event any portion of the Leased Premises is taken in any proceedings by public authorities (by condemnation or otherwise) or is acquired for public or quasi-public purposes by sale in lieu thereof, shall be governed by the provision of the loan documents of the senior-most Leasehold Mortgagee (and all insurance and condemnation proceeds relating to the Project shall be applied in accordance with the terms and conditions of such loan documents of the senior-most Leasehold Mortgagee) and Landlord hereby subordinates any right that it may have to such proceeds, to the rights and liens of the Leasehold Mortgagee in and to such proceeds; (b) such payment must not be less than the total award minus the value of the remainder interest in the fee estate considered as unimproved; (c) in the event of a partial taking, Tenant shall be permitted to rebuild and restore the improvements unless the Leasehold Mortgagee consents to distribution of such proceeds; and (d) Leasehold Mortgagee shall be permitted to participate on Tenant's behalf in the adjustment of losses and settlement.

14. Performance and Payment Bonds: On or before the Commencement Date, Tenant shall obtain from its general contractor a Performance Bond and a separate Payment Bond in favor of the Parties, in accordance with the requirements of this Section.

(a) The Performance Bond and the and Payment Bond shall be in the amount of One Hundred percent (100%) of the price of the construction contract for the Project, guaranteeing the Parties the agreed upon performance and completion of the work covered in such contract, as well as full and complete payment of all suppliers, material persons, laborers, or subcontractors employed by the general contractor to perform work with respect to the Project. The Performance Bond and the Payment Bond shall be executed by a surety company satisfying the requirements of subsection (c), below.

(b) The Performance Bond and the Payment Bond shall remain in force for one (1) year after final completion of the construction work, with liability equal to One Hundred percent (100%) of the construction contract price. Tenant shall require and ensure that its general contractor maintain the Performance Bond and the Payment Bond throughout the course of the construction phase of the work, and for one (1) year following the final completion and acceptance by Landlord of the construction work for the Project.

(c) The Performance Bond and the Payment Bond must be executed by a surety company of recognized standing that is authorized to do business in the State as a surety, has a resident agent in the State, and has been in business with a record of successful continuous operation for at least five (5) years. The surety company shall hold a current Certificate of Authority as an acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the required bonding amount exceeds the underwriting limitation set forth in such circular, in order to qualify as a satisfactory surety, the net retention of the surety company shall not exceed the underwriting limitation in

the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised (31 CFR Section 223.10, Section 223.11). Further, the surety company shall provide the Parties with evidence satisfactory to each Party, that such excess risk has been protected in an acceptable manner.

(d) The Performance Bond and the Payment Bond shall be in substantially the form approved by Tenant and Landlord's Office of the County Attorney, which approval shall not be unreasonably withheld or conditioned. Upon Tenant's request, Landlord shall provide Tenant with a copy of Landlord-approved bond forms.

(e) Tenant, at Tenant's sole cost, shall record the executed Performance and Payment Bonds as an exhibit to the Project's Notice of Commencement in the Official Records of Broward County, Florida within seven (7) Days of the execution of such Bonds.

15. Taxes. Tenant shall pay all real estate taxes, special assessments, personal property taxes, and stormwater, fire rescue and fire inspection fees, and any other taxes, fees, levies or impositions charged by any taxing authority with respect to the Leased Premises and the Project. If the State or any other political subdivision assesses or levies a tax against Landlord on the Base Rent or any Additional Rent payable under this Lease, Tenant shall pay and discharge such taxes levied against Landlord if Landlord is not exempt from such tax.

16. Utilities; Easements. Tenant shall pay the cost of all utilities used, provided, or supplied upon or in connection with the development, construction and operation of the Project, including, but not limited to, all charges for gas, electricity, telephone and other communications services, water and sewer service charges, and all sanitation fees or charges levied or charged against the Leased Premises during the Term. Landlord agrees to cooperate with Tenant in the granting of any utility easements that are reasonably necessary for Tenant to operate the Project, and shall provide its consent or any required joinders as soon as reasonably practicable.

17. Audit Rights and Retention of Records. County shall have the right to audit the books, records, and accounts of Tenant and all contractors and subcontractors that are related to this Lease. Tenant and all contractors and subcontractors shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to this Lease and performance under this Lease. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Tenant and all contractors and subcontractors shall make same available in written form at no cost to Landlord. Tenant shall provide Landlord with reasonable access to Landlord's facilities, and Landlord shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Lease.

Tenant and all contractors and subcontractors shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to this Lease for at least three (3) years after expiration or termination of this Lease or until resolution of any audit findings, whichever

is longer. This Section shall survive any dispute or litigation between the Parties, and Tenant expressly acknowledges and agrees to be bound by this Section throughout the course of any dispute or litigation with Landlord. Any audit or inspection pursuant to this Section may be performed by any Landlord representative (including any outside representative engaged by Landlord). Tenant hereby grants Landlord the right to conduct such audit or review at Tenant's place of business, if deemed appropriate by Landlord, with seventy-two (72) hours' advance notice. Tenant shall make all such records and documents available electronically in common file formats or via remote access if, and to the extent, requested by Landlord.

If Landlord's audit shall disclose that an amount is due to Landlord in excess of the amount Tenant (or any sublessee) had previously or should have paid to Landlord for such Lease Year, then such amount shall be paid by Tenant (or any sublessee) to Landlord within twenty (20) Days after receipt by Tenant (or any sublessee) of a written notice from Landlord setting forth the amount due and the calculations used in making the determination. If the amount due Landlord under the preceding sentence (excluding any late charge) exceeds the amount Tenant (or any sublessee) had previously or should have paid to Landlord for such Lease Year by five percent (5%) or more, the cost of such audit shall be at Tenant's (or any sublessee's) expense. If Landlord's audit shall disclose that Landlord has been overpaid for such Lease Year, Landlord shall credit such overpayment less any audit expenses for such Lease Year to the next payment or payments required to be paid by Tenant under the terms of this Lease.

Tenant shall ensure that the requirements of this Section are included in all agreements with all contractors and subcontractors.

18. Assignment of Lease by Tenant. Tenant has no right, without the prior written consent of Landlord, to assign, convey, encumber or transfer any legal or beneficial interest in this Lease, the Leased Premises, the Project, or Tenant's estate hereunder. Any assignment, conveyance, encumbrance or transfer in violation of this Section shall be void and ineffective, constitute a default under this Lease, and permit Landlord to immediately terminate this Lease, in addition to any other remedies available to Landlord at law or in equity. Landlord reserves the right to condition its approval of any assignment, conveyance, encumbrance or transfer upon further due diligence and an additional fee paid to County to reasonably compensate it for the performance of any such due diligence.

19. Subleases. Subject to the terms of this Section 19, Tenant shall have the right to enter into subleases (including to the following entities owned and controlled by the officers and/or principals of Tenant: Gallery at Cross Creek, LLC, a Florida limited liability company, and Residences at Cross Creek, LLC, a Florida limited liability company), with Landlord's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding any other provisions of this Lease or any sublease, no sublease shall extend beyond the Term of this Lease or relieve Tenant of any obligations under this Lease. Within seven (7) Days after the execution of any sublease, Tenant shall provide written notice to Landlord specifying the name of the sublessee, the sublessee's address to which all notices required by this Lease shall be sent, and a copy of the sublease. Notwithstanding

anything in the foregoing to the contrary, Tenant may sublease each of the residential units included in the Project without Landlord's consent.

20. Right to Encumber the Project.

(a) Right to Encumber. Tenant shall not mortgage or encumber its leasehold interest without the prior written consent of Landlord (which written consent may not be unreasonably withheld, conditioned, or delayed), acting by and through its County Administrator or duly authorized designee. Such mortgages or encumbrances shall be expressly subject to the terms, covenants and conditions of this Lease, and at all times shall be inferior and subject to the prior right, title and interest of Landlord herein as security for the performance of the terms and conditions of this Lease. Landlord shall reasonably consider such amendments to this Lease as may be reasonably requested by any Leasehold Mortgagee to which Landlord has consented, provided that such amendments do not increase, or in the sole opinion of Landlord, unreasonably alter the obligations of Landlord under this Lease, and that Landlord's fee estate shall not be subject to such leasehold mortgage. No mortgage under this Lease shall be binding upon Landlord in the enforcement of Landlord's rights under this Lease. The granting of a mortgage against all or part of the leasehold estate in the Leased Premises shall not operate to make the lender thereunder liable for performance of any of the covenants or obligations of Tenant under this Lease. Under no circumstances shall there be any title exceptions relating to the Project upon the expiration of the Term except for such title exceptions that were set forth in any title policy issued relating to the initial financing of the Project.

(b) Notice to Landlord of Mortgage. A notice of each mortgage shall be delivered to Landlord specifying the name and address of such mortgagee to which notices shall be sent. Landlord shall be furnished a copy of each recorded mortgage or encumbrance. For the benefit of any such mortgagee who shall have become entitled to notice as hereinafter provided in this Section, Tenant agrees, subject to all the terms of this Lease, not to voluntarily surrender or voluntarily terminate this Lease at any time while such mortgages shall remain a lien on Tenant's leasehold estate.

(c) Notices to Mortgagees. No notice of default or notice of failure to cure a default shall be deemed to have been given by Landlord to Tenant unless and until a copy has been given to each mortgagee who shall have been identified pursuant to Section 20(b) prior to Landlord's issuance of such notice. Landlord agrees to accept performance and compliance (only if such performance and compliance is timely, or if there is no deadline imposed under this Lease, only if such performance is reasonably and expeditiously carried out) by any such mortgagee of and with any of the terms of this Lease with the same force and effect as though kept, observed or performed by Tenant. Nothing contained herein shall be construed as imposing any obligation upon any such mortgagee to so perform or comply on behalf of Tenant.

(d) New Mortgagee Lease After Default of Tenant.



- (i) If, within ninety (90) Days after the mailing of any notice of termination or such later date as is ninety (90) Days following the expiration of the cure period, if any, afforded Tenant (the "Mortgagee Cure Period"), any mortgagee shall pay, or arrange to the satisfaction of Landlord for the payment of, a sum of money equal to any and all rents or other payments due and payable by Tenant hereunder, then, upon the written request of such mortgagee made any time prior to the expiration of the Mortgagee Cure Period, Landlord and the party making such request shall, within ninety (90) Days after such request, execute a new lease of the Leased Premises for the remainder of the Term of this Lease and on the same terms and conditions, and with the same priority over any encumbrances created at any time by Landlord, its successors and assigns which Tenant has or had by virtue of this Lease. Such priority shall exist by virtue of the notice created by this Lease to any transferee of Landlord or person receiving an encumbrance from Landlord, and the priority shall be self-operative and shall not require any future act by Landlord. Tenant under any such new lease shall have the same right, title and interest in and to and all obligations accruing thereafter under this Lease with respect to the applicable portion of the Leased Premises as Tenant has under this Lease.
- (ii) If, within the Mortgagee Cure Period, more than one (1) request for a new lease shall have been received by Landlord for the Leased Premises, priority shall be given (regardless of the order in which such requests shall be made or received) to the mortgagees making such a request in order of their priority of interest in the Leased Premises.
- (iii) Except as expressly stated herein, Landlord shall have no obligation to deliver physical possession of the Leased Premises to any mortgagee. Landlord agrees, however, at the cost and expense of any mortgagee that enters into a new lease with Landlord pursuant to the terms of this Lease, to cooperate in the prosecution of judicial proceedings to evict the then defaulting Tenant.
- (iv) The provisions of this Section 20(d) shall survive any termination of this Lease.

(e) Leasehold in Reversion and Assignment in Lieu of Foreclosure. Tenant's right to mortgage and otherwise encumber this Lease and the leasehold estate in whole or in part shall include the right to require a lease in reversion which lease in reversion shall become effective upon the termination of this Lease, and shall have the same terms and provisions, including expiration date, as this Lease. The mortgagee shall have the unrestricted right to take this Lease by lease in reversion or by assignment in lieu of foreclosure and to sell it either after foreclosure or after taking the assignment or becoming tenant under the lease in reversion all without the consent of Landlord. The mortgagee shall not be liable for Tenant's obligations hereunder until such a time as it becomes the new tenant, either by lease in reversion, foreclosure or assignment and then only for the period of its ownership or possession of the leasehold estate.

(f) Limitation of Leasehold Mortgagee Liability. The liability of the Leasehold Mortgagee (or its designee) hereunder (including following the foreclosure of the mortgage) shall be limited to its interest in the Leased Premises and Leasehold Mortgagee (or its designee) shall automatically be released from such liability from and after the date it no longer holds an interest in the Leased Premises.

(g) Non-Disturbance. Landlord shall cause any future fee mortgagee of Landlord's interest in the Property to execute and deliver to Leasehold Mortgagee a commercially reasonable written agreement providing further assurance that (1) such fee mortgage does not encumber and is subject to the Lease and to the rights of Tenant and Leasehold Mortgagee under the Lease, and (2) upon any foreclosure under the fee mortgage, fee mortgagee will not disturb Tenant's and/or Leasehold Mortgagee's (as applicable) use and occupancy of the Leased Premises.

21. Tenant's Investor Member. On or about the Commencement Date, Tenant's equity investor ("Investor") will be admitted as a member of Tenant.

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

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

(c) New Member/Manager. Notwithstanding anything to the contrary contained in the Lease, Landlord agrees that it will take no action to effect a termination of the Lease by reason of any Event of Default or any other breach or default without first giving to the Investor reasonable time, not to exceed thirty (30) Days, to replace Tenant's manager and/or admit an additional member as manager and cause the new manager to cure the Event of Default or other breach or default; provided, however, that as a condition of such forbearance, Landlord must receive notice from the Investor of the substitution or admission of a new member of Tenant within thirty (30) Days following Landlord's notice to Tenant and the Investor of the Event of Default or other breach or default, and Tenant, following such substitution or admission of the general partner, shall thereupon proceed with due diligence to cure such Event of Default or other breach or default as soon as reasonably possible. In no

event, however, shall Landlord be required to engage in the forbearance described in this Section for a period longer than three (3) months, regardless of the due diligence of the Investor or the new manager.

(d) Tax-Credit Compliance Period. It is anticipated that the Project will be financed by tax credit financing. During the term of any tax credit compliance period, Landlord and Tenant shall not agree between themselves to any material amendment, modification or supplement to this Lease without the prior written consent of the Investor, which consent will not be unreasonably delayed, conditioned or withheld.

22. Assignment of Lease by Landlord. Landlord must provide written notice to Tenant prior to assigning this Lease. Provided that no event of default by Landlord then exists, Tenant hereby agrees to attorn to Landlord's assignee and to continue to comply with all of the obligations, covenants, and conditions of Tenant under this Lease throughout the remainder of the Term.

23. Tenant's Indemnity; Environmental Covenants.

(a) Starting on the Effective Date of this Lease (except for indemnifications relating to environmental matters which shall commence after the end of the Environmental Inspection Period), Tenant covenants and agrees to indemnify, hold harmless, and defend Landlord and all of Landlord's current, past and future officers, agents, and employees (collectively, an "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Lease, and caused or alleged to be caused, in whole or in part, by any breach of this Lease by Tenant, or any intentional, reckless, or negligent act or omission of Tenant, its officers, employees, or agents, arising from, relating to, or in connection with this Lease, including liability arising out of or in connection with any and all federal, state, and local Environmental Laws (as hereinafter defined) (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, Tenant shall, upon written notice from Landlord, defend each Indemnified Party with counsel satisfactory to Landlord or, at Landlord's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this Section 23 shall survive the expiration or earlier termination of this Lease.

(b) Tenant shall not, nor shall Tenant permit any other person to, bring onto the Leased Premises any (i) asbestos or asbestos-containing material or polychlorinated biphenyl material, or (ii) Hazardous Materials (as hereinafter define) that may require remediation under Applicable Law (other than quantities or such substances, including gasoline, diesel fuel, and the like as are customary and necessary to develop, construct, and operate the Project upon the Leased Premises), or (iii) soil containing volatile organic compounds (collectively (i)-(iii) are "Prohibited Substances"). Tenant shall be liable for the consequences of, and responsible for removal and lawful disposal, at its sole expense, of any Hazardous Materials, Prohibited Substances, or both brought onto the Leased Premises, resulting from a default under this Section.

(c) Tenant shall immediately notify Landlord, in writing and provide Landlord with copies of all forms, notices, and other information received by or on behalf of Tenant, its agents, employees, and contractors concerning any releases, spills or other incidents relating to Hazardous Materials, Prohibited Substances, or both, or any violations of Environmental Laws at or relating to the Leased Premises when and as supplied to any government agency.

(d) For the purpose of this Lease, the following definitions shall apply:

(i) "Environmental Laws" as used herein means all federal, state or commonwealth, and local laws, regulations, statutes, codes, rules, resolutions, directives, orders, executive orders, consent orders, guidance from regulatory agencies, policy statements, judicial decrees, standards, permits, licenses, and ordinances, or any judicial or administrative interpretation of, any of the foregoing, pertaining to the protection of land, water, air, health, safety, or the environment, whether now or in the future enacted, promulgated or issued, including, but not limited to, the following: The Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; The Clean Air Act, 42 U.S.C. § 7401 et seq.; The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986; The Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; The Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; The Safe Drinking Water Act, 42 U.S.C. § 300(f) et seq.; The Clean Water Act, 33 U.S.C. § 1251 et seq.; The Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq.; The Hazardous Materials Transportation Act; The Marine Protection, Research, and Sanctuaries Act; and The Resource Conservation and Recovery Act, 42, U.S.C. Section 6901 et seq. ("RCRA"); and each as further amended from time to time and all regulations promulgated thereunder.

(ii) "Hazardous Materials" means: (i) "hazardous substances" as defined by CERCLA; (ii) "hazardous wastes," as defined by RCRA; (iii) any hazardous, dangerous or toxic chemical, waste, pollutant, containment or substance ("pollutant") within the meaning of any Environmental Law prohibiting limited or otherwise regulating the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage, treatment, reuse, presence, disposal or recycling of such pollutant; (iv) petroleum crude oil or fraction thereof; (v) any radioactive material, including any source, special nuclear or by-product material as defined in 42 U.S.C. Section 2011 et seq. and amendments thereto and reauthorizations thereof; or (vi) asbestos-containing materials in any form or condition, or polychlorinated biphenyls in any form or condition.

24. Eminent Domain. In the event of condemnation or taking by a governmental authority or entity having the power of eminent domain, the Parties agree as follows:

(a) Total Taking. The Term shall be terminated if the entire Project is taken by the exercise of the power of eminent domain or, in the event of a partial taking, the remaining portion of the Leased Premises is rendered unusable for Tenant's use or occupancy as the result of such partial taking. Upon such termination of the Term, the Parties shall be released from their respective obligations under this Lease effective on the date title to the property is transferred to the condemning authority.

(b) Partial Taking. This Lease and the Term shall continue in effect as to the remainder of the Leased Premises if, in the event of a partial taking, the remaining portion of the Leased Premises remains reasonably tenantable in the Parties' opinion.

(c) Temporary Taking. If there shall be a temporary taking with respect to all or any part of the Leased Premises, then the Term shall not be reduced and Tenant shall continue to pay in full all Base Rent, Additional Rent and other charges required herein, without reduction or abatement; provided, however, Tenant shall not be required to perform such obligations that Tenant is prevented from performing by reason of such temporary taking.

(d) Award. If there is a taking, whether whole or partial, Landlord shall be entitled to receive and retain the condemnation award with regard to Landlord's fee and any value placed on Landlord's interest as fee owner under this Lease. Subject to the rights of Leasehold Mortgagee, any award to Tenant based on the value of Tenant's leasehold estate shall be paid to Tenant and/or Leasehold Mortgagee, as more particularly set forth in said Leasehold Mortgage. In the event there is a conflict between the terms of this Lease and those of a Leasehold Mortgage with respect to the disposition of such condemnation award payable to Tenant, the terms of the Leasehold Mortgage shall govern.

25. Default by Tenant. The occurrence of any of the following shall constitute an "Event of Default" hereunder:

(a) Failure of Tenant to timely pay any Base Rent, Additional Rent, or charge due hereunder and such default continues for ten (10) Days after written notice from Landlord; or

(b) Failure of Tenant to comply with the material terms, conditions, or covenants of this Lease (other than the timely payment of Base Rent, Additional Rent or charge due hereunder) and such default continues for a period of thirty (30) Days after written notice thereof from Landlord; provided, however, that if the cure cannot reasonably be completed within thirty (30) Days, the cure period shall be extended for such additional time as may be required for Tenant to cure such default (but in no event longer than one hundred twenty (120) Days after written notice of the default from Landlord to Tenant) so long as Tenant has commenced cure actions during the initial 30-day cure period and diligently pursues the cure during the extended cure period; or

(c) Failure of Tenant to complete construction of the Project by the Completion Date and in accordance with the terms and conditions of this Lease; or

(d) This Lease or the Leased Premises, or any part thereof, are taken upon execution or by other process of law directed against Tenant, or are taken upon or subjected to any attachment by any creditor of Tenant or claimant against Tenant, and such attachment is not discharged within ninety (90) Days after its levy; or

(e) Failure of Tenant to pay Tenant's debts as the same shall mature; or

(f) Filing, by Tenant, of a voluntary petition in bankruptcy or a voluntary petition seeking reorganization, or initiating, by Tenant, of a plan or an arrangement with or for the benefit of Tenant's creditors; or

(g) Tenant is adjudged bankrupt or insolvent, or any order for relief in a bankruptcy or insolvency proceeding is entered against Tenant; or

(h) Filing, by Tenant, of an answer or other document admitting, or failing to contest, the material allegations of an involuntary petition for bankruptcy filed against Tenant; or

(i) Applying for or consenting to, by Tenant, of the appointment of a receiver, trustee or conservator for any portion of Tenant's properties, or having such appointment made without Tenant's consent, and not removed within ninety (90) days;

(j) Abandonment or vacation of any portion of the Project or the Leased Premises by Tenant for a period of more than ten (10) consecutive Days, unless such action is in connection with the abandonment or vacation of a street, easement, or public right of way necessary to develop the Project; or

(k) In the event that the Leased Premises or the Project is not used principally for the purposes permitted herein, Landlord may give Tenant notice thereof, and if Tenant shall fail to remedy such default within (30) Days after receipt of such notice, or if such default is of a nature that it cannot be cured within thirty (30) Days, Landlord shall have the right to institute proceedings for the recovery of possession of the Leased Premises and Project.

26. Remedies. If Tenant fails to cure an Event of Default within the time provided therefor, Landlord shall have the right to terminate this Lease by sending written notice specifying the date on which the Lease shall terminate ("Termination Date"). Upon the Termination Date, all of Tenant's rights under this Lease, including Tenant's right to possession of the Leased Premises and the Project, will cease and the leasehold conveyed by this Lease shall revert in Landlord. If this Lease is terminated as a result of an Event of Default, all work product related or connected with the Project shall become the exclusive property of Landlord, including but not limited to, all surveys, reports, plans, blueprints, design documents, engineering documents, maintenance and repair documents, studies.

27. No Subordination or Mortgaging of Landlord's Fee Title. There shall be no subordination of Landlord's fee simple interest in the Leased Premises to the lien of any leasehold mortgage or subleasehold mortgage financing, nor shall Landlord be required to join in such mortgage

financing. No Leasehold Mortgagee or subleasehold mortgagee may impose any lien upon Landlord's fee simple interest in the Leased Premises. Landlord hereby confirms that there are no existing mortgages on Landlord's fee estate and that any future mortgage granted by Landlord on its fee estate shall be expressly subordinate to the Lease. In addition, Landlord hereby agrees that it shall not, and Tenant is expressly prohibited from, require Tenant to subordinate its interest in this Lease to any future mortgage on Landlord's fee estate.

28. Quiet Possession. Tenant shall and may peaceably and quietly have, hold, and enjoy the Leased Premises during the Term hereof, provided that Tenant pays the rent and performs all the covenants and conditions of this Lease that Tenant is required to perform; and Landlord warrants that it has full right and sufficient title to lease the Leased Premises to Tenant for the Term herein stated.

29. Compliance with Laws.

(a) Tenant must comply with all Applicable Law related to the use or occupancy of all or any part of the Leased Premises and Project at all times during the Term of this Lease, at its own expense, in connection with any use Tenant may make of the Leased Premises and the Project.

(b) Tenant shall obtain all necessary licenses, permits, and inspections necessary to operate the Project on the Leased Premises at its own expense. Landlord shall cooperate with Tenant to help Tenant obtain all necessary licenses, permits, and inspections required to operate the Project on the Leased Premises, provided that the costs of obtaining such licenses, permits and inspection shall be paid by Tenant.

30. Mechanic's Liens.

(a) At all times during the Term, Tenant agrees to keep the Leased Premises and the Project free of mechanic's liens, materialmen's liens, and other similar types of liens; and Tenant agrees to indemnify, defend, and hold Landlord harmless from and against any and all claims and expenses related thereto, including all attorney's fees and other costs and expenses incurred by Landlord, on account of any such claim or lien.

(b) Within ten (10) Business Days of Landlord delivering notice to Tenant that a lien has been filed against the Leased Premises on account of labor or material furnished in connection with Tenant's development of the Leased Premises, Tenant shall either (i) discharge the lien filed against the Leased Premises, or (ii) post a bond with the Clerk of Court of the Seventeenth Judicial Circuit of Broward County, Florida ("Clerk of Court"), with instructions to apply the sum towards payment of the lien if it is upheld upon final judgement or return the bond to Tenant if the lien is discharged. Landlord may discharge the lien by paying the amount of the claim due or posting a bond with the Clerk of Court if Tenant fails to do so within the time required under this Lease. Tenant shall, immediately upon demand, reimburse Landlord the costs incurred to pay or have the lien discharged. Such amounts due from Tenant shall be charged as Additional Rent under the terms of this Lease.

31. Notices. Unless otherwise stated herein, for notice to a Party to be effective under this Lease, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Addresses may be changed by the applicable Party giving notice of such change in accordance with this Section.

If to Landlord:           Broward County, Florida  
                                  115 S. Andrews Avenue, Suite 409  
                                  Fort Lauderdale, FL 33301  
                                  Attn: County Administrator  
                                  Phone: (954) 357-7354  
                                  Email: [mcepero@broward.org](mailto:mcepero@broward.org)

With a copy to:           Broward County Housing Finance Division  
                                  110 NE 3rd Street, Suite 300  
                                  Fort Lauderdale, Florida 33301  
                                  Attn: Director of Housing Finance Division  
                                  Phone: (954) 357-4900  
                                  Email: [rstone@broward.org](mailto:rstone@broward.org)

With a copy to:           Broward County Real Property and Real Estate Development Division  
                                  Governmental Center, Suite 501  
                                  115 South Andrews Avenue  
                                  Fort Lauderdale, FL 33301  
                                  Attn: Director of Real Property and Real Estate Development  
                                  Phone: (954) 357-7357  
                                  Email: [lmahoney@broward.org](mailto:lmahoney@broward.org)

With a copy to:           Office of the County Attorney, Broward County, Florida  
                                  Governmental Center, Suite 423  
                                  115 South Andrews Avenue  
                                  Fort Lauderdale, FL 33301  
                                  Attn: County Attorney  
                                  Phone: (954) 357-7600  
                                  Email: [ameyers@broward.org](mailto:ameyers@broward.org)

If to Tenant:             RUDG, LLC  
                                  2850 Tigertail Avenue, Suite 800  
                                  Miami, FL 33133  
                                  Attn: Alberto Milo, Jr.  
                                  Phone: (305) 460-9900



Email: [amilo@relatedgroup.com](mailto:amilo@relatedgroup.com)

With a copy to: Bilzin Sumberg Baena Price & Axelrod LLP  
1450 Brickell Avenue, 23rd Floor  
Miami, FL 33131  
Attn: Terry M. Lovell, Esq.  
Phone: (305) 350-2428  
Email: [tlovell@bilzin.com](mailto:tlovell@bilzin.com)

32. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Lease was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Lease is substantial and important to the formation of this Lease, and each is, therefore, a material term. Landlord's failure to enforce any provision of this Lease shall not be deemed a waiver of such provision or modification of this Lease. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of this Lease. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

33. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Lease shall be interpreted and construed in accordance with and governed by the laws of the State. The exclusive venue for any lawsuit arising from, related to, or in connection with this Lease shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Lease must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS LEASE.**

34. Interpretation. The titles and headings contained in this Lease are for reference purposes only and shall not in any way affect the meaning or interpretation of this Lease. All personal pronouns used in this Lease shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein", "hereof, and "hereunder" refer to this Lease as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section of this Lease, such reference is to the section as a whole, including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section. Any reference to approval by Landlord shall require approval in writing, unless otherwise expressly stated.

35. Care of the Leased Premises and Project. Tenant shall take good care of the Leased Premises and the Project and prevent waste. All damage or injury to the Leased Premises or the Project shall be promptly repaired by Tenant at its expense throughout the Term.

36. Repairs, Replacements, and Maintenance of the Project and Leased Premises; Taxes. Throughout the Term, Tenant, at its sole cost and expense, shall keep the Project and Leased Premises in good working order and condition, and make all necessary repairs thereto. The term "repairs" shall

include all replacements, renewals, alterations, additions, and betterments deemed necessary by Tenant, and shall include capital expenses. All repairs made by Tenant shall be in quality and class either equal to the original work or installations, or otherwise consistent with the standard then applicable to comparable residential projects within the applicable Fort Lauderdale - Pompano Beach, FL Metropolitan Statistical Area at such time. Tenant shall keep and maintain all portions of the Project and Leased Premises, including landscaping, in a clean and orderly condition, reasonably free of dirt, rubbish, graffiti, and unlawful obstructions. Tenant shall be solely responsible for any impact fees, taxes, or assessments that result from the development, construction or operation of the Project.

37. Net Lease. This is a "Net Lease" and Landlord shall have no obligation to provide any services, perform any acts, or pay any expenses, charges, obligations, or costs of any kind related to the construction, development, operation or maintenance of the Project on the Leased Premises, and Tenant hereby agrees, throughout the entirety of the Term (and any extensions thereof), to pay One Hundred percent (100%) of any and all Operating Expenses as well as all property related expenses, including capital repair expenses, whether or not such property related expenses are Operating Expenses. If Landlord elects to take possession of the Project after an Event of Default under this Lease and Landlord or its agent operates and manages the Project, any and all Operating Expenses incurred in excess of rents generated by the Project shall be paid by Tenant within twenty (20) Days after receipt of a demand by Landlord. It is specifically understood and agreed that Landlord shall have no obligation to expend any monies with regard to the Project during the Term or any extensions thereof.

38. Damage by Casualty. During the Term, Tenant shall give prompt written notice to Landlord after the occurrence of any fire, earthquake, act of God or other casualty to or in connection with the Leased Premises, the Project or any portion thereof. Tenant shall rebuild the Project or any part thereof if damaged or destroyed by casualty, subject to the rights of any mortgage lien holders. This Lease may not be terminated in the event of a casualty or condemnation without the prior consent of the Leasehold Mortgagee.

39. Alterations or Changes. After completion of construction of the Project, Tenant shall have the right to make such physical changes to the Project deemed reasonably necessary or desirable by Tenant, provided that any change that requires the issuance of a building permit or the modification of an existing permit is a material change requiring Landlord's written approval, which shall not be unreasonably withheld. Any improvements made to the Leased Premises by Tenant shall be made only in a good and workmanlike manner using new materials of the same general quality as the original improvements, and in accordance with all Applicable Law.

40. Holding Over. If Tenant retains possession of the Project after termination or expiration of this Lease, Tenant agrees to pay Base Rent in an amount equal to one and one-half times the rent in effect at the time this Lease expired or terminated. Landlord's acceptance of rent shall not be considered a renewal of this Lease, and Tenant's tenancy shall be on a month-to-month basis, terminable by either Party giving the other one months' written notice thereof.

41. Modification of Lease.

(a) At this time, the Parties recognize that it is difficult to anticipate every potential provision that may be required in this Lease. Within six (6) months after the Effective Date, the Parties shall execute an amendment to this Lease modifying certain terms and/or incorporating additional terms, as agreed to by the Parties.

(b) Except as otherwise set forth herein, this Lease may not be modified, altered, or changed in any manner other than by a written agreement between and executed by the Parties. The Parties may amend this Lease to add customary provisions requested by Tenant's lenders or equity investors which would not conflict with or violate any Applicable Law, or impair or lessen Landlord's rights under this Lease.

42. Severability. If any part of this Lease is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Lease and the balance of this Lease shall remain in full force and effect.

43. Prior Agreements. This Lease represents the final and complete understanding of the Parties regarding the subject matter of this Lease and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Lease are contained herein.

44. Estoppel. Landlord agrees, upon not less than twenty (20) Days' prior written notice by Tenant or by a Leasehold Mortgagee, to furnish a statement in writing setting forth the Effective Date, the Commencement Date, the rents, payments and other monies then payable under this Lease, if then known; consenting to any approved leasehold mortgage(s); certifying that this Lease is unmodified and in full force and effect (or if there shall have been modifications that the Lease is in full force and effect as modified and stating the modifications) and the dates to which rents, payments and other monies have been paid; stating whether or not to the best of Landlord's knowledge, Tenant is in default in keeping, observing and performing any of the terms of this Lease, and, if Tenant shall be in default, specifying each such default of which Landlord may have knowledge. It is intended that any such statement delivered pursuant to this Section may be relied upon by any prospective assignee, transferee or purchaser of Tenant's interest in this Lease, any Leasehold Mortgagee or any assignee thereof, but reliance on such certificate may not extend to any default of Tenant as to which Landlord shall have had no actual knowledge.

45. Surrender of Leased Premises and Related Improvements.

(a) Upon the expiration or earlier termination of the Term, Tenant, all sublessees, and Space Lessees shall quit and peacefully surrender the Leased Premises, the Project, and any related improvements thereto to Landlord, except as provided under any non-disturbance agreement between Landlord and any sublessees or Space Lessees. The Leased Premises, along with all alterations, additions, and improvements thereto, shall be in good condition and repair, reasonable wear and tear excepted.

(b) Tenant shall surrender possession of the Leased Premises at the expiration of the Term or earlier termination of this Lease, along with all alterations, additions, and improvements thereto, in good condition and repair, reasonable wear and tear excepted. Tenant shall remove all its personal property not required to be surrendered to Landlord from the Leased Premises before surrendering possession of the Leased Premises, and shall repair any damage to the Project caused by the removal of Tenant's personal property. Any personal property remaining in the Project at the expiration of the Term shall become the property of Landlord and Landlord shall not have any liability to Tenant therefor under any circumstances. Tenant expressly waives the benefit of any Applicable Law requiring notice from Landlord to vacate the Leased Premises at the end of the Term and any other law now in force or hereafter adopted requiring any such notice, and Tenant covenants and agrees to give up quiet and peaceful possession and surrender the Leased Premises together with all the improvements thereon and appurtenances thereto upon expiration of the Term or the earlier termination of this Lease without further notice from Landlord. Tenant acknowledges and agrees that upon the expiration or earlier termination of this Lease, any and all rights and interests it may have either at law or in equity to the Leased Premises and improvements shall automatically and immediately cease.

(c) Tenant shall indemnify and defend Landlord from and against all losses, claims and liabilities resulting from Tenant's failure to deliver possession of the Leased Premises upon the expiration of the Term or termination of this Lease including, but not limited to, claims made by a succeeding tenant based on Tenant's delay in delivering possession of the Leased Premises. Tenant's obligation to observe or perform this covenant shall survive the expiration or termination of the Term.

46. Recordation of Memorandum of Ground Lease. No later than fifteen (15) Days prior to the Commencement Date, Tenant, at Tenant's sole cost, shall record in the Official Records of Broward County, Florida, a Memorandum of Ground Lease in the form attached as **Exhibit E**. At the expiration of the Term or earlier termination of this Lease, Tenant shall execute an agreement or other document reasonably requested by Landlord to confirm the termination of its interest in the Leased Premises under this Lease. If Tenant refuses to do so within ten (10) Days after receipt of a request from Landlord, Landlord may unilaterally record a notice of termination of this Lease.

47. Waiver or Estoppel - Remedies are Cumulative. The failure of Landlord to insist, in any one or more instances, upon strict performance of any covenants or agreements of this Lease, or exercise any option of Landlord herein contained, shall not be construed as a waiver or relinquishment for the future enforcement of such covenant, agreement or option. Such covenants, agreements, and options shall continue and remain in full force and effect, and Landlord shall have the right to require strict performance or to declare a default at any time and take such action as might be lawful or authorized hereunder, either in law or equity. Receipt of rent or other payments due hereunder by Landlord, with knowledge of the breach of any covenant or agreement hereof, shall not be deemed a waiver of such breach and no waiver by Landlord of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Landlord. Landlord's receipt of less than the full amount due from Tenant shall not be construed to be other than a payment on

the account of the amounts then due, nor shall any statement on Tenant's check or letter accompanying Tenant's payment be deemed an accord and satisfaction. Landlord may accept such payment as a partial payment only. Any and all rights and remedies which are available to Landlord and which are either set forth herein or are generally available to Landlord under Applicable Law are cumulative in nature and none shall exclude any other rights or remedies allowed by law or equity.

48. Reverter. Notwithstanding the foregoing, if Tenant fails to develop, construct and operate the Project in accordance with the provisions of this Lease, then Landlord may, at its option, terminate this Lease, at which point the entirety of the Leased Premises, including any and all of Tenant's rights with respect to the Leased Premises and Project, shall automatically and immediately revert to Landlord. Landlord's rights granted under this Section relating to the Leased Premises shall always be subject and subordinate to and limited by, and shall not defeat, render invalid, impair or limit in any way the lien or property rights of any mortgagee, holders of mortgages, trustees on behalf of bondholders, and any credit enhancers of such bonds, and Landlord shall provide notice and not less than thirty (30) Days to cure any such default by Tenant to such mortgage holders, trustees, credit enhancers, and Performance and Payment Bond issuers, if any, as referenced above prior to the exercise of its reversionary interest. This Section does not and will not subordinate Landlord's fee simple interest in the Leased Premises to any mortgage or lien.

49. Declaration of Covenants and Restrictions. Within three (3) Days after the Effective Date, Tenant, at Tenant's sole cost, shall record in the Official Records of Broward County, Florida, the Declaration of Covenants and Restrictions in the form attached as **Exhibit F**.

50. Conflict. In the event of any conflict between the terms of this Lease and the provisions set forth in the Code, the provisions of the Code shall control.

51. Joint Preparation. This Lease has been jointly prepared by the Parties and shall not be construed more strictly against either Party.

52. Time is of the Essence. Time is of the essence in the performance of all duties, obligations and responsibilities required by Landlord and Tenant under this Lease.

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

54. Dispute Resolution.

(a) To reduce the potential for litigation, the Contract Administrator shall decide all questions, claims, difficulties, and disputes of whatever nature which may arise relative to the technical interpretation of this Lease and fulfillment of this Lease as to the character, quality, amount, and value of any work done and materials furnished, and the Contract

Administrator's determination shall be final and binding to the extent provided in Section 54(b) herein. Any claim, question, difficulty, or dispute which cannot be resolved by mutual agreement of the Parties shall be submitted to the Contract Administrator in writing within twenty-one (21) Days. Unless a different period of time is set forth herein, the Contract Administrator's written determination shall be made within twenty-one (21) Days from the date of the submission of the claim, question, difficulty, or dispute, unless the Contract Administrator requires additional time to gather information or allow the Parties to provide additional information. All non-technical administrative disputes shall be determined by the Contract Administrator pursuant to the time periods provided herein. During the pendency of any dispute and after a determination thereof, Tenant, the Contract Administrator, and Landlord shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction. This Section 54 shall not apply to the Events of Default specified in Section 25(a), (c), (d), (e), (f), (g), and (h) ("Excluded Events of Default") of this Lease. The occurrence of one or more of these Excluded Events of Default shall entitle Landlord to terminate this Lease as specified in Section 26 of this Lease without resort to the dispute resolution process contained herein.

(b) In the event the determination of a dispute under this Section 54 is unacceptable to either Party, the Party objecting to the determination must notify the other Party in writing within ten (10) Days of receipt of the written determination. The notice must state the basis of the objection and must be accompanied by a statement of the Party's position. Within sixty (60) Days after receipt of the notice containing the written objection, the Parties shall participate in mediation in good faith to address all objections to any determinations hereunder and to attempt to prevent litigation. The mediator shall be mutually agreed upon by the Parties hereto and each Party shall each pay fifty percent (50%) of any costs relating to the mediation. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under State law.

55. Utility Allowance. Notwithstanding anything in the Lease to the contrary, Landlord and Tenant acknowledge and agree that a utility allowance shall not be deducted from the maximum rents charged on the residential rental units rented by one or more natural persons or a family whose total annual adjusted gross household income exceeds eighty percent (80%) of the median annual adjusted gross income for Broward County, adjusted for family size.

56. Commercial Lease SNDA. Landlord and Tenant acknowledge and agree, that each tenant of the commercial space shall have the right to obtain a non-disturbance agreement from Landlord and Tenant.

57. Non-Merger. Except upon expiration of the Term or upon termination of this Lease pursuant to an express right of termination set forth herein, there shall be no merger of either this Lease or Tenant's estate created hereunder with the fee estate of the Leased Premises or any part thereof by reason of the fact that the same person may acquire, own or hold, directly or indirectly, (a) this Lease, Tenant's estate created hereunder or any interest in this Lease or Tenant's estate (including the Improvements), and (b) the fee estate in the Leased Premises or any part thereof or

any interest in such fee estate (including the Improvements), unless and until all persons, including any assignee of Landlord and, having an interest in (i) this Lease or Tenant's estate created hereunder, and (ii) the fee estate in the Leased Premises or any part thereof, shall join in a written instrument effecting such merger and shall duly record the same.

58. Ownership of Improvements. From and after the Commencement Date through the end of the Term, Tenant shall be deemed to exclusively own the improvements and the personal property for federal tax purposes, and Tenant alone shall be entitled to all of the tax attributes of ownership thereof, including, without limitation, the right to claim depreciation or cost recovery deductions and the right to claim the low-income housing tax credit described in Section 42 of the Internal Revenue Code, with respect to the improvements and the personal property, and Tenant shall have the right to amortize capital costs and to claim any other federal tax benefits attributable to the improvements and the personal property. Subject to the rights of any permitted Leasehold Mortgagee, at the expiration or earlier termination of the Term or any portion thereof, Tenant shall peaceably leave, quit and surrender the Leased Premises, and the improvements thereon (or the portion thereof so terminated), subject to the rights of tenants in possession.

59. Landlord's Intent to Market the Premises. In the event Landlord decides to sell its interest in the Leased Premises, Landlord must provide Tenant and the senior-most Leasehold Mortgagee, with notice of such intent, including the desired terms and conditions of such sale.

60. Use of the Leased Premises. Tenant shall use the Leased Premises solely for the following uses, and such other uses as are reasonably and customarily attendant to such uses: construction, development, operation and leasing of the Project, all in a manner which strictly satisfies the requirements of this Lease and of Applicable Law.

61. Sovereign Immunity. Except to the extent sovereign immunity may be deemed waived by entering into this Lease, nothing herein is intended to serve as a waiver of sovereign immunity by Landlord nor shall anything included herein be construed as consent by Landlord to be sued by third parties in any matter arising out of this Lease.

62. Third-Party Beneficiaries. Neither Tenant nor Landlord intends to primarily or directly benefit a third party by this Lease. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Lease and that no third party shall be entitled to assert a right or claim against either of them based upon this Lease.

63. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Lease and any provision within a Section of this Lease, the Section shall prevail and be given effect.

64. CBE Compliance.

(a) Tenant shall comply with all applicable requirements in Section 1-81 of the County Code in the administration of this Lease. Failure by Tenant to carry out any of the requirements of this Section shall constitute a material breach of this Lease, which shall permit Landlord to terminate this Lease or exercise any other remedy provided under this Lease or Applicable Law, all such remedies being cumulative.

(b) Tenant must meet or exceed the required CBE goal by utilizing CBE firms approved by OESBD for twenty-five percent (25%) of the total cost of the construction and development of the Project upon the Leased Premises and all improvements located thereon, including, but not limited to, engineering, design, and consulting services related to construction, fixtures, furniture, and equipment in buildings or other structures ("CBE Commitment") for the scope of work and percentage of work amounts identified on each Letter of Intent.

(c) Each CBE firm utilized by Tenant to meet the CBE goal must be certified by OESBD. Tenant shall inform Landlord immediately when a CBE firm is not able to perform or if Tenant believes the CBE firm should be replaced for any other reason, so that OESBD may review and verify the good faith efforts of Tenant to substitute the CBE firm with another CBE firm, as applicable. Whenever a CBE firm is terminated for any reason, Tenant shall provide written notice to OESBD and, upon written approval of the Director of OESBD, shall substitute another CBE firm in order to meet the CBE goal, unless otherwise provided in this Lease or agreed in writing by the Parties. Tenant shall not terminate a CBE firm for convenience without Landlord's prior written consent, which consent shall not be unreasonably withheld.

(d) The Parties stipulate that if Tenant fails to meet the CBE Commitment, the damages to Landlord arising from such failure are not readily ascertainable as of the Effective Date. If Tenant fails to meet the CBE Commitment and Landlord determines, in the sole discretion of the OESBD Program Director, that Tenant failed to make Good Faith Efforts (as defined in Section 1-81 of the County Code) to meet the CBE Commitment, Tenant shall pay Landlord liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount by which Tenant failed to achieve the CBE Commitment, up to a maximum amount of ten percent (10%) of the total contract amount excluding costs and reimbursable expenses. An example of this calculation is stated in Section 1-81.7 of the County Code. Such liquidated damages amount must be paid to Landlord within thirty (30) Days after written demand. These liquidated damages shall be Landlord's sole contractual remedy for Tenant's breach of the CBE Commitment, but shall not affect the availability of administrative remedies under Section 1-81 of the Code. Tenant acknowledges and agrees that the liquidated damages provided in this Section are proportionate to an amount that might reasonably be expected to flow from a breach of the CBE Commitment and are not a penalty. Any failure to meet the CBE Commitment attributable solely to force majeure or inability to substitute a CBE firm where the OESBD Program Director has determined that such inability is due to no fault of Tenant, shall not be deemed a failure by Tenant to meet the CBE Commitment.



(e) Tenant acknowledges that the Board, acting through OESBD, may make minor administrative modifications to Section 1-81 of the County Code, which shall become applicable to this Lease if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to Tenant and shall include a deadline for Tenant to notify Landlord in writing if Tenant concludes that the modification exceeds the authority under this Section. Failure of Tenant to timely notify Landlord of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Tenant.

(f) Tenant shall provide monthly utilization reports, using the form available at <https://www.broward.org/EconDev/SmallBusiness/Pages/Compliance.aspx>, to the Contract Administrator, to OESBD at [SBCOMP@broward.org](mailto:SBCOMP@broward.org), and to the Small Business Specialist designated by the Contract Administrator. In addition, Tenant shall allow Landlord to engage in onsite reviews to monitor Tenant's progress in achieving and maintaining the CBE Commitment. The Contract Administrator in conjunction with OESBD shall perform such review and monitoring, unless otherwise determined by the County Administrator.

65. Relationship of Parties. The relationship of Landlord and Tenant hereunder is the relationship of landlord and tenant. Nothing in this Lease shall constitute or create a partnership, joint venture, or any other relationship between the Parties, nor shall Landlord be liable for any debts incurred by Tenant in Tenant's business. Tenant shall not have the right to bind Landlord to any obligation not expressly undertaken by Landlord under this Lease.

66. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Lease by reference. The attached Exhibits are incorporated into and made a part of this Lease.

67. Multiple Originals and Counterparts. This Lease may be executed in multiple originals or in counterparts, whether signed physically or electronically; each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same agreement.

68. Use of Broward County Name or Logo. Lessee shall not use Broward County's name or logo in marketing or publicity materials without the prior written consent of the Contract Administrator.

69. Drug-Free Workplace. If required under Section 21.23(f), Broward County Administrative Code, or Section 287.087, Florida Statutes, Tenant certifies that it has and will maintain a drug-free workplace program throughout the Term.

70. Polystyrene Food Service Articles. Neither Tenant nor its contractors, subcontractors or any sublessees shall sell or provide for use on the Leased Premises, expanded polystyrene products or food service articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section 27.173, Broward County Administrative Code.

71. Anti-Human Trafficking. By execution of this Lease by the undersigned authorized representative of Tenant, Tenant hereby attests under penalty of perjury that Tenant does not use coercion for labor or services, as such terms are defined in Section 787.06, Florida Statutes; under penalties of perjury, the undersigned authorized representative of Tenant declares that they have read the foregoing statement and that the facts stated in it are true.

72. Nondiscrimination. Neither Party to this Lease shall discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Lease. Tenant shall include the foregoing or similar language in its contracts with all contractors and subcontractors.

73. Waiver of Claims. Tenant hereby waives any claim against Landlord and its officers, commissioners, and employees for any consequential damages, including, but not limited to, any loss of business or anticipated profits. No officer, commissioner, or employee of Landlord shall be charged personally or held contractually liable under any term or provisions of this Lease, due to an actual or alleged breach of this Lease or the execution or attempted execution of this Lease.

74. Written Approvals. All notices, approvals, and consents required to be obtained hereunder must be in writing to be effective.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the Parties hereto have made and executed this Ground Lease Agreement: Broward County, through its Board of County Commissioners, signing by and through its County Administrator, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_; and Tenant, signing by and through its duly authorized representative.

LANDLORD:

WITNESSES:

BROWARD COUNTY, a political subdivision of the State of Florida, by and through its County Administrator

\_\_\_\_\_  
Signature of Witness 1

By: \_\_\_\_\_  
Monica Cepero  
County Administrator

\_\_\_\_\_  
Print Name of Witness 1

\_\_\_\_\_  
Signature of Witness 2

Approved as to form by:  
Andrew J. Meyers  
Broward County Attorney  
115 South Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600

\_\_\_\_\_  
Print Name of Witness 2

By: \_\_\_\_\_  
Stacey-Ann M. Rowe (Date)  
Senior Assistant County Attorney

By: \_\_\_\_\_  
Annika E. Ashton (Date)  
Deputy County Attorney

**GROUND LEASE AGREEMENT BETWEEN BROWARD COUNTY AND RUDG, LLC**

TENANT

Witnesses:

RUDG, LLC, a Florida limited liability company

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

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**EXHIBIT A**

**LEGAL DESCRIPTION**

**PARCEL 1:**

Parcel A of MOTEL 6 – POMPANO BEACH, as recorded in Plat Book 112, Pages 27 and 28, Public Records of Broward County, Florida.

**PARCEL 2:**

The South 180 feet of the following parcel of land: A portion of the NE 1/4 of Section 32 and a portion of the NW 1/4 of Section 33, Township 48 South, Range 42 East, being more particularly described as follows:

Commence at the Southwest corner of the NW 1/4 of the NW 1/4 of Section 33, Township 48 South, Range 42 East, and run on an assumed bearing of N 89°51'07" E. along the South line of the said NW 1/4 of the NW 1/4 of Section 33 for 696.91 feet to a point of intersection with the Westerly right-of-way line of Atlantic Boulevard Extension; thence run N. 15°51'17" E. along the said Westerly right-of-way line of Atlantic Boulevard Extension for 536.04 feet to a point of curvature; thence continue along the said Westerly right-of-way line of Atlantic Boulevard Extension along a curve to the left having a radius of 1859.86 feet and a central angle of 5°38'56" for an arc distance of 183.36 feet to the Point of Beginning; thence run Westerly on a bearing of S 88°35'42" W. to an intersection with the East right-of-way line of the Sunshine State Parkway; thence Southwesterly along the East right-of-way line of the Sunshine State Parkway to a point, being the intersection of a line 360 feet South of and parallel to the above described East-West line; thence run Easterly on a bearing of N 88°35'42" E. to a point of intersection with the West right-of-way line of Atlantic Boulevard Extension; thence run Northerly along the West right-of-way line of Atlantic Boulevard Extension to the Point of Beginning;

Said lands situate, lying and being in Broward County, Florida.

Together with the following described parcel of land:

A portion of the NE 1/4 of Section 32 and a portion of the NW 1/4 of Section 33, Township 48 South, Range 42 East, being more particularly described as follows:

Commence at the Southwest corner of the NW 1/4 of the NW 1/4 of Section 33 and run on an assumed bearing of North 89°51'07" East along the South line of said NW 1/4 of NW 1/4 of Section 33 a distance of 696.91 feet to a point of intersection with the Westerly right-of-way line of Atlantic Boulevard Extension; thence run North 15°51'17" East along the said Westerly right-of-way line of Atlantic Boulevard Extension a distance of 536.04 feet to a point of curvature; thence continue along the said Westerly right-of-way line of Atlantic Boulevard Extension along a curve to the left having a radius of 1859.86 feet and a central angle of 5°38'56" for an arc distance of 183.16 feet to the Point of Beginning; thence run Westerly on a bearing of South 88°35'42" West to an intersection with the East right-of-way line of the Sunshine State Parkway; thence Southwesterly along the East right-of-way line of the Sunshine State Parkway to a point, being the intersection of a line 180 feet South of and parallel to the above described East-West line; thence run Easterly on a bearing of North 88°35'42" East to a point of intersection with the West right-of-way line of

Atlantic Boulevard Extension; thence run Northerly along the West right-of-way line of Atlantic Boulevard Extension to the Point of Beginning;

Said lands situate, lying and being in Broward County, Florida.

LESS AND EXCEPT FROM PARCEL 2 THE FOLLOWING TWO PARCELS OF LAND:

Less Out A:

All of the Plat of MOTEL 6 - POMPANO BEACH, according to the plat thereof recorded in Plat Book 112, Page 27, including but not limited to that certain 50 foot additional right of way dedicated by the Plat.

Less Out B:

All of that certain parcel of land conveyed by Motel 6 Operating, L.P. to Michael L. Thomas, Trustee, by the Special Warranty Deed recorded in Official records Book 16308, Page 161, and described as follows:

A portion of the NE 1/4 of Section 32 and a portion of the NW 1/4 of Section 33, Township 48 South, Range 42 East, Broward County, Florida, and a portion of Parcel "A" of "MOTEL 6 - POMPANO BEACH", as recorded in Plat Book 112, Page 27, of the Public Records of Broward County, Florida, being more particularly described as follows:

Commencing at the Southeast corner of said Parcel "A", run on an assumed bearing of S. 88°44'35" W. along the South line of said Parcel "A", also being the North line of Parcel "A" of "NEILL PLAT", as recorded in Plat Book 89, Page 20, of the Public Records of Broward County, Florida, 450.50 feet to a Point of Beginning; thence continue S. 88°44'35" W. along the last described line 452.95 feet to the Easterly right-of-way line of Sunshine State Parkway; thence Northeasterly along said right-of-way line and along a curve to the left whose tangent bears N. 26°17'51.8" E. at that point, with a radius of 7789.44 feet and a central angle of 2°56'55", an arc distance of 400.86 feet; thence N. 88°44'35" E. 276.74 feet to the Northwest corner of said "MOTEL 6 - POMPANO BEACH"; thence S. 1°15'25" E. 360 feet to the Point of Beginning.

Less that portion of Parcel "A" of "MOTEL 6 - POMPANO BEACH", as recorded in Plat Book 112, Page 27, of the Public Records of Broward County, Florida, described as follows:

Commencing at the Southeast corner of said Parcel "A"; run on an assumed bearing of S. 88°44'35" W. 450.50 feet to the Point of Beginning; thence continue S 88°44'35" W. 222 feet; thence N. 1°15'25" W. 150 feet; thence N. 88°44'35" E. 222 feet; thence S 1°15'25" E. 150 feet to the Point of Beginning.

**EXHIBIT B**

**PROJECT REQUIREMENTS**

**Project Description:** The Project will be a mixed-use development consisting of a combination of 467 residential units and commercial/retail uses, which shall include at least 440 Affordable Housing Units, structured parking, and related amenities.

**Project Milestones:** Construction of the Project shall commence on or before December 31, 2025 and shall be completed on or before February 29, 2028.

**EXHIBIT C**

**ENCUMBRANCES**

1. Restrictions, dedications, conditions, reservations, easements and other matters shown on the Plat of MOTEL 6 - POMPANO BEACH, recorded in Plat Book 112, Pages 27 and 28.
2. Easement granted to Broward County, recorded April 19, 1982, in Official Records Book 10140, Page 356 of Broward County, Florida.
3. Easement granted to Florida Power & Light Company, recorded April 9, 1997, in Official Records Book 26260, at Page 125.
4. Survey prepared by Pulice land Surveyors, Inc., dated 5/23/2023, under Job No. 71424, shows the following: (a) Asphalt Pavement extending beyond the property in the Southeasterly, Northeasterly, and Northwesterly side (b) Concrete, Underground sanitary sewer line, and Underground telephone line extending beyond the property in the Southeasterly side (c) Asphalt pavement, Gate, Palm trees, Chain link fence, Overhead wire, Metal gate, Sign, and Concrete pole encroaching into the Public Road Easement located in the North side of the property (d) Guy anchor, Overhead wire, Concrete pole, Chain link fence, Asphalt pavement, Parking spaces, Underground irrigation line, Gas meter, Underground electric line, Water valve, Sign, Palm trees, and Underground water line encroaching into FPL Utility Easement located in the South side of the property.



**EXHIBIT D**

**MINIMUM INSURANCE REQUIREMENTS**

Project: Affordable Housing Development of 1201 NW 31<sup>st</sup> Avenue, Pompano Beach, FL 33069  
Agency: Housing Finance Division

TYPE OF INSURANCE	ADDL INSD	SUBR WVD	MINIMUM LIABILITY LIMITS		
				Each Occurrence	Aggregate
<b>GENERAL LIABILITY - Broad form</b> <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Premises-Operations <input checked="" type="checkbox"/> XCU Explosion/Collapse/Underground <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Broad Form Property Damage <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <b>Per Occurrence or Claims-Made:</b> <input checked="" type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <b>Gen'l Aggregate Limit Applies per:</b> <input type="checkbox"/> Project <input type="checkbox"/> Policy <input type="checkbox"/> Loc. <input type="checkbox"/> Other _____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$5,000,000	\$5,000,000
			Personal Injury		
			Products & Completed Operations		
<b>AUTO LIABILITY</b> <input checked="" type="checkbox"/> Comprehensive Form <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Any Auto, If applicable <i>Note: May be waived if no driving will be done in performance of services/project.</i>			Bodily Injury (each person)		
			Bodily Injury (each accident)		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$1,000,000	
<input type="checkbox"/> <b>EXCESS LIABILITY / UMBRELLA</b> <b>Per Occurrence or Claims-Made:</b> <input type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <i>Note: May be used to supplement minimum liability coverage requirements.</i>					
<input checked="" type="checkbox"/> <b>WORKER'S COMPENSATION</b> <i>Note: U.S. Longshoremen &amp; Harbor Workers' Act &amp; Jones Act is required for any activities on or about navigable water.</i>	N/A	<input checked="" type="checkbox"/>	Each Accident	STATUTORY LIMITS	
<input checked="" type="checkbox"/> <b>EMPLOYER'S LIABILITY</b>			Each Accident	\$1,000,000	
<input type="checkbox"/> <b>PROFESSIONAL LIABILITY (ERRORS &amp; OMISSIONS)</b> All engineering, surveying and design professionals.	N/A		If claims-made form:		
			*Maximum Deductible:	\$100,000	
<input type="checkbox"/> <b>POLLUTION/ENVIRONMENTAL LIABILITY</b>			If claims-made form:		
			*Maximum Deductible:		
<input checked="" type="checkbox"/> <b>Builder's Risk or Property Insurance including Wind and Flood (During Construction).</b> <i>Note: Coverage must be "All Risk", Completed Value. Broward County must be a Loss Payee.</i>			*Maximum Deductible:	\$10,000	Completed Value
			CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE		
Description of Operations: Broward County is additional insured for liability. Insured's insurance shall provide primary coverage and shall not require contribution from the County, self-insurance or otherwise. Waiver of subrogation applies in favor of Broward County. For Claims-Made policies insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.					

**CERTIFICATE HOLDER:**  
Broward County  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301

Digitally signed by  
COLLEEN A.  
POUNALL  
Date: 2024.07.23  
12:45:09 -04'00'  
Risk Management Division

**EXHIBIT E**

**MEMORANDUM OF GROUND LEASE**

This instrument prepared by,  
record and return to:

Terry M. Lovell, Esq.  
Bilzin Sumberg Baena Price & Axelrod LLP  
1450 Brickell Avenue, Suite 2300  
Miami, Florida 33131

MEMORANDUM OF GROUND LEASE

KNOW ALL MEN BY THESE PRESENTS of this Memorandum of Ground Lease made as \_\_\_\_\_, 202\_\_, by and between BROWARD COUNTY, a political subdivision of the State of Florida, having an address at 115 S. Andrews Avenue, Suite 409, Fort Lauderdale, Florida 33301 (“Landlord”), and RUDG, LLC, a Florida limited liability, having an address at 2850 Tigertail Avenue, Suite 800, Miami, Florida 33133 (“Tenant”).

WITNESSETH:

For good and valuable consideration and in further consideration of the rents reserved and covenants and conditions more particularly set forth in that certain Ground Lease Agreement dated as of \_\_\_\_\_, 2024, by and between Landlord and Tenant (the “Lease”), Landlord and Tenant hereby covenant and agree as follows:

1. Landlord does hereby demise unto Tenant and Tenant does hereby take from Landlord for the term hereinafter provided, and any extension thereof, the property described on Exhibit “A” attached hereto, located in Broward County, Florida, and hereafter referred to as the “Premises”.
2. The Lease shall terminate seventy-five (75) years and one (1) day after the “Commencement Date” which is defined in the Lease as December 31, 2024, unless sooner terminated or extended as provided in the Lease.
3. Landlord’s interest shall not be subject to any mechanics’ or materialmen’s liens or liens of any kind for improvements made by Tenant upon the Premises. All persons dealing with Tenant must look solely to the credit of Tenant, and not to Landlord’s interest or assets.
4. The sole purpose of this instrument is to give notice of said Lease and all its terms, covenants, agreements and conditions to the same extent as if said Lease were fully set forth herein. The terms, covenants, agreements and conditions contained in this instrument shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

5. IN THE EVENT THAT ANY MECHANIC'S LIEN SHALL BE FILED, TENANT SHALL PROCURE THE RELEASE OR DISCHARGE THEREOF WITHIN FIFTEEN (15) DAYS EITHER BY PAYMENT OR IN SUCH OTHER MANNER AS MAY BE PRESCRIBED BY LAW. NOTICE IS HEREBY GIVEN THAT LANDLORD SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO THE TENANT OR TO ANYONE HOLDING ANY OF THE PREMISES THROUGH OR UNDER THE TENANT, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE LANDLORD IN AND TO ANY OF THE PREMISES. THE LANDLORD SHALL BE PERMITTED TO POST ANY NOTICES ON THE PREMISES REGARDING SUCH NON-LIABILITY OF THE LANDLORD.

6. This Memorandum of Ground Lease (a) shall be governed by and construed in accordance with the laws of the State of Florida; (b) may be executed in multiple counterparts, each of which shall constitute an original; (c) shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors and assigns; and (d) may not be modified, amended or altered except in writing and signed by the parties hereto. This Memorandum of Ground Lease is solely for notice and recording purposes and shall not be construed to alter, modify, expand, diminish or supplement any provisions of the Lease. In the event of any inconsistency between the terms of the Lease and this instrument, the terms of the Lease shall prevail.

7. The rights and obligations set forth herein shall be binding upon and shall inure to the benefit of the parties hereto in their respective successors and assigns.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Memorandum of Ground Lease: Broward County, through its Board of County Commissioners, signing by and through its County Administrator, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_; and Tenant, signing by and through its duly authorized representative.

**LANDLORD:**

WITNESSES:

BROWARD COUNTY, a political subdivision of the State of Florida, by and through its County Administrator

\_\_\_\_\_  
Signature of Witness 1

By: \_\_\_\_\_  
Monica Cepero  
County Administrator

\_\_\_\_\_  
Print Name of Witness 1

Address: \_\_\_\_\_  
\_\_\_\_\_

Approved as to form by:  
Andrew J. Meyers  
Broward County Attorney  
115 South Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600

\_\_\_\_\_  
Signature of Witness 2

By: \_\_\_\_\_  
Stacey-Ann M. Rowe (Date)  
Senior Assistant County Attorney

\_\_\_\_\_  
Print Name of Witness 2

Address: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Annika E. Ashton (Date)  
Deputy County Attorney

STATE OF FLORIDA            )  
  SS:  
COUNTY OF BROWARD        )

The foregoing instrument was acknowledged before me, by means of [ ] physical presence or [ ] online notarization, this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by Monica Cepero, as County Administrator of BROWARD COUNTY, a political subdivision of the State of Florida, on behalf of the County, who [ ] is personally known to me or who [ ] produced \_\_\_\_\_ as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public, State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_

**MEMORANDUM OF GROUND LEASE BETWEEN BROWARD COUNTY AND RUDG, LLC**

**TENANT:**

WITNESSES:

RUDG, LLC, a Florida limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_

STATE OF FLORIDA            )  
  SS:  
COUNTY OF MIAMI-DADE    )

The foregoing instrument was acknowledged before me, by means of [ ] physical presence or [ ] online notarization, this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of RUDG, LLC, a Florida limited liability company, on behalf of said limited liability company, who [ ] is personally known to me or who [ ] produced \_\_\_\_\_ as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public, State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_

**EXHIBIT F**

Document prepared by:  
Stacey-Ann M. Rowe  
Office of the County Attorney  
115 South Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301

Return recorded document to:  
Lisa Wight  
Housing Finance Division  
110 N.E. 3rd Street, Suite 300  
Fort Lauderdale, Florida 33301

Tax Parcel Numbers:  
4842-33-28-0010  
4842-33-00-0323  
4842-33-00-0328

(For Recorder's Use Only)

**DECLARATION OF COVENANTS AND RESTRICTIONS**  
**(Cross Creek)**

This Declaration of Covenants and Restrictions ("Declaration") is made this \_\_\_\_ day of December, 2024 ("Effective Date"), by RUDG, LLC, a Florida limited liability company ("Project Owner").

W I T N E S S E T H:

- A. Broward County, a political subdivision of the State of Florida ("County"), is the fee title owner of that certain parcel of real property located in Broward County, Florida, as described on **Exhibit A** attached hereto and made a part hereof (the "Property").
- A. Project Owner is lawfully seized of a leasehold interest in the Property.
- B. County entered into a ground lease with Project Owner on [\_\_\_\_\_]  
("Ground Lease") to construct on the Property a mixed-use development particularly described in the Ground Lease, consisting, in part, of at least four hundred forty (440) affordable housing rental units ("Affordable Housing Units") and related amenities and improvements.
- C. Project Owner and County desire to ensure that the Property is and shall be held, transferred, sold, conveyed, leased, mortgaged, used, and improved subject to certain covenants, restrictions, and other requirements, as set forth in this Declaration.

NOW, THEREFORE, Project Owner declares that the Property and any portion thereof shall be held, transferred, sold, conveyed, leased, mortgaged, used, and

improved only subject to these covenants and restrictions, which run in favor of County, and other requirements, all as set forth in this Declaration.

1. The recitals set forth above are true and correct and are incorporated into these restrictive covenants.
2. Restrictive Covenants. The Property shall only be used for the purpose of developing, constructing and operating a mixed-use development, consisting in part, of the Affordable Housing Units, to be rented subject to the following restrictions:
  - a. At least three hundred twenty-seven (327) of the Affordable Housing Units shall be rented by one or more natural persons or a family whose total annual adjusted gross household income does not exceed eighty percent (80%) of the median annual adjusted gross income for Broward County, adjusted for family size.
  - b. At least one hundred thirteen (113) of the additional Affordable Housing Units shall be rented by one or more natural persons or a family whose total annual adjusted gross household income does not exceed one hundred twenty percent (120%) of the median annual adjusted gross income for Broward County, adjusted for family size.
  - c. For the purposes of paragraphs (a) and (b) of this Section 2, an Affordable Housing Unit occupied by an individual or family whose income is equal to or less than the applicable income limitation for such Affordable Housing Unit under this Section 2 (an "Eligible Person") at the commencement of the occupancy of such Affordable Housing Unit, shall be counted as an Eligible Person during such individual's or family's tenancy in such Affordable Housing Unit, even though such individual or family ceases to be an Eligible Person. Notwithstanding the foregoing, an individual or family whose income, as of the most recent income certification report provided by Project Owner to any federal, state or local authority, exceeds one hundred forty percent (140%) of the applicable income limitation for the Affordable Housing Unit they are occupying shall not continue to be counted as an Eligible Person.
  - d. Rent payments for the Affordable Housing Units must not exceed thirty percent (30%) of the applicable income limitation for such Unit, which rent payments shall not include any payment under Section 8 of the United States Housing Act of 1937, or other related assistance programs.
3. At all times during the Land Use Restriction Period (as herein defined), Project Owner shall ensure that all Affordable Housing Units comply with the rental restrictions in Section 2 of this Declaration.



4. The covenants, restrictions, servitudes, rights, and privileges granted, made, and conveyed in this Declaration shall run with the land and be binding upon the Project Owner, its heirs, grantees, successors, and assigns, and all subsequent owners of the Property (whether fee simple or leasehold). For the purposes of this instrument, the Property and all portions thereof shall be the servient tenement and County shall be the dominant tenement. This Declaration shall begin upon recordation as required in Section 10 of this Declaration. This Declaration shall be effective for a period of ninety-nine (99) years ("Land Use Restriction Period"). This Declaration shall be extinguished and released by County in accordance with the terms contained herein at the expiration of the Land Use Restriction Period.
5. County is the beneficiary of these covenants and restrictions and, as such, County may enforce these covenants and restrictions by action at law or in equity, including without limitation, a decree of specific performance or mandatory or prohibitory injunction, against any person or persons, entity or entities, violating or attempting to violate the terms of these covenants and restrictions. In any enforcement action in which County prevails, County shall be entitled to recover reasonable attorneys' fees and costs in the trial and appellate courts. Any forbearance on behalf of County to exercise its rights in the event of the failure of Project Owner to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of County's rights hereunder in the event of any subsequent failure of the Project Owner to comply.
6. No waiver, modification, or termination of this Declaration shall be effective unless contained in a written document executed in the manner required by Section 7. Any waiver shall be applicable only to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver. If any covenant, restriction, condition, or provision contained in this document is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenant, restriction, condition, or provision herein contained, all of which shall remain in full force and effect. This document shall be construed in accordance with the laws of Florida and venue for any dispute over its terms shall be Broward County, Florida.
7. If Project Owner desires to use the Property, or any portion thereof, for any use other than those permitted hereby, or desires to modify or terminate any of these covenants and restrictions, Project Owner may apply to County for an amendment or termination of these covenants and restrictions as to the particular affected portion of the Property. Because Project Owner accepted these covenants and restrictions as a condition of the Ground Lease or any portion thereof as an inducement to County to enter into the Ground Lease, it shall be the sole discretion of the Broward County Board of County Commissioners whether to modify or terminate these covenants and restrictions as to any portion of the Property. Any such amendment or termination shall be approved by the Board of County Commissioners of Broward County, Florida, and apply only to such portion of the Property that is specifically referenced in the amendment or termination.

8. If Project Owner fails to comply with the requirements of this Declaration, County shall have the right to enforce the terms of the Ground Lease and this Declaration.
9. Project Owner shall record this Declaration in the Official Records of Broward County, Florida.
10. This Declaration is effective upon recordation in the Official Records of Broward County, Florida.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

**DECLARATION OF COVENANTS AND RESTRICTIONS**

**IN WITNESS WHEREOF**, Project Owner has executed this Declaration as of the day and year first written above.

**PROJECT OWNER:**

WITNESSES:

RUDG, LLC, a Florida limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

STATE OF FLORIDA        )  
                                  SS:  
COUNTY OF BROWARD )

The foregoing instrument was acknowledged before me, by means of [ ] physical presence or [ ] online notarization, this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of RUDG, LLC, a Florida limited liability company, on behalf of said limited liability company, who [ ] is personally known to me or who [ ] produced \_\_\_\_\_ as identification.

[Notary Seal]

\_\_\_\_\_  
Notary Public, State of Florida  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission No.: \_\_\_\_\_

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

**PARCEL 1:**

Parcel A of MOTEL 6 – POMPANO BEACH, as recorded in Plat Book 112, Pages 27 and 28, Public Records of Broward County, Florida.

**PARCEL 2:**

The South 180 feet of the following parcel of land: A portion of the NE 1/4 of Section 32 and a portion of the NW 1/4 of Section 33, Township 48 South, Range 42 East, being more particularly described as follows:

Commence at the Southwest corner of the NW 1/4 of the NW 1/4 of Section 33, Township 48 South, Range 42 East, and run on an assumed bearing of N 89°51'07" E. along the South line of the said NW 1/4 of the NW 1/4 of Section 33 for 696.91 feet to a point of intersection with the Westerly right-of-way line of Atlantic Boulevard Extension; thence run N. 15°51'17" E. along the said Westerly right-of-way line of Atlantic Boulevard Extension for 536.04 feet to a point of curvature; thence continue along the said Westerly right-of-way line of Atlantic Boulevard Extension along a curve to the left having a radius of 1859.86 feet and a central angle of 5°38'56" for an arc distance of 183.36 feet to the Point of Beginning; thence run Westerly on a bearing of S 88°35'42" W. to an intersection with the East right-of-way line of the Sunshine State Parkway; thence Southwesterly along the East right-of-way line of the Sunshine State Parkway to a point, being the intersection of a line 360 feet South of and parallel to the above described East-West line; thence run Easterly on a bearing of N 88°35'42" E. to a point of intersection with the West right-of-way line of Atlantic Boulevard Extension; thence run Northerly along the West right-of-way line of Atlantic Boulevard Extension to the Point of Beginning;

Said lands situate, lying and being in Broward County, Florida.

Together with the following described parcel of land:

A portion of the NE 1/4 of Section 32 and a portion of the NW 1/4 of Section 33, Township 48 South, Range 42 East, being more particularly described as follows:

Commence at the Southwest corner of the NW 1/4 of the NW 1/4 of Section 33 and run on an assumed bearing of North 89°51'07" East along the South line of said NW 1/4 of NW 1/4 of Section 33 a distance of 696.91 feet to a point of intersection with the Westerly right-of-way line of Atlantic Boulevard Extension; thence run North 15°51'17" East along the said Westerly right-of-way line of Atlantic Boulevard Extension a distance of 536.04 feet to a point of curvature; thence continue along the said Westerly right-of-way line of Atlantic Boulevard Extension along a curve to the left having a radius of 1859.86 feet and a central angle of 5°38'56" for an arc distance of 183.16 feet to the Point of Beginning; thence run Westerly on a bearing of South 88°35'42" West to an intersection with the East right-of-way line of the Sunshine State Parkway; thence Southwesterly along the East right-of-way line of the Sunshine State Parkway to a point, being the intersection of a line 180 feet South of and parallel to the above described East-West line; thence run Easterly on a bearing of North 88°35'42" East to a point of intersection with the West right-of-way line of Atlantic Boulevard Extension; thence run Northerly along the West right-of-way line of Atlantic Boulevard Extension to the Point of Beginning;

Said lands situate, lying and being in Broward County, Florida.

LESS AND EXCEPT FROM PARCEL 2 THE FOLLOWING TWO PARCELS OF LAND:

Less Out A:

All of the Plat of MOTEL 6 - POMPANO BEACH, according to the plat thereof recorded in Plat Book 112, Page 27, including but not limited to that certain 50 foot additional right of way dedicated by the Plat.

Less Out B:

All of that certain parcel of land conveyed by Motel 6 Operating, L.P. to Michael L. Thomas, Trustee, by the Special Warranty Deed recorded in Official records Book 16308, Page 161, and described as follows:

A portion of the NE 1/4 of Section 32 and a portion of the NW 1/4 of Section 33, Township 48 South, Range 42 East, Broward County, Florida, and a portion of Parcel "A" of "MOTEL 6 - POMPANO BEACH", as recorded in Plat Book 112, Page 27, of the Public Records of Broward County, Florida, being more particularly described as follows:

Commencing at the Southeast corner of said Parcel "A", run on an assumed bearing of S. 88°44'35" W. along the South line of said Parcel "A", also being the North line of Parcel "A" of "NEILL PLAT", as recorded in Plat Book 89, Page 20, of the Public Records of Broward County, Florida, 450.50 feet to a Point of Beginning; thence continue S. 88°44'35" W. along the last described line 452.95 feet to the Easterly right-of-way line of Sunshine State Parkway; thence Northeasterly along said right-of-way line and along a curve to the left whose tangent bears N. 26°17'51.8" E. at that point, with a radius of 7789.44 feet and a central angle of 2°56'55", an arc distance of 400.86 feet; thence N. 88°44'35" E. 276.74 feet to the Northwest corner of said "MOTEL 6 - POMPANO BEACH"; thence S. 1°15'25" E. 360 feet to the Point of Beginning.

Less that portion of Parcel "A" of "MOTEL 6 - POMPANO BEACH", as recorded in Plat Book 112, Page 27, of the Public Records of Broward County, Florida, described as follows:

Commencing at the Southeast corner of said Parcel "A"; run on an assumed bearing of S. 88°44'35" W. 450.50 feet to the Point of Beginning; thence continue S 88°44'35" W. 222 feet; thence N. 1°15'25" W. 150 feet; thence N. 88°44'35" E. 222 feet; thence S 1°15'25" E. 150 feet to the Point of Beginning.