

COMPREHENSIVE AGREEMENT

THIS COMPREHENSIVE AGREEMENT (“AGREEMENT”), is made and entered into this day of _____ 2024, by and between:

CITY OF LAUDERHILL, a municipal corporation of the State of Florida, 5581 West Oakland Park, Blvd., LAUDERHILL, FL 33313 (hereinafter “CITY”),

and

THE HILL DISTRICT, LLC a Delaware Limited Liability Company organized under the laws of the State of Delaware, whose mailing address is 699 North Federal Highway, Suite 300, Fort Lauderdale, FL 33304 (hereinafter "HILL DISTRICT").

WHEREAS, the CITY holds all right, title, and interest, and is the owner of certain lands of approximately 13.9-acres located at Sunrise Boulevard and State Road 7 in the City of Lauderhill, legally described in **EXHIBIT A** and CITY intends to grant a leasehold interest in its fee simple interest in the Property; and

WHEREAS, THE HILL DISTRICT, LLC is a Limited Liability Company organized under the laws of the State of Delaware for the purpose of developing constructing, operating and maintaining a Gateway Destination Complex including hotel, restaurants, parking facilities, multi-family, commercial retail, commercial kitchen, job training space, public outdoor green/event space, and compatible uses, herein known as “The Hill;” and

WHEREAS, on or about September 25, 2023, the CITY received an unsolicited proposal pursuant to Section 255.065, Florida Statutes, from HILL DISTRICT, to develop, construct, operate and maintain a Gateway Destination Complex and related uses on the Property; and

WHEREAS, pursuant to Resolution No. 23R-12-315, at its meeting of December 11, 2023, the City Commission determined that the unsolicited proposal submitted by HILL DISTRICT serves a public purpose consisting of a public facility and/or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity, including but not limited to: a public city garage, a public commercial kitchen for use by the City, and related necessary infrastructure, and as proposed, constitutes a qualifying project pursuant to Section 255.065, Florida Statutes, and further declared its intent to accept other proposals for the same project in accordance with Section 255.065, Florida Statutes, for a period of sixty (60) days after the initial date of publication; and

WHEREAS, on January 19, 2024 and January 26, 2024, the CITY published once a week for two weeks, in the Florida Administrative Register and the Sun Sentinel, a Notice of its intent to accept other proposals for the same project on or before the sixtieth (60th) day from January 19, 2024 (i.e. by March 19, 2024); and

WHEREAS, no other proposals were received for the same project by the deadline of March 19, 2024; and

WHEREAS, pursuant to Resolution No. 24R-09-228 the City Commission, at its meeting of September 26, 2024, provided notice of its decision to proceed with the unsolicited proposal submitted by HILL DISTRICT to construct, operate and maintain a Gateway Destination Complex including hotel, restaurants, parking facilities, multi-family, commercial retail, commercial kitchen, job training space, public outdoor green/event space, and compatible uses and declared its intent to enter into a Comprehensive Agreement with HILL DISTRICT encompassing therein the development, construction, operation, and maintenance of the Property as particularly described in the unsolicited proposal and related documents, and as defined in Section 1.3.4 and Section 5.1 herein (“Qualified Project”); and

WHEREAS, the CITY and HILL DISTRICT desire to enter into this Agreement to supersede and replace all agreements now existing between them, both oral and written, effective as of the Effective Date; and

WHEREAS, CITY and HILL DISTRICT agree to enter into any future Development Agreement or Agreements specific to the details and terms of the development and construction if deemed necessary;

NOW THEREFORE, in consideration of the mutual covenants exchanged herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the CITY and HILL DISTRICT agree as follows:

ARTICLE 1.

GENERAL CONDITIONS

1.1. Design Professionals. Architectural and engineering services shall be procured from licensed, independent design professionals retained by HILL DISTRICT or furnished by licensed employees of HILL DISTRICT, as permitted by law. If the design professional is an independent design professional, the architectural and engineering services shall be procured pursuant to a separate agreement between HILL DISTRICT and the design professional.

1.1.1. In accordance with §255.065(3)(a)(5), Fla. Stat., CITY reserves the right to retain architectural, engineering, and landscape architectural licensed professionals to evaluate the Qualified Project and advise CITY through the completion of the design and construction of the Qualified Project.

1.2. Exhibits. True and correct copies of all exhibits referenced in this Agreement will be initialed by the Parties and attached to this Agreement, and such exhibits will thereafter be incorporated into this Agreement by this reference.

1.3. Definitions.

1.3.1. “Comprehensive Agreement” means this Comprehensive Agreement between the CITY and HILL DISTRICT, including all the attached Exhibits.

1.3.2. “Parties” means the CITY and HILL DISTRICT collectively.

1.3.3. “Property” means the real estate more particularly described in **EXHIBIT A** and all attachments and improvements and appurtenances thereto now existing or hereafter constructed pursuant to the Agreement or otherwise and shall include the phrase “or any portion thereon,”

1.3.4. “Qualified Project” means the design and construction on the Property of Gateway Destination complex on city-owned property located at Sunrise Blvd and State Road 7, LAUDERHILL, Florida, inclusive of hotel use, restaurants, parking facilities including a city garage, multi-family, commercial retail, commercial kitchen, job training space, public outdoor green/event space, necessary infrastructure and compatible uses, as conceptually depicted in **EXHIBIT B** attached hereto and incorporated herein. CITY understands and agrees that the renderings attached hereto are conceptual and are subject to change through the design and permitting process. HILL DISTRICT understands and agrees that all plans and designs are subject to CITY approvals, which shall not be unreasonably withheld.

ARTICLE 2.

TERM OF COMPREHENSIVE AGREEMENT

2.1. Term. The Term of this Agreement commences on the “Effective Date” and runs for a period of fifty (50) years, unless the parties terminate the Agreement earlier (“Initial Term” or “Term”). In the event that any governmental authority having jurisdiction and legal authority imposes a restriction that materially limits or terminates a Permissible Use hereunder (as such term is defined in Section 5.1.1) (a “Termination of Use”), then HILL DISTRICT shall have the right to terminate this Agreement upon thirty (30) days advance written notice to CITY. In the event of the occurrence of a Termination of Use, CITY may, at its election, reasonably consider and may consent to a substitute Permissible Use that is consistent with applicable zoning.

2.2. First Option Term. For purposes of this Agreement, “First Option Term” shall mean a term of thirty (30) years commencing upon the expiration of the Initial Term pursuant to section 2.1 herein. The terms and conditions applicable to the option term shall be the same as set forth in this Agreement. Provided HILL DISTRICT is not in default under this Agreement, HILL DISTRICT shall have the option in its sole discretion to renew this Agreement by providing written notice to CITY of such exercise no sooner than 720 days and no later than One Hundred Eighty (180) days prior to the expiration of the Initial Term. In the event CITY provides written notice of default during the last year of the first term, the timeframes to exercise the option shall be extended by the applicable cure period established pursuant to paragraph 12.2 herein.

2.3 Second Option Term. For purposes of this Agreement, “Second Option Term” shall mean a term of twenty (20) years commencing upon the expiration of the First Option Term pursuant to section 2.2 herein. The terms and conditions applicable to the option term shall be the same as set forth in this Agreement. Provided HILL DISTRICT is not in default under this

Agreement, HILL DISTRICT shall have the option in its sole discretion to renew this Agreement by providing written notice to CITY of such exercise no sooner than 720 days and no later than One Hundred Eighty (180) days prior to the expiration of the First Option Term. In the event CITY provides written notice of default during the last year of the first option term, the timeframes to exercise the option shall be extended by the applicable cure period established pursuant to paragraph 12.2 herein.

2.4. Effective Date. This Agreement shall be effective on _____, 2024 (the “Effective Date”), but shall be subject to the following conditions:

2.4.1. Conditions.

(a) The Agreement shall be fully executed by CITY on or before December 31, 2024.

2.5. Recordation Memorandum of Lease. A Memorandum of Lease, to be executed by both parties contemporaneous with the execution of this Agreement, shall be recorded by HILL DISTRICT, at HILL DISTRICT’s expense, in the Public Records of Broward County, Florida on or about the Effective Date of this Agreement.

2.6. HILL DISTRICT’s Right to Terminate Agreement. In the event that the conditions set forth in Subsections 2.4.1 are not met or achieved within the applicable time periods described herein, then HILL DISTRICT shall have the absolute right to terminate this Agreement upon delivery or written notice to CITY without liability of any kind. In addition, HILL DISTRICT shall have the right to terminate this agreement in the event that CITY denies development orders that would otherwise effectuate the project contemplated herein and conceptually described in EXHIBIT B.

2.7 CITY’s Right to Terminate Agreement. In the event that the HILL DISTRICT is found to be in Default and fails to timely cure said Default pursuant to Section 12.2.2, CITY has the right to terminate the Agreement. The CITY shall provide the HILL DISTRICT with written notice of any Default consistent with Section 12. Should the property become crime-infested, be determined to have a lack of oversight, or not be properly managed such that it is causing a nuisance to the CITY, the CITY shall notify HILL DISTRICT of such Default in writing pursuant to Section 12.

ARTICLE 3.

LEASE OF THE PROPERTY

3.1. Lease. On the terms and conditions set forth in this Agreement, and in consideration of the HILL DISTRICT’s performance of all other obligations and terms of this Agreement, as of the Effective Date, the CITY hereby leases to HILL DISTRICT and HILL DISTRICT hereby leases from CITY and CITY grants HILL DISTRICT a possessory interest in and to the Property, as defined herein, for the Term of the Lease.

3.2. Leased Premises. A Description of the Property that CITY leases to HILL DISTRICT and HILL DISTRICT rents from CITY is attached hereto as **EXHIBIT A.** HILL

DISTRICT hereby leases the Property from CITY subject to, and HILL DISTRICT hereby agrees to comply with: (i) all applicable building codes, zoning regulations, and municipal, county, state and federal laws, ordinances and regulations governing or regulating the Property or its use by HILL DISTRICT; (ii) all covenants, easements and restrictions of record pertaining to the Property; and (iii) the terms, conditions and restrictions contained within this Agreement. It is expressly found by the City Commission that this Agreement furthers and serves a significant public purpose and provides a significant public benefit.

3.3. Limitations on Grant of Leasehold Interest. Except to the extent modified by the terms of this Agreement, the grant of a Leasehold interest by CITY to HILL DISTRICT upon the Property is subject to the following:

3.3.1. Each condition, restriction and limitation recorded against the Property as of the Effective Date of this Agreement; and

3.3.2. Existing or future land planning, land use or zoning laws, building codes, ordinances, statutes or regulations of any governmental entity or agency for the United States of America, State of Florida, Broward County or City of LAUDERHILL, or any other governmental agency having jurisdiction over the Property and with legal authority to impose such restrictions; and

3.3.3. Each question of title and survey that may arise in the future as to the Property, but HILL DISTRICT acknowledges that it has had the opportunity to examine the boundary lines and the CITY's present title to the Property, and that it is satisfied with respect to the accuracy and sufficiency of both; and

3.3.4. HILL DISTRICT's satisfactory performance of all of the terms and conditions contained in this Agreement; and

3.3.5. Underground and overhead utilities facilities, including, but not limited to, water, wastewater, stormwater and electrical lines, telephone and telecommunications facilities lines and septic tank, if any.

3.3.6. The CITY, in its proprietary capacity, through its Director of Planning and Zoning, and/or the City Manager shall have approved the proposed construction contained in the Plan and Specifications pursuant to Section 5.3 through and consistent with the applicable criteria and procedures set forth in the City's Unified Land Development Regulations.

3.4 Quiet Enjoyment. Except as otherwise expressly set forth herein, CITY represents and warrants that it has full right and authority to enter into this Agreement and that HILL DISTRICT, while paying the Rent and performing its other covenants and agreements herein set forth, shall peaceably and quietly have, hold and enjoy the Property for the term hereof without hindrance or molestation from CITY subject to the terms and provisions of this Agreement, the terms, conditions, restrictions and covenants, including right of access, under the Consent Decree and all other matters of record as of the Effective Date of this Agreement.

3.5. Contract Administrator. The Contract Administrator for CITY under this Agreement shall be the City Manager, or her designee. The Contract Administrator for HILL

DISTRICT under this Agreement shall be HILL DISTRICT's President and CEO. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the respective Contract Administrator.

ARTICLE 4

RENT AND TAXES

4.1. Amount and Payment of Rent. In addition to the promises and covenants of HILL DISTRICT to construct, operate and maintain the qualified project including, but not limited to, the public benefits and capital improvement obligations as set forth herein, as rent for the Property, HILL DISTRICT shall pay to CITY the annual rent of Seventy Two Thousand Dollars and No Cents (\$72,000.00) commencing with the Effective Date of this Agreement and continuing each and every successive annual anniversary date thereafter through the balance of the Term. Such rent obligation shall increase each year by 5%. Rent shall be payable to the City of Lauderhill and delivered to Finance Department, 5581 West Oakland Park Blvd., LAUDERHILL, FL 33313, Attn: Finance Director.

4.2. Sales Tax. To the extent required by law and unless exempt by law, HILL DISTRICT shall pay to CITY the equivalent of seven percent (7%) of all amounts paid as Rent hereunder, which sum is to be paid to the State of Florida by the CITY in respect of sales or use taxes. Should such tax rate change under the Florida Sales Tax Statute or other applicable statutes, HILL DISTRICT shall pay CITY the amounts reflective of such changes. To the extent applicable, HILL DISTRICT shall pay CITY in conjunction with all sums due hereunder, any and all applicable sales, use or other similar tax and any interest or penalties assessed therein ("Sales Tax") simultaneously with such payment.

4.3. Taxes, Fees, Special Assessments, etc. Except as otherwise provided in this Agreement, beginning on the Effective Date, all costs, expenses, sales or use taxes, property taxes, or taxes of any nature or kind, special assessments, connection fees, impact fees, and any other charges, fees or like impositions incurred or imposed against the Property, to the extent applicable, or any use thereof, including revenue derived therefrom, and any costs, expenses, fees, taxes or assessments in or upon the real property or improvements constructed thereon shall be made and paid by HILL DISTRICT in accordance with the provisions of this Agreement, it being the intent of the parties that, except as may be specifically provided for herein, HILL DISTRICT is responsible for paying all the expenses and obligations that relate to the Property or any improvements thereon and that arise or become due during the Term of this Agreement. HILL DISTRICT shall not be required to pay any Targeted Taxes imposed by CITY. If Lessor is held liable for Targeted Taxes and HILL DISTRICT fails to pay, then CITY shall have the right to terminate this Agreement. In additional Targeted Taxes in which CITY is obligated to pay shall be deemed Additional Rent under this Agreement. For purposes of this Agreement, "Targeted Taxes" shall mean any Tax created, levied, assessed, confirmed, adjudged, charged or imposed on or against (A) the activities conducted at the Property by HILL DISTRICT, or any of its affiliates or invitees, or any income, revenues, profits or other consideration generated therefrom (unless the

Tax applies to substantially all other businesses or persons in the jurisdiction of the applicable governmental entity or income, revenues, profits or other consideration therefrom); (B) the gross receipts or income of the direct or indirect owners of HILL DISTRICT (unless the Tax is one of general application levied against or imposed on the gross receipts or income of all people, enterprises or owners of enterprises, as the case may be, within the jurisdiction of the applicable governmental entity; (C) any capital gain on or appreciation in the investment in the Property (unless the Tax is one of general application); or (D) the sale of any asset or ownership interest in the HILL DISTRICT or any of its affiliates (unless the Tax is one of general application). The term "Tax" shall mean any general or special, ordinary or extraordinary, tax imposition, assessment, levy, usage fee, excise or similar charge (including any ad valorem, non-ad valorem, or other property taxes), however measured, regardless of the manner of imposition or beneficiary, that is imposed by a governmental entity.

4.4. Additional Rent Payments. In addition to the annual rent due under Section 4.1 and sums due under Sections 4.2 and 4.3 hereof, all other payments that HILL DISTRICT is obligated to make under this Agreement shall be considered "Additional Rent" regardless of whether the payments are so designated. Except as provided in Paragraph 4.7 hereof, "HILL DISTRICT's Challenge of Tax," all additional payments are due and payable within thirty (30) days after rendition of a statement therefor, with the exception of ad valorem taxes which must be paid within thirty (30) days when due.

4.5. Utility or service charges. HILL DISTRICT agrees to pay all charges for utility service including, but not limited to charges for gas, electricity, telephone, telecommunications or other illumination, heating, air conditioning, water & sewer, storm water utility fees, garbage and recycling fees, and other similar service charges attributed to the Property.

4.6. HILL DISTRICT's Responsibilities regarding Governmental Charges or Services Giving Rise to Liens. Subject to the provisions of Section 4.7 respecting HILL DISTRICT's right to challenge the validity of any Tax, tax claim, assessment, fee or other governmental charge against the Property, the use thereof, improvements thereto or personalty located thereon, HILL DISTRICT must pay all Taxes and other governmental fees, charges or assessments that are related to the Property or personalty situated thereon or operations conducted thereon and that arise during the Term. HILL DISTRICT shall pay all such Taxes and other charges when due and before any fine, penalty, interest or other cost is added, becomes due, or is imposed by operation of law for nonpayment. These Taxes and other charges include, but are not necessarily limited to the following:

4.6.1. All Taxes, assessments, water, sewer, connection fees, garbage rates and charges, public utility charges, excise levies, licenses and permit fees;

4.6.2. All such charges whether they are general or special, ordinary or extraordinary, foreseen or unforeseen, imposed upon the Property or use thereof or improvements thereto or personalty situated thereon;

4.6.3. All such charges that are assessed, levied, confirmed or imposed upon the Property or use thereof or improvements thereto or personalty situated thereon;

4.6.4. All such charges that arise from, become payable from, or with respect to, or become a lien on any of the following:

4.6.5. All or any part of the Property or use thereof or improvements thereto or personalty situated thereon;

4.6.6. All or part of the improvements on the Property or personalty situated thereon;

4.6.7. Any appurtenance to the Property;

4.6.8. The rent and income received by the HILL DISTRICT from any subtenant, licensee, concessionaire or other party in possession;

4.6.9. Any use or occupation of the Property;

4.6.10. Any document to which HILL DISTRICT is a party and that creates or transfers an interest or estate in the Property;

4.6.11. Sales or use Tax arising from HILL DISTRICT's operations or the operations of any sublessees or licensees; or

4.6.12. Any Taxes or charges applicable to the rents paid under this Agreement.

4.7. HILL DISTRICT's Challenge of Tax. HILL DISTRICT may contest the validity of any Tax, tax claim, or charge or assessment, described herein without being in default for nonpayment of Taxes under this Agreement and challenge any such Tax as a Targeted Tax, provided HILL DISTRICT complies with terms and conditions of this Section. The HILL DISTRICT must give CITY written notice of HILL DISTRICT's intention to contest. Unless otherwise waived by CITY, HILL DISTRICT must also furnish CITY with a bond, acceptable to the City Manager, with surety by a surety company qualified to do business in the State of Florida or cash paid into escrow and held by CITY. The bond or cash escrow must be in an amount that is equal to the amount of the Taxes, claim, charge or assessment being contested and must be conditioned upon payment of the Taxes, claim, charge or assessment once the validity has been determined. HILL DISTRICT must give the written notice accompanied by evidence of the bond or escrow to CITY not later than sixty (60) days before the contested taxes would otherwise become delinquent.

4.8. CITY'S Remedy for HILL DISTRICT'S Nonpayment. If HILL DISTRICT fails, refuses, or neglects to pay any Taxes, fees, assessments or other governmental charges under this Article, unless challenged as provided in Section 4.7 of this Agreement, the CITY may pay them. Upon the CITY's demand, HILL DISTRICT must pay the CITY all amounts CITY has paid, plus expenses and attorney's fees reasonably incurred in connection with such payments, together with interest at the rate of not to exceed eighteen percent (18%) per annum from the date CITY paid such outstanding Taxes, fees, assessments or other governmental charges, up to but not exceeding the maximum rate of interest allowable under Florida law. On the day the CITY demands repayment or reimbursement from HILL DISTRICT, the CITY is entitled to collect or enforce these payments in the same manner as a payment of rent.

ARTICLE 5.

USE OF PROPERTY, CONSTRUCTION, CAPITAL IMPROVEMENTS, MAINTENANCE

5.1. The Qualified Project. The CITY authorizes HILL DISTRICT to design, develop and construct the Qualified Project on a “turn-key” basis and as conceptually depicted in **EXHIBIT B** attached hereto and incorporated herein. The Parties agree that the Qualified Project shall be designed, constructed, developed, and completed by HILL DISTRICT on the Property in a first-class workmanlike manner, and as provided in this Agreement. HILL DISTRICT shall not be responsible for any “off-site” improvements necessary to serve the Qualified Project, except such “off-site” improvements as are required by the development process pursuant to all applicable laws, codes, and ordinances, including but not limited to, the CITY’s Land Development Regulations (“LDR”), as may be amended from time to time. HILL DISTRICT shall, in consultation with the CITY and in accordance with all applicable laws, codes, and ordinances, select the services of the Qualified Project design and construction team, including but not limited to the consultants, professionals, architects, engineering services, surveyors and landscape architects necessary to design and construct the Qualified Project and define its elements in detail sufficient for the Qualified Project’s purposes and to fulfill the Qualified Project’s construction requirements. HILL DISTRICT may engage outside consultants on the CITY’s approved list of outside consultants to expedite the review process. HILL DISTRICT will make efforts to utilize local businesses and/SBE when qualified and available, if feasible.

5.1.1. Permissible Uses. The Property shall be used by HILL DISTRICT for the purpose of improving the Property, including new buildings and structures for the operation of a Gateway Destination Complex including hotel, restaurants, parking facilities including a city garage, multi-family, commercial retail, commercial kitchen, job training space, public outdoor green/event space, necessary infrastructure and compatible uses described on **EXHIBIT C** attached hereto.

5.1.2. The Qualified Project’s design and construction must be acceptable to the CITY and HILL DISTRICT. CITY, as owner of the Property and as a party to this Agreement, shall have the right to review and comment upon the project design and construction documents at any time. HILL DISTRICT understands that all designs and plans must be approved by CITY, however, approval by the City shall not be unreasonably withheld.

5.1.3. Completion/ Phasing Plan. The parties shall agree upon a phasing plan for the HILL DISTRICT construction. HILL DISTRICT shall use commercially reasonable efforts to commence phase 1 of the project, as specified by the parties, within three (3) years of the Effective Date, and complete phase 1 within five (5) years of the effective date, however HILL DISTRICT may ask for and CITY may grant reasonable extensions for good cause shown. Failure of HILL DISTRICT to commence and complete Phase 1 of the Project as set forth herein shall constitute a material default pursuant to Article 12 of this Agreement.

5.1.4. Cost of the Qualified Project. The cost of the Qualified Project shall be fully financed by HILL DISTRICT through private funds to be evidenced by providing the CITY with appropriate and sufficient letters of credit or other documents from a financial institution evidencing

HILL DISTRICT's ability to fully finance the Qualified Project, to the CITY's reasonable satisfaction, within 90 days of the execution of this Agreement.

5.1.5. Cost Overruns. To the extent that there are cost overruns associated with the construction of the Qualified Project, any such cost overruns shall be paid by HILL DISTRICT.

5.2. Management of the Qualified Project Construction. HILL DISTRICT shall manage and oversee the construction of the Qualified Project in accordance with the design documents and construction documents approved by the CITY or any further development of the aforesaid documents that have been approved in writing by the CITY.

5.3. Construction Requirements. Subject to the terms and conditions of this Agreement and the Development Agreement, in performing the construction of the Qualified Project, HILL DISTRICT shall:

5.3.1. Provide project designs to the CITY for approval through the City's regular site plan development process, which approval shall not be unreasonably withheld, unreasonably conditioned or unreasonably delayed, and obtain all necessary permits, licenses, and other approvals as required by the CITY's LDR's for the completion of the Qualified Project;

5.3.2. Be responsible for the completion of all work necessary to complete the Qualified Project, and be fully responsible for the payment of all moneys due to any contractor or subcontractor performing the work;

5.3.3. Comply with all applicable federal, state, and local rules and regulations, including the CITY's LDR's, in completing the Qualified Project. HILL DISTRICT acknowledges and agrees that this requirement includes compliance with all applicable federal, state, and local health and safety rules and regulations, including, but not limited to (i) the Occupational Safety and Health Act, 29 CFR 1910 and 1926, respectively, General Industry Standards and Construction Industry Standards, including regulations regarding Trenching and Shoring; (ii) the Florida Workers' Compensation Law, Chapter 440, Florida Statutes; (iii) Rules 38F and 38I, Florida Administrative Code; and (iv) Florida Department of Transportation Manual of Traffic Control and Safe Practices.

5.4. Compliance With Regulations of Public Bodies. HILL DISTRICT covenants and agrees that it shall, at its own cost and expense, make such improvements on the Property, perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the Property, in order to comply with the requirements relating to sanitation, fire hazard, zoning, setbacks, environmental requirements and other similar requirements designed to protect the public, worker and recreational use environments. HILL DISTRICT shall not use the Property, nor shall the Property suffer any such use during the Term, which is in violation of any of the statutes, laws, ordinances, rules or regulations of the federal, state, county, municipal government or any other governmental authority having jurisdiction over the Property.

5.5. Improvements. Upon expiration or termination of this Agreement, any improvements constructed on the Property shall remain with the Property at no additional cost to the CITY. Upon termination or expiration of the Agreement, all right, title and interest in the

improvements shall vest in the CITY and HILL DISTRICT's interest in the improvements is extinguished.

5.6. Liability for Personal Property. All personal property, placed or moved onto the Property is at the sole risk of HILL DISTRICT or other owner of such personal property. CITY shall not be liable for any damage to such personal property, or for personal injuries to HILL DISTRICT or any of HILL DISTRICT's subtenants, agents, servants, employees, contractors, guests or invitees or to trespassers on the Property that arise from any person's tortious acts or omissions, regardless of the status of the person; provided, however, that if the damage or injury is caused by the negligence of CITY's employees acting within the course and scope of their employment, then, to the extent the damage or injury in question is caused by CITY's negligence, then HILL DISTRICT's liability to CITY hereunder shall be proportionately abated. Nothing herein shall be deemed a waiver of CITY's sovereign immunity.

5.7. Liability for Damages or Injuries. CITY shall not be liable for any damage or injury incurred or sustained in, on or about the Property when such damage or injury results from the tortious acts or omissions of any person, including HILL DISTRICT's guests, invitees, servants, agents, employees or contractors or trespassers on the Property; provided, however, that if the damage or injury is caused by the negligence of CITY's employees acting within the course and scope of their employment, then, to the extent the damage or injury in question is caused by CITY's negligence, HILL DISTRICT's liability to CITY hereunder shall be proportionately abated. Further, CITY shall not be liable for any damage or injury to any of HILL DISTRICT's guests, invitees, servants, agents, employees or contractors or trespassers on the Property, incurred or sustained in, on or about the Property when such damage or injury results from the negligent act or omission of HILL DISTRICT, its officers, agents or employees, including but not limited to, in damaging any Hazardous substances containment structure installed prior to the Effective Date.

5.8. ADA. HILL DISTRICT shall have the continuing obligation of compliance with the Americans With Disabilities Act ("ADA"), as same may be amended from time to time, with respect to the Property.

5.9. CITY Permits Fees and Cooperation Regarding Utility Upgrades. HILL DISTRICT acknowledges that HILL DISTRICT shall apply for all building, demolition and renovation permits required by CITY or other Governmental Authority that are necessary, required or appropriate in connection with the design, planning, construction, completion, use and occupancy of the Qualified Project (the "Permits"). HILL DISTRICT shall diligently pursue, facilitate and expedite all actions necessary in order to obtain the Permits.

5.9.1. CITY further acknowledges that, in the event that HILL DISTRICT determines that the utility servicing the Property (such as electric, water, sewer, gas or other public utility) are insufficient, or inadequate to meet the anticipated utility needs of the Qualified Project, then CITY shall fully cooperate with HILL DISTRICT to enable HILL DISTRICT to upgrade, improve or enhance the utility services to the Property for the Qualified Project at HILL DISTRICT's expense. Such cooperation shall include, but is not limited to, (i) the grant of easements or other conveyances to better facilitate improvements to utility services for the Lease Premises and the Project; (ii) promptly respond to all requests for approval, consent, review or

comment submitted by or on behalf of HILL DISTRICT; and (iii) provide such other support as reasonably requested by HILL DISTRICT to obtain approval before any local, state or federal board or agency.

5.10. Emergency Use. This Agreement is subordinate to any emergency use invoked pursuant to Section 252.42, Florida Statutes, as amended or revised, or invoked pursuant to any applicable emergency management program or plan. Upon the termination of such emergency status, CITY shall use its best efforts to cease and/or restore the subject property to its condition prior to the declaration of the emergency. Following build-out, emergency use shall not include any private uses such as hotel or residential uses.

ARTICLE 6

HAZARDOUS SUBSTANCES

6.1. Definitions. For the purpose of administering this Article, the following terms shall have the meaning as set forth below:

6.1.1. *Environmental Agency* means a governmental agency at any level of government having jurisdiction over Hazardous Substances and Hazardous Substances Laws and the term as used herein shall also include a court of competent jurisdiction when used as a forum for enforcement or interpretation of Hazardous Substances Laws.

6.1.2. *Hazardous Substances* means any hazardous or toxic substances, materials or wastes, including, but not limited to those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table, 49 CFR 172.101 or by the Environmental Protection Agency as “hazardous substances,” 40 CFR Part 302, as now in effect or as same may be amended from time to time, or such substances, materials and wastes which now or hereafter become regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated byphenyls, (iv) radon, (v) any substance designated as a “hazardous substance” pursuant to Sec. 311 of the Clean Water Act, 33 U.S.C. Sec. 1251, et seq. or listed pursuant to Sec. 307 of the Clean Water Act, 33 U.S.C. Sec. 1317, (vi) defined as “hazardous waste” pursuant to Sec. 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901, et seq., or (vii) defined as a “hazardous substance pursuant to Sec. 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sec. 9601, et seq., or (viii) designated as a “hazardous substance” as defined in Chapter 403, Part IV, Florida Statutes or (ix) any other similar federal, state or local regulations.

6.1.3. *Hazardous Substances Laws* means all local, state and federal laws, ordinances, statutes, rules, regulation and orders as same may now exist or may from time to time be amended, relating to industrial hygiene, Environmental protection and/or regulation, or the use, analysis, generation, manufacture, storage, disposal or transportation of Hazardous substances. For purposes of this Agreement, the Consent Decree shall be deemed a Hazardous Substance Law.

6.2. CITY’S Consent Required. After the Effective Date, no Hazardous Substances shall be brought upon or kept or used in or about the Property by any person whomsoever, unless HILL DISTRICT first obtains written consent from the CITY’S Contract Administrator, which

consent shall not be unreasonably denied. **Nothing herein shall prohibit the use of gas-powered automobiles, painting and decorating products normally used to paint or decorate a structure or products used to clean the Property.**

6.3. Compliance With Hazardous Substances Laws. During the Term, and with respect to Hazardous Substances brought onto the Property by any person whomsoever other than CITY, its agents, employees, contractors or licensees, HILL DISTRICT shall have the absolute responsibility to ensure that the Property is used at all times and all operations or activities conducted thereupon are in compliance with all Hazardous Substances Laws and the Consent Decree. With respect to Hazardous Substances brought on to the Property during the Term by any person whomsoever, other than CITY, its agents, employees, contractors or licensees, HILL DISTRICT shall be liable to CITY for any violation of Hazardous Substances Laws or violation of the Consent Decree as to such Hazardous Substances only.

6.4. Hazardous Substances Handling.

6.4.1. With respect to Hazardous Substances brought onto the Property during the Term by any person whomsoever, other than CITY, its agents, servants, employees, contractors or licensees, HILL DISTRICT shall ensure that any and all activities conducted upon the Property by any such person other than CITY, its agents, servants, employees, contractors or licensees be conducted only in compliance with all Hazardous Substances Laws and all conditions of any and all permits, licenses and other Environmental Agency approvals required for any such activity conducted upon the Property.

6.4.2. HILL DISTRICT covenants that in any activities conducted upon the Property by any person whomsoever, other than CITY, its agents, servants, employees, contractors or licensees, that Hazardous Substances shall be handled, treated, dealt with and managed in conformity with all applicable Hazardous Substances Laws and prudent industry practices regarding management of such Hazardous Substances.

6.4.3. Upon expiration or earlier termination of the Term, HILL DISTRICT shall cause all Hazardous Substances which are bought upon the Property subsequent to the Effective Date by any person whomsoever, other than CITY, its agents, servants, employees, contractors or licensees, to be removed from the Property and to be transported for use, storage or disposal in accordance and in compliance with all applicable Hazardous Substances Laws; provided, however, that HILL DISTRICT shall not take any remedial action in response to the presence of Hazardous Substances in or about the Property, nor enter any settlement agreement, consent decree or other compromise in respect to any claims relating to any Hazardous Substances Laws in any way connected with the Property, without first notifying CITY of HILL DISTRICT's intention to do so and affording CITY reasonable opportunity to appear, intervene, or otherwise appropriately assert and protect CITY's interest with respect thereto.

6.5. Notices.

6.5.1. If at any time HILL DISTRICT shall become aware or have reasonable cause to believe that any Hazardous Substance has come to be located on or beneath the Property, HILL DISTRICT shall immediately upon discovering such presence or suspected presence of the

Hazardous Substance give written notice of that condition to CITY. This Section 6.5.1 shall not apply to any Hazardous Substances identified in the Environmental Baseline.

6.5.2. In addition, HILL DISTRICT shall immediately notify CITY in writing if HILL DISTRICT has received actual or constructive notice after the Effective Date of (i) any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed or threatened pursuant to any Hazardous Substances Law, (ii) any written claim made or threatened by any person against HILL DISTRICT, the Property or improvements located thereon relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Substances, and (iii) any reports made to any Environmental Agency arising out of or in connection with any Hazardous Substances in or removed from the Property or any improvements located thereon, including any complaints, notices, warnings or asserted violations in connection therewith.

6.5.3. HILL DISTRICT shall also supply to CITY as promptly as possible, and, in any event, within five (5) days after HILL DISTRICT first receives or sends the same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Property or improvements located thereon or HILL DISTRICT's use thereof.

6.6. Environmental Liabilities.

6.6.1. CITY acknowledges that HILL DISTRICT shall not be responsible to or liable to CITY for any violation of Hazardous Substances Laws which occurred prior to the Effective Date of this Agreement or for the presence of such Hazardous Substances found on, within or below the Property, or found to have migrated from the Property to another property, where the presence of such Hazardous Substances on or off the Property predates the Effective Date, and which was not caused by HILL DISTRICT, its employees, contractors, or agents. CITY agrees that HILL DISTRICT shall have been provided adequate time and opportunity prior to the effectiveness of the Agreement, to search the Property for Hazardous Substances or violations of Hazardous Substances Law.

6.6.2. Hazardous Substances not identified in the Environmental Baseline but subsequently discovered after the Effective Date, at, under, or within the Property at levels that are in violation of the Hazardous Substances Laws shall be the responsibility of the HILL DISTRICT to the extent the Hazardous Substances were first present at, under or within the Property on or after the Effective Date.

6.6.3. As to any Hazardous Substances identified in the Environmental Baseline and/or first present at, under, or within the Property prior to the Effective Date, HILL DISTRICT shall be responsible for the release or discharge of such Hazardous Substances caused after the Effective Date by the acts or omissions of HILL DISTRICT, its agents, servants, employees, contractors or licensees.

6.6.4. Except as set forth in Article 6.6.2 above, HILL DISTRICT shall not be responsible for substances that are first designated Hazardous substances by any federal, state, county or local agency after the Effective Date unless such substances were first present at, under or within the Property on or after the Effective Date.

CITY shall be responsible for (i) Hazardous Substances that are identified in the Environmental Baseline and/or were first present at, under, or within the Property prior to the Effective Date, or (ii) as to any Hazardous Substances first present at, under, or within the Property after the Effective Date, if the release or discharge of such Hazardous Substances is caused by the acts or omissions of CITY, its agents, servants, employees, contractors or licensees, provided such acts or omissions of the CITY's agents, servants, employees, contractors or licensees are within the course and scope of their duties.

6.6.5. The Environmental Baseline for this Agreement shall include (i) any Phase I or Phase II Environmental Assessments undertaken by HILL DISTRICT prior or subsequent to the Effective Date to the extent the Environmental Assessment identifies substances that (A) were present at, within or below the Property prior to the Effective Date and (B) subsequent to the Effective Date, are first designated as Hazardous Substances under any Hazardous Substances Law or by any federal, state, county or local agency. In conducting its operations and activities on the Property, HILL DISTRICT, and its agents, servants, employees, contractors and licensees shall comply with the applicable terms, and conditions of the Report and the Declaration. The indemnity in Section 6.7 shall also cover any violations of the applicable terms and conditions of the Report caused by HILL DISTRICT, or its agents, servants, employees, contractors or licensee or damage to the institutional or engineering controls on the Property caused by HILL DISTRICT or its employees, agents, servants, contractors or licensees.

6.7. Hazardous Substances Indemnification.

6.7.1. HILL DISTRICT agrees to and shall indemnify, defend and hold CITY harmless of and from any and all claims, demands, fines, penalties, causes of action, liabilities, damages, losses, costs and expenses (including reasonable attorneys' fees and expert witness fees) that CITY may sustain (unless any of the foregoing was caused by CITY's negligence or willful misconduct or that of CITY's agents, prior occupants or tenants of the Property, servants, employees, contractors or licensees acting within the course and scope of their employment), occurring during the Term to the extent caused by Hazardous Substances brought upon the Property, during the Term by any person whomsoever, other than CITY, its agents, servants, employees, contractors acting during the course and scope of their employment.

6.7.2. In addition, and not in limitation of the foregoing, HILL DISTRICT agrees to and shall indemnify, defend and hold CITY harmless from and against any and all claims, demands, suits, losses, damages, assessments, fines, penalties, costs or other expenses (including reasonable attorneys' fees, expert witness fees and court costs) arising from or in any way related to, damage to the environment, costs of investigation charged by Environmental Agencies, personal injury, or damage to property, due to a release of Hazardous Substances on, under, above, or about the Property or in the surface or groundwater located on or under the Property, or gaseous emissions (excluding methane, radon and other naturally occurring gases) from the Property or any other condition existing on the Property to the extent caused by Hazardous Substances, where any of the foregoing occurred during the Term as a result of Hazardous Substances brought onto the Property by any person whomsoever authorized by HILL DISTRICT, other than CITY, its agents, servants, employees, contractors or licensees acting during the course and scope of their employment.

6.7.3. CITY agrees to and shall indemnify, defend and hold HILL DISTRICT harmless from and against any and all claims, demands, suits, losses, damages, assessments, fines, penalties, costs or other expenses (including reasonable attorneys' fees, expert witness fees and court costs) arising from or in any way related to, damage to the environment, costs of investigation charged by Environmental Agencies, personal injury, or damage to property, to the extent caused by the existence, discharge or release of Hazardous Substances on, under, above, or about the Property or in the surface or groundwater located on or under the Property, or gaseous emissions (excluding methane, radon and other naturally occurring gases) from the Property or any other condition existing on the Property resulting from Hazardous Substances, where any of the foregoing occurred prior to the Term and/or were caused by Hazardous Substances identified in the Environmental Baseline, and including any such substances first designated as Hazardous Substances after the Effective Date, except to the extent that any discharge or release of such Hazardous Substances was caused by HILL DISTRICT or its agents, servants, employees, contractors or licensees during the course and scope of their employment.

The Parties further agree that their indemnification obligations shall include, but are not limited to, liability for damages resulting from the personal injury or death of any employee or volunteer of CITY or HILL DISTRICT, regardless of whether CITY or HILL DISTRICT has paid the employee under the Workers' Compensation Laws of the State of Florida, or other similar federal or state legislation for the protection of employees.

6.7.4. The terms "property damage" as used in this Article includes, but is not limited to, damage to the property of the HILL DISTRICT, CITY, and of any third parties, caused by or resulting from HILL DISTRICT's breach of any of the covenants in this Article and shall include remedial activities performed by an Environmental Agency or by HILL DISTRICT pursuant to directives from an Environmental Agency.

6.7.5. HILL DISTRICT shall further indemnify, defend and hold CITY harmless from and against any and all liability, including, but not limited to, all damages directly arising out of the use, generation, storage or disposal of Hazardous Substances in, on, under, above or about the Property during the Term, including, without limitation, the cost of any required or necessary inspection required by law, audit, clean up required by law, or detoxification or remediation required by law and the preparation of any closure or other required plans, consent orders, license applications, or the like, whether such action is required by law or not, to the extent that such action is attributable to the use, generation, storage or disposal of Hazardous Substances in, on, under, above or about the Property during the Term, and all fines and penalties associated with any of the foregoing.

6.7.6. HILL DISTRICT agrees that the foregoing obligations to indemnify, defend and hold CITY harmless extends to and includes all reasonable attorneys' fees, experts' fees and costs incurred in the defense of any of the foregoing claims or demands as well as indemnifying CITY for any and all reasonable attorneys' fees, experts' fees and costs incurred by CITY in CITY's enforcement of the provisions of this Article respecting Hazardous Substances. The indemnification provided in this Agreement shall survive the termination of this Agreement, but shall end, with respect to any claim or cause of action, with the expiration of any applicable statute of limitation for such claim or cause of action.

6.7.7. HILL DISTRICT's obligation to indemnify, defend and hold CITY harmless pursuant to this Article shall be with respect to claims, damages, fines, penalties, causes of action, liabilities, losses, costs and expenses, including reasonable attorneys' fees and experts' fees, which resulted from Hazardous Substances brought in, on, under, above or about the Property during the term of this Agreement by any person whomsoever, other than CITY, its agents, servants, employees, contractors or licensees acting during the course and scope of their employment.

6.7.8. The Parties' indemnification obligations contained in this Article 6.7 shall survive the termination of the Agreement until the expiration of the applicable statute of limitations for such claim or cause of action. HILL DISTRICT's indemnification obligations set forth in this Article 6.7 shall not extend to any claim, demand, fine, penalty, cause of action, liability, damage, loss, cost or expense related to the presence of Hazardous Substances that are documented in the Environmental Baseline, except to the extent that any discharge or release of such Hazardous Substances was caused by HILL DISTRICT or its agents, servants, employees, contractors or licensees during the course and scope of their employment after the Effective Date.

ARTICLE 7.

CONDITION OF PREMISES

7.1. "AS IS" Condition. HILL DISTRICT acknowledges that it has performed sufficient inspections of the Property in order to fully assess and make itself aware of the condition of the Property, and that, except as specifically provided in Article 6 and this Article 7, HILL DISTRICT is leasing the Property in an "AS IS" condition. Except as may be expressly set forth in or required by this Agreement, HILL DISTRICT acknowledges that the CITY has made no other representations or warranties as to the condition or status of the Property and that HILL DISTRICT is not relying on any other representations or warranties of the CITY, any broker(s), or any agent of CITY in leasing the Property. Except as may be expressly set forth in or required by this Agreement, HILL DISTRICT acknowledges that neither CITY nor any agent or employee of CITY has provided any other representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to:

7.1.1. The nature, quality or condition of the Property, including, without limitation, the water, soil and geology;

7.1.2. The suitability of the Property for any and all activities and uses which HILL DISTRICT may conduct thereon;

7.1.3. Notwithstanding the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body;

7.1.4. The habitability, merchantability or fitness for a particular purpose of the Property; or

7.1.5. Any other matter with respect to the Property.

HILL DISTRICT shall maintain the Property in a good state of repair and in a condition consistent with the Permissible Uses for the Property as set forth in EXHIBIT C hereof HILL DISTRICT shall not suffer or permit the commission of any waste or neglect of the grounds, landscaping, buildings, the fixtures and equipment that HILL DISTRICT brings, constructs or places on the Property. HILL DISTRICT shall repair, replace and renovate the Property, including the structure and all the improvements located thereon as often as is necessary to keep these items in a good state of repair.

7.2. Damage to Property. On CITY's demand, HILL DISTRICT shall repair all damages to the Property that are incurred or sustained during the Term, where such damages are not caused by CITY or any of its agents, servants, employees, contractors or licensees; provided, however, that if the damage or injury is caused by CITY's tortious acts or omissions, or if the tortious acts or omissions of CITY's agents, servants, employees, contractors or licensees acting within the scope and course of their duties, then, to the extent the damage or injury in question is caused thereby, then HILL DISTRICT's liability to CITY hereunder shall be proportionately abated in accordance with Florida law.

7.3. Ownership of Improvements and Fixtures. All improvements and fixtures constructed and installed by HILL DISTRICT shall be solely owned by HILL DISTRICT during the Term of this Agreement.

7.4. Condition at End of Agreement. At the earlier of the expiration of this Agreement, HILL DISTRICT shall quit the Property and surrender it to CITY in accordance with this Section 7.5. The Property must be in good order and condition at the time of surrender thereof. At the time of surrender all landscaping shall be in a healthy and vibrant condition. All improvements and fixtures on the Property, except trade fixtures, shall become the property of CITY, free of any right, title or claim of HILL DISTRICT. HILL DISTRICT shall remove all personal property that belongs to HILL DISTRICT, or any of HILL DISTRICT'S agents, servants, employees, independent contractors or subtenants and shall repair all damage to the Property caused by such removal.

7.5. City Assistance with Environmental Agencies. HILL DISTRICT may request CITY through its City Manager for the City to undertake affirmative action(s) and/or assistance necessary to enable the Environmental permitting of the project contemplated by this Agreement, and to obtain for HILL DISTRICT any available protections from environmental liability relating to conditions at the Property existing prior to the Effective Date, including but not limited to protections under any brownfields or similar laws. The City shall provide reasonable non-financial support and assistance upon HILL DISTRICT's request.

LIENS

8.1. Liens against the Property. HILL DISTRICT shall have no power or authority to incur any indebtedness giving a right to a lien of any kind or character upon the right, title or interest of CITY in and to the real property within the Property, and no person shall ever be entitled to any lien, directly or indirectly derived through or under the HILL DISTRICT, or its agents, servants, employees, contractors or officers or on account of any act or omission of said HILL

DISTRICT as to CITY's right, title or interest in and to the real property within the Property. All Persons contracting with the HILL DISTRICT, or furnishing materials, labor or services to said HILL DISTRICT, or to its agents or servants, as well as all persons shall be bound by this provision of the Agreement. Should any such lien be filed against the real property within the Property, HILL DISTRICT shall discharge the same within thirty (30) days thereafter, by paying the same or by filing a bond, or otherwise, as permitted by law. HILL DISTRICT shall not be deemed to be the agent of CITY, so as to confer upon a laborer bestowing labor upon or within the real property underlying the Property or upon materialmen who furnish material incorporated in the construction and improvements upon the foregoing, a construction lien pursuant to Chapter 713, Florida Statutes, as same may be amended from time to time, or an equitable lien upon the CITY's right, title, or interest in and to the Property. These provisions shall be deemed a notice under Section 713.01 (26), Florida Statutes as well as Section 713.10(1) and (2)(b) Florida Statutes, as same may be amended from time to time, of the "non-liability" of the CITY. CITY shall cooperate with HILL DISTRICT in connection with any financing transaction that is secured by HILL DISTRICT's Leasehold interest in the Property and CITY shall provide upon HILL DISTRICT's request, such customary lender protection and assurance provisions needed to effectuate such financing transactions. Notwithstanding, CITY shall not agree to encumber its fee simple interest or allow its interest to be foreclosed or terminated. Such cooperation agreements shall be in form and content satisfactory to CITY in its sole discretion

ARTICLE 9.

ENTRY AND INSPECTION OF PREMISES

9.1. CITY'S Inspection and Entry Rights. CITY, or any agent thereof, shall be entitled to enter the Property during any reasonable business hours, taking into account HILL DISTRICT'S operations, in order to inspect the subject premises for compliance with this Agreement

9.2. Liability for Entry. HILL DISTRICT, and any agent, servant, employee, independent contractor, licensee or subtenant claiming by, through or under HILL DISTRICT, or any invitees thereof shall have no claim or cause of action against CITY because of CITY's entry or other action taken under this Article, except to the extent that any such claim or cause of action is due to the intentional or negligent conduct of CITY, its agents, servants, employees, contractors or licensees acting within the scope and course of their duties.

ARTICLE 10

INSURANCE AND INDEMNIFICATION

10.1. Indemnity.

10.1.1. Except as otherwise set forth in Article 6.7, HILL DISTRICT shall protect, defend, indemnify and hold harmless the CITY, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses including reasonable attorneys' fees or liabilities of every kind, nature or degree to the extent caused by HILL DISTRICT under this Agreement, conditions contained therein, the location, construction, repair, maintenance use or occupancy of the Property, or the breach or

default by HILL DISTRICT of any covenant or provision of this Agreement (hereinafter, "Claims"), except for any Claim or occurrence arising out of or resulting from the intentional torts or negligence of the CITY, its officers, agents and employees acting within the scope and course of their duties. Nothing herein shall be deemed a waiver of CITY's sovereign immunity.

10.1.2. Without limiting the foregoing, any and all such claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction, rehabilitation or restoration of the Property, alleged infringement of any patents, trademarks, copyrights or of any other tangible or intangible personal or real property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity.

10.1.3. Except to the extent a Claim arises solely out of or results from CITY's intentional torts or negligence, or any claims or causes of action accruing prior to the Effective Date, HILL DISTRICT further agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its expense and agrees to bear all other costs and expenses related thereto even if the Claim is groundless, false or fraudulent and if called upon by the CITY, HILL DISTRICT shall assume and defend not only itself but also the CITY in connection with any Claims, suits or causes of action, and any such defense shall be at no cost or expense whatsoever to CITY, provided that the CITY (exercisable by the CITY's City Attorney) shall retain the right to select counsel of its own choosing at its own expense.

10.2. Insurance. As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, HILL DISTRICT, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of HILL DISTRICT. HILL DISTRICT shall provide CITY a certificate of insurance evidencing such coverage. HILL DISTRICT's insurance coverage shall be primary insurance as respects to CITY for all applicable policies. The limits of coverage under each policy maintained by HILL DISTRICT shall not be interpreted as limiting HILL DISTRICT's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to the approval of CITY's Risk Manager.

10.2.1. The coverages, limits and/or endorsements required herein protect the interests of CITY, and these coverages, limits and/or endorsements shall in no way be required to be relied upon when assessing the extent or determining appropriate types and limits of coverage to protect HILL DISTRICT against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as CITY's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by HILL DISTRICT under this Agreement. The following insurance policies and coverages are required:

10.2.2. Builder's Risk Coverage. For improvements under construction, coverage must be afforded in an amount not less than 100% of the total project cost, including soft costs. Coverage form shall include, but not be limited to: All Risk Coverage including Flood and Windstorm with no coinsurance clause; Guaranteed Policy Extension provision; Storage and

transport of materials, equipment, supplies of any kind whatsoever to be used on or incidental to the project; Equipment Breakdown for testing of all mechanized, pressurized, or electrical equipment

10.2.3. This policy shall insure the interests of CITY, HILL DISTRICT, and subcontractors in the property against all risk of physical loss and damage, and name CITY as a Loss Payee. This insurance shall remain in effect until the work is completed and the property has been accepted by CITY.

10.2.4. Property Coverage. Coverage must be afforded in an amount not less than 100% of the replacement value of the property. Coverage form shall include, but not be limited to: All Risk Coverage including Flood and Windstorm with no coinsurance clause; Any separate Flood and/or Windstorm deductibles are subject to approval by CITY

10.2.5. This policy shall insure the interests of CITY and HILL DISTRICT in the property against all risk of physical loss and damage, and name CITY as a Loss Payee. All insurance proceeds received by or on account of this Agreement, shall be used for the purpose of reconstruction or repair, as the case may be, of any of the property, structures, improvements or fixtures contained within the Agreement so damaged or destroyed. HILL DISTRICT shall, at its own expense, take all reasonable precautions to protect the Property from damage or destruction.

10.2.6. Collection of Insurance. In the event of destruction of or damage to over fifty percent (50%) of any of the Property or the buildings, other structures and Improvements covered by insurance and HILL DISTRICT's election to rebuild the Property or the buildings, other structures and Improvements pursuant to HILL DISTRICT's option provided in this Agreement, the funds payable pursuant to such insurance policies shall be payable to, and deposited in, a commercial national bank as trustee, located in LAUDERHILL, Florida, selected by CITY, as a trust fund, and the funds shall be used for the purpose of reconstruction or repair, as the case may be, of any of the buildings, other structures or Improvements so damaged or destroyed. Such reconstruction and repair work shall be done in strict conformity with the ordinances and charter of CITY. Should the cost of reconstruction or repair exceed the amount of funds available from the proceeds of such insurance policy, and the HILL DISTRICT intends to reconstruct or repair, they are responsible for the difference. If the HILL DISTRICT does not intend to reconstruct or repair, the CITY has first right of insurance proceeds for costs of demolition and remediation. Any proceeds in excess of the costs for demolition and remediation shall be payable to the HILL DISTRICT

10.2.7. Commercial General Liability. Coverage must be afforded under a Commercial General Liability policy with limits not less than: \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury; \$1,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations; \$100,000 each occurrence for Damage to Rented Premises. Policy must include coverage for contractual liability and independent contractors.

10.2.8. CITY, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or

broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of HILL DISTRICT. The coverage shall contain no special limitation on the scope of protection afforded to CITY, its officials, employees, and volunteers.

10.2.9. Workers' Compensation and Employer's Liability. Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the City must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

10.2.10. The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the City, its officials, employees, and volunteers for all losses or damages. The City requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent. The Contractor must be in compliance with all applicable State and federal workers' compensation laws.

10.2.11. Insurance Certificate Requirements::

- 10.2.11.1.** HILL DISTRICT shall provide CITY with valid Certificates of Insurance (binders are unacceptable) at least ten (10) days prior to execution of this Lease and no later than thirty (30) days prior to commencement of any improvements.
- 10.2.11.2.** HILL DISTRICT shall provide a Certificate of Insurance to CITY with a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.,
- 10.2.11.3.** In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of HILL DISTRICT to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- 10.2.11.4.** In the event this Lease term goes beyond the expiration date of the insurance policy, HILL DISTRICT shall provide CITY with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. CITY reserves the right to suspend this Lease until this requirement is met.
- 10.2.11.5.** CITY shall be named as an Additional Insured on all liability policies.
- 10.2.11.6.** The Agreement, Lease, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.
- 10.2.11.7.** The Certificate Holder and Additional Insured should read as follows:

CITY OF LAUDERHILL,
5581 West Oakland Park Boulevard
Lauderhill, FL 33313

10.2.12. HILL DISTRICT has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding CITY as an Additional Insured shall be at HILL DISTRICT's expense.

10.2.13. If HILL DISTRICT's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Lease, HILL DISTRICT may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

10.2.14. HILL DISTRICT's insurance coverage shall be primary insurance as respects to CITY, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its officials, employees, and volunteers shall be non-contributory.

10.2.15. Any exclusions or provisions in any insurance policy maintained by HILL DISTRICT that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

10.2.16. All required insurance policies must be maintained during the Agreement. Any lapse in coverage shall be considered breach of contract. In addition, HILL DISTRICT must provide confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. CITY reserves the right to review, at any time, coverage forms and limits of HILL DISTRICT's insurance policies.

10.2.17. All notices of any claim/accident (occurrences) under this Agreement shall be provided to HILL DISTRICT's insurance company and CITY's Risk Management office, as soon as practical.

10.3. Waiver of Subrogation. Each of the parties, CITY and HILL DISTRICT, hereby releases the other from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any loss or damage to property caused by fire or any other perils insured in policies of insurance for any loss or damage to property caused by fault or negligence covering such property, even if such loss or damage shall have been caused by the fault or negligence of the other party, or anyone for which such party may be responsible, including any other licensees or occupants of the Property; provided however, that this release shall be applicable and in force and effect only to the extent that such release shall be lawful at the time and in any event only with respect to loss or damage occurring during such time as the releaser's policies shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the releaser to coverage thereunder and then only to the extent of the insurance proceeds payable under such policies. Each of CITY and HILL DISTRICT agrees that it will request its insurance carriers to include in its

policies such a clause or endorsement. If extra costs shall be charged therefore, each party shall advise the other thereof and of the amount of the extra cost and the other party, at its election, may pay the same, but shall not be obligated to do so.

ARTICLE 11.

ASSIGNMENTS AND SUBLETTING

11.1. Assignment and Subletting.

11.1.1. Unless expressly authorized otherwise herein, HILL DISTRICT may not assign this Agreement, or enter into any master sub-lease rights for the subject premises, to another person, corporation, company or other business entity by oral or written assignment or sublease agreement without obtaining CITY's prior written consent, which consent shall not be unreasonably withheld or delayed.

11.1.2. HILL DISTRICT shall provide CITY advance notice of any intention to sublease or assign this Agreement as set forth in subsection (a), which notice shall be in writing and shall state the terms and conditions of the sublease or assignment ("Assignment Notice"). Approval or disapproval of the assignment or sublease shall be provided by the City Commission within forty-five (45) days of receipt of the Assignment Notice.

11.1.2.1. As a condition to any assignment, the assignee shall agree in writing to comply with and be bound by all of the terms, covenants, conditions, provisions and agreements of this Agreement, and HILL DISTRICT shall deliver to CITY promptly after execution, an executed copy of such assignment and an agreement of said compliance by each sublease or assignee.

11.1.2.2. Notwithstanding the foregoing, nothing herein shall restrict HILL DISTRICT from entering into sub-leases, concessions or other agreements that may permit companies from occupying and operating on portions of the Property in conjunction with any activity associated with the operations and Permissible Uses identified in EXHIBIT "C."

11.2. Any assignment or subletting of this Agreement that does not comply with the provisions of Article shall be void.

ARTICLE 12.

CITY'S REMEDIES

12.1. Abandonment of Property. If HILL DISTRICT abandons or vacates the Property before the end of the Term, CITY may cancel this Agreement, subject to the notice and opportunity to cure provisions set forth in Section 12.2. On cancellation, CITY shall be entitled to peaceably enter the Property as HILL DISTRICT's agent to regain or relet the Property. CITY shall incur no liability for such entry. As HILL DISTRICT's agent, CITY may relet the Property with or without any improvements, fixtures or personal property that may be upon it, and the reletting may be made at such reasonable price, in such terms and for such duration as CITY determines and for

which CITY receives rent. Notwithstanding the foregoing, CITY is not obligated to relet the Property and CITY may, if it so elects, merely regain possession of the Property.

12.2. Dispossession on Default; Notice and Opportunity to Cure.

12.2.1. If HILL DISTRICT defaults in the performance of any covenant or condition of this Agreement, including without limitation, failure to construct the Qualified Project, CITY may give HILL DISTRICT written notice of that default with sufficient specificity to allow HILL DISTRICT to identify the default. For defaults other than nonpayment of rent or additional rent, HILL DISTRICT shall cure such default within twenty (20) business days after written notice is given or within such greater period of time as specified in the notice; provided, however, if a greater period of time is not specified in the written notice, then the period for curing such default shall be twenty business (20) days.

12.2.2. If the default (other than for nonpayment of rent or additional rent) is of such a nature that it cannot be completely cured within time specified, CITY may terminate this Agreement only if HILL DISTRICT fails to proceed with reasonable diligence and in good faith to cure the default. Thereafter, if HILL DISTRICT fails to proceed with reasonable diligence and in good faith to cure the default, termination of this Agreement may occur only after CITY gives not less than an additional ten (10) days' advance notice to HILL DISTRICT. On the date specified in the notice, the term of this Agreement will end, and HILL DISTRICT shall quit and surrender the Property to CITY, except that HILL DISTRICT will remain liable as provided under this Agreement.

12.2.3. On termination of the Agreement, CITY may peaceably re-enter the Property without notice to dispossess HILL DISTRICT, any legal representative of HILL DISTRICT, or any other occupant of the Property. CITY may retain possession through summary proceedings or otherwise and CITY shall then hold the Property as if this Agreement had not been made.

12.3. Damages on Default. If CITY retakes possession under Section 12.2, CITY shall have the following rights:

12.3.1. CITY shall be entitled to any expenses (including, but not limited to attorneys' fees, brokerage fees, advertising, administrative time, labor, etc.) that CITY incurs in returning the Property to good order and/or preparing it for re-rental.

12.3.2. CITY shall be entitled, but is not obligated, to re-let all or any part of the Property in CITY's name or otherwise, for any duration, on any terms, including but not limited to any provisions for concessions or free rent, or for any amount of rent that is higher than that in this Agreement.

12.3.3. CITY's election to not re-let all or any part of the Property shall not release or affect HILL DISTRICT's liability for damages. Any suit that CITY brings to collect the amount of the deficiency will not prejudice in any way CITY's rights to collect the deficiency for any subsequent period by a similar proceeding. In putting the Property in good order or in preparing it for re-rental, CITY may alter, repair, replace, landscape, or decorate any part of the Property in any way that CITY considers advisable and necessary to re-let the Property. CITY's alteration,

repair, replacement, landscape or decoration will not release HILL DISTRICT from liability under this Agreement.

12.3.4. CITY is not liable in any way for failure to re-let the Property, or if the Property is re-let, for failure to collect the rent under the re-letting.

12.4. Insolvency or Bankruptcy. Subject to the provisions hereof respecting severability, should HILL DISTRICT at any time during the Term suffer or permit the appointment of a receiver to take possession of all or substantially all of the assets of HILL DISTRICT, or an assignment of HILL DISTRICT for the benefit of creditors, or any action taken or suffered by HILL DISTRICT under any insolvency, bankruptcy, or reorganization act, such action shall at CITY's option, constitute a breach and default of this Agreement by HILL DISTRICT and HILL DISTRICT agrees to provide adequate protection and adequate assurance of future performance to the CITY which will include, but not be limited to the following:

12.4.1. All monetary and non-monetary defaults existing prior to the breach or default referenced above shall be cured within the time specified above that shall include all costs and attorneys' fees expended by CITY to the date of curing the default.

12.4.2. All obligations of the HILL DISTRICT must be performed in accordance with the terms of this Agreement.

If at any time during the pendency of the bankruptcy proceeding HILL DISTRICT or its successor in interest fails to perform any of the monetary or non-monetary obligations under the terms of this Agreement, or fails to cure any pre-filing default, HILL DISTRICT HEREBY STIPULATES AND AGREES TO WAIVE ITS RIGHTS TO NOTICE AND HEARING AND TO ALLOW THE CITY TOTAL RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362 TO ENFORCE ITS RIGHTS UNDER THIS AGREEMENT AND UNDER STATE LAW INCLUDING BUT NOT LIMITED TO ISSUANCE AND ENFORCEMENT OF A JUDGMENT OF EVICTION, WRIT OF ASSISTANCE AND WRIT OF POSSESSION.

12.5. Condemnation. HILL DISTRICT may prosecute any claim of loss or damage, and any right or claim to any part of an award that results from the exercise of eminent domain power of any governmental body, regardless of whether the loss or damage arise because of condemnation of all or part of the Property. If a partial taking or condemnation renders the Property unsuitable for HILL DISTRICT's purposes under this Agreement, HILL DISTRICT shall have the option to terminate this Agreement. CITY shall have the right to receive compensation from the condemning authority for the value of its fee simple real property interest in the Property.

12.6. Holding Over. HILL DISTRICT will, at the termination of this Agreement, by lapse of time or otherwise, yield up immediate possession to CITY. If HILL DISTRICT retains possession of the Property or any part thereof after such termination, then CITY may at its option, serve written notice upon HILL DISTRICT that such holding over constitutes any one of: (i) renewal of this Agreement for one year, and from year to year thereafter, (ii) creation of a month to month tenancy, upon the terms and conditions set forth in this Agreement, or (iii) creation of a tenancy at sufferance, in any case upon the terms and conditions set forth in this Agreement. HILL DISTRICT shall also pay to CITY all damages sustained by CITY resulting from a retention of

possession by HILL DISTRICT, including the loss of any proposed subsequent Lessee for any portion of the Property. The provisions of this Section shall not constitute a waiver by CITY of any right of re-entry as herein set forth; nor shall receipt of any rent or any other act in apparent affirmance of the tenancy operate as a waiver of the right to terminate this Agreement for a breach of any of the terms, covenants or obligations herein on HILL DISTRICT's part to be performed.

12.7. Cumulative Remedies. CITY's remedies contained in the Agreement are in addition to the right of a Landlord under Florida Statutes governing non-residential Landlord-Tenant relationships and to all other remedies available to a Landlord at law or in equity.

ARTICLE 13.

MISCELLANEOUS

13.1. Requirement for Notice. HILL DISTRICT shall give CITY prompt written notice of any accidents on, in, over, within, under and above the Property in which damage to property or injury to a person occurs.

13.2. Notices.

13.2.1. Except as provided in subparagraph 13.2.2 below, whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, or either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to any matter set forth in this Agreement, each such notice, demand, request or other communication shall be in writing and any law or statute to the contrary notwithstanding shall not be effective for any purpose unless the same shall be given by mailing the same by registered or certified mail, postage prepaid, return receipt requested, addressed to the party at the address set forth below, or at such other address or addresses and to such other person or firm as CITY may from time to time designate by notice as herein provided.

13.2.2. All notices, demands, requests or other communications hereunder shall be deemed to have been given or served for all purposes hereunder forty-eight (48) hours after the time that the same shall be deposited in the United States mail, postage prepaid, in the manner aforesaid, provided, however, that for any distance in excess of five hundred (500) miles, air mail service or Federal Express or similar carrier shall be utilized, if available.

AS TO CITY:

City Manager
City of Lauderhill
5581 West Oakland Park Blvd
Lauderhill, FL 33313

With copy to:

City Attorney
Hall & Rosenberg, PL
8850 West Oakland Park Blvd. Suite 101
Sunrise, FL 33351

AS TO HILL DISTRICT:

With copy to:

John M. Milledge, P.A.
699 North Federal Highway, Suite 300
Fort Lauderdale, Florida 33304
Attn: John M. Milledge, Esq.

13.3. Time Is Of The Essence. Time is of the essence as to the performance of all terms and conditions under this Agreement.

13.4. CITY'S Cumulative Rights. CITY's rights under this Agreement are cumulative, and, CITY'S failure to promptly exercise any rights given under this Agreement shall not operate of forfeit any of these rights.

13.5. Modifications, Releases and Discharges. No modification, release, discharge or waiver of any provision of this Agreement will be of any effect unless it is in writing and signed by the CITY and HILL DISTRICT.

13.6. Time. In computing any period of time expressed in day(s) in this Agreement, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

13.7. Captions. The captions, headings and title of this Agreement are solely for convenience of reference and are not to affect its interpretation.

13.8. Survival. All obligations of HILL DISTRICT hereunder not fully performed as of the expiration or earlier termination of the Term of this Agreement shall survive the expiration or earlier termination of the Term hereof.

13.9. CITY Delays; Causes beyond Control of CITY. Whenever a period of time is herein prescribed for action to be taken by CITY, CITY shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to causes of any kind whatsoever which are beyond the control of CITY.

13.10. Pledge or Security Interest. In connection with any financing of the improvements, any such financing of security interest in this Agreement by HILL DISTRICT, shall require the approval of the City Commission of the City of LAUDERHILL, Florida, which approval shall not be unreasonably withheld, conditioned or delayed.

13.11. Interpretation of Agreement; Severability. This Agreement shall be construed in accordance with the laws of the State of Florida. If any provision hereof, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, the remainder of this Agreement, or the application of the remainder of the provisions, shall not be affected. Rather, this Agreement is to be enforced to the extent permitted by law. Each covenant, term, condition, obligation or other provision of the Agreement is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this Agreement, unless otherwise expressly provided. All terms and words used in this Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and other gender as the context requires.

13.12. Successors. This Agreement shall be binding on and inure to the benefit of the parties, their successors and assigns.

13.13. No Waiver of Sovereign Immunity. Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

13.14. No Third-Party Beneficiaries. Except as may be expressly set forth to the contrary herein, the parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intends to directly, or substantially, benefit a third-party by this Agreement. The parties agree that there are no third-party beneficiaries to this Agreement and that no third-party shall be entitled to assert a claim against any of the parties based on this Agreement. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any Agreement.

13.15. Non-Discrimination. HILL DISTRICT shall not discriminate against any Person in the performance of duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

13.16. Records. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records, as applicable. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Chapter 119, Florida Statutes, to the extent Chapter 119 may be applicable to that entity. IF HILL DISTRICT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE HILL DISTRICT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, CITY CLERK'S OFFICE, 5581 WEST OAKLAND PARK BLVD., LAUDERHILL, FLORIDA 33313.

(a) HILL DISTRICT shall comply with the specific requirements of public records laws:

1. Keep and maintain public records required by the City to perform the service.

2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the HILL DISTRICT does not transfer the records to the City.

4. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the HILL DISTRICT or keep and maintain public records required by the City to perform the service. If the HILL DISTRICT transfers all public records to the City upon completion of the Agreement, HILL DISTRICT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If HILL DISTRICT keeps and maintains public records upon completion of the Agreement, HILL DISTRICT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

13.17. Entire Agreement. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

13.18. Preparation of Agreement. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort.

13.19. Waiver. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

13.20. Venue. Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida. To that end, HILL DISTRICT expressly waives whatever other privilege to venue it may otherwise have.

13.21. Force Majeure. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, pandemics, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense (“Force Majeure”). In no event shall a lack of funds alone on the part of HILL DISTRICT be deemed Force Majeure.

13.22. 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 public health unit.

13.23. Audit Right and Retention of Records.

13.23.1. CITY shall have the right to audit the books, records, and accounts of HILL DISTRICT and HILL DISTRICT’S sublessees, licensees or concessionaires that are related to the obligations of this Agreement if necessary in connection with any required audit, or no more frequently than every five (5) years otherwise. HILL DISTRICT shall keep and HILL DISTRICT shall cause HILL DISTRICT’S sublessees to keep, such books, records, and account as may be necessary in order to record complete and correct entries related to the obligations under this Agreement. All books, records and accounts of HILL DISTRICT and HILL DISTRICT’S sublessees as to the obligations set forth above 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, HILL DISTRICT or HILL DISTRICT’s sublessees, as applicable shall make same available to CITY at no cost to CITY in written form.

13.23.2. HILL DISTRICT and HILL DISTRICT’S sublessees shall preserve and make available, at reasonable times for examination and audit by CITY in the City of LAUDERHILL, Florida, all financial records, supporting documents, statistical records, and any other documents pertinent to the HILL DISTRICT’S or HILL DISTRICT’S sublessees’ obligations as set forth above or the required retention period of the Florida Public Records Law, Chapter 119, Florida Statutes, as it may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after expiration or earlier termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Law is determined by CITY to be applicable to HILL DISTRICT and HILL DISTRICT’S sublessees’ records HILL DISTRICT and HILL DISTRICT’S sublessees shall comply with all requirement thereof; however, HILL DISTRICT and HILL DISTRICT’S sublessees shall violate no confidentiality or non-disclosure requirement of either federal or state law.

13.23.3. HILL DISTRICT shall, by written contract, require HILL DISTRICT’S sublessees to agree to the requirements and obligation of this Paragraph 13.23.

13.23.4. HILL DISTRICT shall maintain during the term of this Agreement all books of account, reports and records relating to the obligations set forth herein in accordance with its historic practice which shall not materially differ from generally accepted accounting practices and standards.

13.24. Estoppel Certificate. CITY agrees to furnish no more than 3 times a year when requested by HILL DISTRICT or the holder of any deed of trust or mortgage, a certificate signed by CITY confirming and containing such factual certifications and representations as may be reasonably requested by HILL DISTRICT or the holder of any deed of trust or mortgage, including without limitation:

13.24.1. that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified, and stating the modifications);

13.24.2. that there have been no defaults thereunder by CITY or HILL DISTRICT (or if there have been defaults, setting forth the nature thereof); and

13.24.3. the date to which the rent and other charges have been paid, if any.

CITY shall, within twenty-five (25) days following receipt of said proposed certificate from HILL DISTRICT, return a fully executed copy of said certificate to HILL DISTRICT. In the event CITY shall fail to return a fully executed copy of such certificate to HILL DISTRICT within the foregoing twenty-five (25) day period, then CITY shall be deemed to have approved and confirmed the terms, certifications and representations contained in the certificate sent to CITY by HILL DISTRICT and any holder of a mortgage on the Property. Similarly, upon request from CITY, HILL DISTRICT shall provide CITY with an estoppel certificate on the same terms and conditions as set forth above.

13.25. No Encumbrance. The CITY shall never be obligated to encumber, pledge or subordinate its fee simple interest in the Property to the lien, encumbrance or interest of HILL DISTRICT or any party claiming by or through or under HILL DISTRICT.

13.26. Payment and Performance Bonds. Prior to commencement of construction of the Qualified Project and improvements to the Property, HILL DISTRICT shall provide satisfactory proof that it has secured a statutory payment and performance bond pursuant to Florida Statute Chapter 713 and Florida Statute Chapter 255 (for itself or from its respective contractor(s)) for construction of the improvements and infrastructure improvements related thereto, written by a corporate surety company on the U.S. Department of Treasury's current approved list of acceptable sureties on Federal Bonds, as found in the U.S. Department of Treasury Circular No. 570, as same may be updated from time to time in the full amount of any contract entered into by HILL DISTRICT with said bonds being executed and issued by a resident agent licensed by and having offices in the State of Florida representing such corporate surety at the time such capital improvements are constructed, conditioned upon full and faithful performance by HILL DISTRICT or any contractor, if applicable, of such contract, and full payment to all laborers and materialmen supplying labor or materials for such improvements. Such bonds shall identify CITY as an additional or dual obligee. If the bonds are provided by the contractor, the bond shall provide

that a default by HILL DISTRICT in the performance of the contractor's contract, shall not be raised as a defense to the CITY as one of the obligee's requiring performance of such construction contract by the surety.

13.27. Acknowledgment. During the term of the Agreement, HILL DISTRICT shall prominently display or acknowledge the contribution of the CITY to the establishment of the Gateway Destination complex located on the Property in LAUDERHILL in a manner satisfactory to the CITY.

13.28. Leasehold Financing. HILL DISTRICT may not, without CITY's consent, grant a security interest, in its leasehold interest in the Property. CITY, at HILL DISTRICT's expense, agrees to reasonably cooperate with HILL DISTRICT in connection with any financing and agrees to execute documents in form and substance acceptable to CITY and its attorney in its commercially reasonable discretion reasonably required by HILL DISTRICT's lenders, including the obligation to give such lender additional notice and opportunity to cure and to enter into a new Agreement upon a bankruptcy or similar event. Execution of such documents is subject to City Commission reasonable approval. In addition, the CITY, at HILL DISTRICT's expense, will reasonably cooperate with HILL DISTRICT and will execute any required utility easements, covenants and applications as may be required to develop the Property. Nothing herein shall be construed as a right to encumber or subordinate the fee interest of the CITY in the Property, which encumbrance or subordination is prohibited by law.

13.29. Naming Rights. Subject to compliance with all governmental regulations, HILL DISTRICT shall have the exclusive right to name structures or elements of the buildings or on the interior or exterior of the Property in a manner that is aesthetically pleasing and in harmony with the surrounding community. CITY reserves the right to disapprove and thus prohibit any name for the buildings ("Naming Rights") that the City Commission reasonably deems in bad taste or offensive to the CITY image, or in the reasonable opinion of the City Commission is a source of embarrassment to the LAUDERHILL community.

13.30. Community Benefits Plan. HILL DISTRICT shall operate the development to provide for the following opportunities to be available for City of LAUDERHILL residents which shall include but be limited to the following: (1) on-site job training program available for city residents; (2) yearly internship program in conjunction with Broward Schools; and (3) quarterly meetings to be held with the adjacent community to present job training and job position opportunities, as well as needed services and related business opportunities for the various ongoing and scheduled operations.

13.31. Technology Reinvestment. HILL DISTRICT agrees to design, develop, construct and maintain the Project to meet the City's vision for high quality and high technology development standards for this regional destination. HILL DISTRICT shall reinvest and upgrade such technology on an ongoing basis in its reasonable discretion pursuant to commercially reasonable standards. The intent of the parties is that the technological features be maintained in good working order and continue to be updated to commercially reasonable standards such that the technology does not become outdated. HILL DISTRICT agrees to work with CITY regarding any reasonable requests for updates or upgrades. In addition, each Fiscal Year during the term of this Agreement, HILL DISTRICT

shall budget a minimum of One Hundred Thousand Dollars and No Cents (\$100,000.00), increasing three percent (3%) each year, for the purposes of software and hardware maintenance, repairs and upgrades. Any unused funds in a Fiscal Year shall roll over and become cumulative with the following year's fiscal allocation.

13.32 Electronic Signage. The parties recognize and agree that the site requires significant electronic signage as well as opportunities for the latest technology such as digital art, holograms, and other cutting-edge technology, including technology that will likely be developed during the term of this Agreement. The parties intend that this Gateway Destination reflects such latest technology to showcase the site as an exciting and unique destination for residents and tourists. CITY shall cooperate with HILL DISTRICT in order to effectuate the purposes of this Agreement as a technological gateway destination. HILL DISTRICT shall make signage copy available to CITY to showcase the significant public purpose copy for on-site employment opportunities, job, training opportunities, and internship opportunities, as well as City approved public information. HILL DISTRICT agrees to work with and provide CITY access to promote CITY events through HILL DISTRICTS signage.

13.33. Offers to Purchase. Any offers submitted by HILL DISTRICT to purchase the CITY's interests in the Property shall comply with City Charter provisions.

13.34. Public Purpose. HILL DISTRICT shall design in coordination with the CITY, construct, and maintain at its own cost an expense to be completed during the Phase 1 of the Project: (1) a commercial kitchen proximate to the Lauderhill Performing Arts Center ("LPAC") which will be available to serve all Lauderhill Performing Arts Center (LPAC) events, Community Redevelopment Agency (CRA) events, CITY sponsored and co-sponsored events, and CITY rentals (collectively "City" Events); and (2) public green space/event space/plaza; (3) a minimum 400 space state-of-the-art parking garage ("City Garage") which shall be owned by CITY. CITY shall have use of all (at a minimum of 400) spaces including all parking revenues in conjunction with such spaces for all Lauderhill Performing Arts Center (LPAC) events, Community Redevelopment Agency (CRA) events, CITY sponsored and co-sponsored events, and CITY rentals (collectively "City" Events). HILL DISTRICT shall have use and control of the City Garage, including revenues associated with such spaces, for all other dates and times other than when City Events are scheduled. HILL DISTRICT shall contact CITY in advance to determine availability and to schedule the use of City Garage when no City Events are scheduled. City Events shall take precedence for scheduling of use of City Garage. HILL DISTRICT intends to utilize the City Garage in conjunction with promoting and holding events in the Broward County Central Park, such as: e-sports, drone racing, and concerts. HILL DISTRICT and CITY will work in good faith to establish protocols and procedures for coordination to maximize the utilization of the City Garage.

IN WITNESS OF THE FOREGOING, THE PARTIES HAVE SET THEIR HANDS AND SEALS

AS TO CITY:

WITNESSES

CITY OF LAUDERHILL

BY: _____
Ken Thurston, Mayor

PRINT NAME

BY: _____
Desorae Giles-Smith,
City Manager

PRINT NAME

(CORPORATE SEAL)

ATTEST:

BY: _____
Andrea M. Anderson, City Clerk

APPROVED AS TO FORM:

BY: _____
Angel Petti Rosenberg,
City 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 _____, 2024 by Desorae Giles-Smith, City Manager of the City of LAUDERHILL, a Florida municipal corporation. He is personally known to me or produced _____ as identification.

(SEAL)

NOTARY PUBLIC

Notary Public, State of Florida
(Signature of Notary taking

Acknowledgment)

Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number

AS TO HILL DISTRICT

ATTEST:

THE HILL DISTRICT LLC, a Delaware
Limited Liability Company

Secretary

By: _____

Print name above

Print name above

(SEAL)

____ day of _____, 20____

WITNESSES

PRINT NAME

PRINT NAME

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 _____, 2024 by _____, as
_____ of THE HILL DISTRICT LLC, a Delaware Limited Liability Company. He
is personally known to me or produced _____ as identification.

(SEAL)

NOTARY PUBLIC

Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed,
Printed or Stamped
My Commission Expires:

Commission Number

EXHIBIT A

Description
Of
Property

EXHIBIT B
(Conceptual)

EXHIBIT C

PERMISSIBLE USES

Gateway Destination Complex including hotel use, restaurants, parking facilities including city garage, multi-family, commercial retail, commercial kitchen, job training space, public outdoor green/event space, necessary infrastructure and compatible uses.