

Amended and Restated Redevelopment Agreement

among

The City of Jacksonville,

The Downtown Investment Authority

and

Elements Development of Jacksonville, LLC

for

Redevelopment of the JEA Southside Generator Parcel

AMENDED AND RESTATED REDEVELOPMENT AGREEMENT

This **AMENDED AND RESTATED REDEVELOPMENT AGREEMENT** (this “Agreement”) is made as of this ___ day of _____, 2023 (the “Commencement Date”), but remains effective as of July 12, 2018, among the **DOWNTOWN INVESTMENT AUTHORITY**, a community redevelopment agency on behalf of the City of Jacksonville (the “DIA”), the **CITY OF JACKSONVILLE**, a municipal corporation and a political subdivision of the State of Florida (the “City”), **ELEMENTS DEVELOPMENT OF JACKSONVILLE, LLC**, a Florida limited liability company (the “Developer”), and as joined and guaranteed pursuant to that certain Joinder Agreement dated April 23, 2019 and by its execution hereof joined and guaranteed by **DISTRICT COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special-purpose government organized and existing under the laws of the State of Florida (“CDD”).

RECITALS:

WHEREAS, the City, DIA, Developer and CDD, previously entered into that certain Redevelopment Agreement dated July 12, 2018, as authorized by 2018-313-E, as amended by that certain First Amendment to Redevelopment Agreement and CRA Infrastructure Improvements Costs Disbursement Agreement dated May 4, 2021, as authorized by Ordinance 2021-158-E (collectively, the “Redevelopment Agreement”), City Contract number 10446, for the City and DIA to provide certain economic incentives to Developer in connection with its intended development of the Project (as defined in the Redevelopment Agreement) in downtown Jacksonville; and

WHEREAS, the Developer has requested and the City and DIA have agreed to amend and restate the Redevelopment Agreement and other ancillary and related documents pursuant to the terms and conditions as set forth herein; accordingly, this Agreement amends and restates the Redevelopment Agreement in its entirety and does not serve as a termination of the Redevelopment Agreement, which is hereby ratified and reaffirmed by the parties hereto, and the parties do not waive any cause of action they may have occurring prior to the Commencement Date hereof and related to the Redevelopment Agreement; and

WHEREAS, the modifications to the Redevelopment Agreement contained herein are reflective of enhancements to the scope of the RiversEdge Project (f/k/a as the “District Project”) and the Project, partial completion of various aspects of the Project, and changed circumstances both in general market conditions and in construction contracting including timing delays and increased costs of the RiversEdge Project as well as the Project.

Article 1.

PRELIMINARY STATEMENTS

1.1 The Project.

(a) The Developer has submitted a proposal to the DIA to oversee and manage the development of RiversEdge, a mixed use master planned development anticipated to include approximately 1,170 residential units, 200 hotel rooms, 200,000 square feet of Class A Office

Space, 121,400 square feet of retail space, 125 marina slips (collectively, the “Vertical Improvements”) (as more specifically described in the attached Exhibit A, and inclusive of the CDD Infrastructure Improvements defined below, the “RiversEdge Project”). The RiversEdge Project will be developed on property to be acquired by Developer simultaneously with the execution of this Agreement, as described on Exhibit B attached hereto (the “Project Parcel”) located in the Southside Community Redevelopment Area of downtown Jacksonville. Subject to the approval of the DIA Board, two additional properties that may be acquired by the Developer after the Commencement Date hereof may be included within the definition of the Project Parcel, but such additional property shall be limited to the Intake Parcel along the Riverwalk (“Intake Parcel”), and a northerly portion of the eastern one-half of the portion of Broadcast Place being relocated (the “Broadcast Place Parcel”) (upon closure and abandonment by the City, if closed and abandoned), each as shown on Exhibits B-1 and B-2 attached hereto, respectively.

(b) Attendant to the RiversEdge Project, the Developer will initiate, oversee and manage the creation of a Community Development District (the “CDD”) pursuant to Chapter 190, Florida Statutes and Chapter 92, Ordinance Code for the City of Jacksonville (“Ordinance Code”). The CDD will issue bonds in an amount sufficient for the CDD’s development of certain horizontal infrastructure improvements (inclusive of any additional issuance or refunding bonds, the “CDD Bonds”) on the Developer Parcel (defined in Paragraph 1.1(c) below) to support the private development of the Vertical Improvements (provided the 125 marina slips and associated marina may alternatively be publicly developed by the CDD), inclusive of roadways, electrical, water and sewer utilities, and other horizontal improvements as further described on Exhibit C attached hereto and incorporated herein by this reference (the “CDD Infrastructure Improvements”). The CDD Bonds shall also be issued or reissued in such amounts as necessary to provide the estimated shortfall in the budget for the CRA Infrastructure Improvements as set forth on Exhibit L attached hereto.

(c) After the issuance of the CDD Bonds, the Developer will convey to the City those certain parcels of land within the Project Parcel and will grant (or cause JEA to grant) an easement with respect to a boardwalk and trail system, as further detailed on Exhibit D attached hereto and incorporated herein by this reference (collectively, the “City Parcels”, which term shall include certain real property acquired by the Developer from the Duval County School Board that will facilitate the easterly extension of Prudential Drive). The portion of the Project Parcel retained by the Developer after transfer of the City Parcels to the City is referred to herein as the “Developer Parcel.” The CDD, on behalf of the DIA and the City, will cause the development and construction, in combination with the CDD Infrastructure Improvements, of certain horizontal public infrastructure improvements on the City Parcels, inclusive of roadways, riverwalk installation and extension, utilities, parks, parking, pedestrian walking and biking trails, bulkhead improvements, and certain other improvements as further detailed on Exhibit E (the “CRA Infrastructure Improvements”) attached hereto, and that will be funded by the DIA pursuant to that certain CRA Infrastructure Improvements Costs Disbursement Agreement (“Disbursement Agreement”) substantially in the form attached as Exhibit B to the Interlocal Agreement (defined below), to be entered into by the CDD, the City and the DIA simultaneously with the issuance of the CDD Bonds. The Developer and the CDD shall be responsible for all costs attendant to the CRA Infrastructure Improvements in excess of the sum of \$23,000,000 (the “DIA Funding Obligation”).

(d) The City, the DIA, and the Developer are entering into this Agreement, and the CDD has joined this Agreement pursuant to that certain Joinder Agreement among the Developer, DIA, City and CDD dated April 23, 2019 for the purpose of evidencing their intent to: (i) specify the terms and conditions of the development of the Project (defined in Section 2.26 below) by or on behalf of the CDD and to provide access to the City Parcels and Developer Parcel for the same; (ii) provide a REV Grant (defined in Article 7 below) to the CDD in connection with the CDD Infrastructure Improvements and Vertical Improvements; and (ii) provide certain other terms and conditions for the development of the RiversEdge Project.

(e) The development of the CDD Infrastructure Improvements and the Vertical Improvements are anticipated to represent a total Capital Investment (measured by estimated assessed value of completed Vertical Improvements) in downtown Jacksonville by the CDD, the Developer, and its permitted vertical developers, of approximately \$693,396,943.

1.2 **Authority.**

The DIA was created by the City Council of the City of Jacksonville pursuant to Ordinance 2012-364-E. Pursuant to Chapter 163, Florida Statutes, and Section 55.104, Ordinance Code, the DIA is the sole development and community redevelopment agency for Downtown, as defined by Section 55.105, Ordinance Code and has also been designated as the public economic development agency as defined in Section 288.075, Florida Statutes, to promote the general business interests in Downtown. The DIA has approved this Agreement pursuant to its Resolution 2023-___-___ (“Resolution”) and the City Council has authorized execution of this Agreement pursuant to City Ordinance 2023-___ (the “Ordinance”).

1.3 **Community Redevelopment Area.**

The City Council has found that a blighted area exists in the Southside Community Redevelopment Area pursuant to Ordinance No. 1980-1347-704-E) (the “Redevelopment Area”), pursuant to criteria established in the Community Redevelopment Act set forth in Chapter 163, Florida Statutes, Part III. After public hearing, a revised redevelopment plan for the Redevelopment Area was reviewed and the City Council approved a revised community redevelopment plan (the “Plan”) for the Redevelopment Area, which Plan and the implementation thereof is governed by the provisions of Ordinance No. 2014-560-E as updated by Ordinance 2022-372.

1.4 **City/DIA Determination.**

- (a) The City has determined that the Project is consistent with the goals of the City in that the Project will, among other things:
- (i) increase capital investment in Downtown Jacksonville;
 - (ii) generate significant new ad valorem taxes, including significant new tax revenues for the public school system;
 - (iii) help meet the overall community goal of residential and business development and growth in Downtown Jacksonville;

- (iv) provide jobs to low and moderate income persons; and
 - (v) promote and encourage private Capital Investment of approximately \$693,396,943.
- (b) The DIA has determined that the Project is a “Catalyst Project” under the DIA’s Community Redevelopment Area Plan and is consistent with the following North Bank Downtown and Southside Community Redevelopment Area Plan Redevelopment Goals:
- (i) Redevelopment Goal No. 2 | Increase rental and owner-occupied housing Downtown targeting diverse populations identified as seeking a more urban lifestyle;
 - (ii) Redevelopment Goal No. 3 | Increase and diversify the number and type of retail, food and beverage, and entertainment establishments within Downtown;
 - (iii) Redevelopment Goal No. 4 | Increase the vibrancy of Downtown for residents and visitors through arts, culture, history, sports, theater, events, parks, and attractions;
 - (iv) Redevelopment Goal No. 5 | Improve the safety, accessibility, and wellness of Downtown Jacksonville and cleanliness and maintenance of public spaces for residents, workers, and visitors;
 - (v) Redevelopment Goal No. 6 | Improve the walkability/bike-ability of Downtown and pedestrian and bicycle connectivity between Downtown and adjacent neighborhoods and the St. Johns River; and
 - (vi) Redevelopment Goal No. 7 | Capitalize on the aesthetic beauty of the St. John’s River, value its health and respect its natural force, and maximize interactive and recreational opportunities for residents and visitors to create waterfront experiences unique to Downtown Jacksonville.

1.5 **Jacksonville Small and Emerging Business Program.**

As more fully described in City Ordinance 2004-602-E, the City has determined that it is important to the economic health of the community that whenever a company receives incentives from the City, that company provides contracting opportunities to the maximum extent possible to small and emerging businesses in Duval County as described in Section 7.26 of the Disbursement Agreement.

1.6 **Coordination by City/DIA.**

The DIA and the City hereby designate the Chief Executive Officer of the DIA (“CEO”) or his or her designee (or if at any point during the term of this Agreement the DIA or a successor agency does not exist, the Mayor or his or her designee) to be the project coordinator who will, on

behalf of the City, coordinate with the Developer and the CDD and administer this Agreement according to the terms and conditions contained herein and in the Exhibit(s) attached hereto and made a part hereof. It shall be the responsibility of the Developer and the CDD as applicable to coordinate all RiversEdge Project related activities with the designated project coordinator. To the fullest extent permitted by applicable City Ordinances, the project coordinator shall be entitled to grant any consents and approvals and enter into any amendments under this Agreement (other than extensions of certain time periods in the Performance Schedule, except as specifically provided for herein, so long as any such amendments do not increase the City's or DIA's financial obligations under such agreements), which shall not require any review and approval by the City Council, the DIA or other departments or agencies of the City unless such approvals or consents are more appropriately performed by another City agency as determined by the project coordinator (for example, zoning change applications are approved by the City Planning Department).

1.7 **Maximum Indebtedness.** The maximum indebtedness of the City and DIA for all fees, costs or other monetary amounts under this Agreement is an up to amount consisting of (i) \$97,986,000 for the REV Grant authorized by Article 7 hereof and (ii) \$600,000 as the City Parks Utility Reserve, the expenditure of which, if at all, shall be in the sole discretion of the DIA, and may be utilized pursuant to the Disbursement Agreement or as otherwise directed by the DIA and relating to the CRA Infrastructure Improvements, for a cumulative, maximum indebtedness of up to NINETY EIGHT MILLION, FIVE HUNDRED EIGHTY-SIX THOUSAND AND NO/100 DOLLARS (\$98,586,000.00). The DIA Funding Obligation and other funds shall be encumbered and disbursed pursuant to the Disbursement Agreement subject to the provisions of Section 1.8 below.

1.8 **Availability of Funds.** Notwithstanding anything to the contrary herein, all of the City's and the DIA's financial obligations under this Agreement are contingent upon availability of lawfully appropriated funds for its obligations under this Agreement. The DIA shall request from City Council either through its annual budget process or stand-alone legislation the funds as necessary for the payments required by the DIA hereunder. The City and the DIA make no representation or warranty as to whether such requests will be granted by the City Council.

NOW THEREFORE, in consideration of the mutual undertakings and agreements herein of the City, the DIA, and the Developer, and for Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged, the City, the DIA, and the Developer agree that the above Preliminary Statements are true and correct, and represent, warrant, covenant and agree as follows:

Article 2. DEFINITIONS

As used in this Agreement, the following terms shall have the meaning set opposite each:

2.1 **Abandon or Abandonment.**

“Abandon” or “Abandonment” shall have the meaning set forth in the Disbursement Agreement.

2.2 **Affiliate.**

A person or entity, directly or indirectly, controlling, controlled by or under common control with a person or entity or related to a person by blood or marriage.

2.3 **Base Year.**

The base year for purposes of this Agreement shall be the 2018 tax year.

2.4 **Budget/Scope of Work/Construction Schedule for CDD Infrastructure Improvements.**

The line item budget of Direct Costs of the CDD Infrastructure Improvements attached hereto as **Exhibit K** and showing the total costs for each line item, as the same may be revised from time to time consistent with the requirements of the Disbursement Agreement.

2.5 **Budget/Scope of Work/Construction Schedule for CRA Infrastructure Improvements.**

The line item budget of Direct Costs of the CRA Infrastructure Improvements attached hereto as **Exhibit L**, and showing the total costs for each line item, as the same may be revised from time to time consistent with the requirements of the Disbursement Agreement.

2.6 **Capital Investment.**

Money invested by the Developer or the CDD, or their respective successors or assigns, to purchase items that may normally be capitalized by a developer in the normal conduct of its business to design, construct and develop a project, including land acquisition costs.

2.7 **CDD Infrastructure Improvements.**

The horizontal infrastructure improvements to be constructed by or on behalf of the CDD as set forth on **Exhibit C** attached hereto, which shall not be materially amended or modified without the prior written consent of the CEO of the DIA and the Director of Public Works. The CDD Infrastructure Improvements shall include construction of a minimum of 100 parking spaces dedicated to public use (as further described in Section 6.6 hereof, the “Dedicated Public Parking”) relating to the CRA Infrastructure Improvements, to be funded solely by the Developer or the CDD, which shall not be included within the CRA Infrastructure Improvements budget.

2.8 **City Council.**

The body, as the same shall be from time to time constituted, charged with the duty of performing the legislative function of the City.

2.9 **City Parcels.**

Those parcels of land and the boardwalk and trail system easements described on **Exhibit D** attached hereto.

2.10 **Commence Construction.**

The terms "Commence" or "Commenced" or "Commencing" Construction as used herein when referencing the Project or any portion thereof means the date when CDD has issued the CDD Bonds, has completed all pre-construction engineering and design and has obtained all necessary licenses, permits and governmental approvals, has engaged all contractors and ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the Project may commence, and has "broken ground" and begun physical, material renovation and construction (e.g., removal of vegetation or site preparation work or such other evidence of commencement of construction as may be approved by the DIA in its reasonable discretion) of such improvements.

2.11 **Construction Inspector.**

Construction Inspector shall have the meaning as set forth in the Disbursement Agreement.

2.12 **CRA Infrastructure Improvements.**

The horizontal infrastructure improvements to be constructed by or on behalf of the CDD on the City Parcels as set forth on **Exhibit E** attached hereto, which shall not be amended or modified without the prior written consent of the CEO of the DIA, Director of Public Works and the other parties hereto. The CRA Infrastructure Improvements shall include Dedicated Public Parking spaces dedicated to public use relating to the CRA Infrastructure Improvements, to be funded solely by the Developer or the CDD, which shall not be included within the CRA Infrastructure Improvements budget.

2.13 **Developer.**

Elements Development of Jacksonville, LLC, a Florida limited liability company.

2.14 **Developer Parcel.**

That certain parcel of land described on **Exhibit H** attached hereto.

2.15 **DIA.**

The Downtown Investment Authority of the City of Jacksonville and any successor to its duties and authority.

2.16 **DIA Funding Obligation.**

The up-to, maximum amount of \$23,000,000 that the DIA will disburse to the CDD pursuant to the Disbursement Agreement for the Direct Costs incurred by the CDD in the development and construction of the CRA Infrastructure Improvements.

2.17 **Direct Costs.**

“Direct Costs” shall have the meaning set forth in the Disbursement Agreement. The DIA intends to engage an owner’s representative that will provide Construction Inspector and other services to DIA, all at the expense of DIA.

2.18 **Disbursement(s).**

Disbursements to the CDD pursuant to the Disbursement Agreement of sums equivalent to CDD’s Direct Costs for the CRA Infrastructure Improvements as approved by the DIA pursuant to this Agreement for the design, engineering, permitting and construction of the CRA Infrastructure Improvements. The Disbursements will be made at the times and subject to the terms and conditions set forth in the Disbursement Agreement.

2.19 **Disbursement Agreement.**

The CRA Infrastructure Improvements Costs Disbursement Agreement entered into among the DIA, District Community Development District, and the Developer, dated December 22, 2020, as the same may be amended or restated from time to time.

2.20 **RiversEdge Project.**

The mixed-use master planned development located on the Project Parcel in the Southside Community Redevelopment Area of downtown Jacksonville that is the subject of this Agreement and which shall include the CDD Infrastructure Improvements.

2.21 **Duval County School Board (“DCSB”) Agreement.**

The Access and Land Swap Agreement entered into between the Developer and the Duval County School Board dated July 1, 2018, which authorizes a property exchange to relocate the DSCB parking lot and to allow for the extension of Prudential Drive to serve as the main entrance for the RiversEdge Project.

2.22 **Effective Date.**

As defined on the first page hereof.

2.23 **Interlocal Agreement.**

The Interlocal Agreement among the CDD, the City and the DIA dated December 22, 2020, as the same is amended or renewed from time to time.

2.24 **Material Milestones.**

The deadline for the creation of the CDD, the deadline for the issuance by the CDD of the CDD Bonds, the Closing Date for the conveyance of the City Parcels, date of Commencement of Construction and the date of Substantial Completion of the CRA Infrastructure Improvements and the CDD Infrastructure Improvements, all as further described in Items (d), (e), (f), (i), (j), (k), (l),

(m), (n) and (o) in the Performance Schedule attached hereto as **Exhibit J**.

2.25 **Performance Schedule.**

The schedule of performance milestones as set forth in **Exhibit J** attached hereto.

2.26 **Project.**

The construction and development of the CDD Infrastructure Improvements and the CRA Infrastructure Improvements consistent with this Agreement and documents attached hereto.

2.27 **Project Parcel.**

The real property described on **Exhibit B** attached hereto, and if subsequently approved by the DIA Board after the Commencement Date hereof, the real property described on **Exhibits B-1** and **B-2** attached hereto.

2.28 **Substantial Completion.**

“Substantial Completion” and “Completion” (or words to such effect) have the meaning provided in the Disbursement Agreement except that “Project” shall be substituted for “CRA Infrastructure Improvements” when using this definition for this Agreement.

2.29 **Vertical Improvements.**

The approximately 1,170 residential units, 200 hotel rooms, 200,000 square feet of Class A Office Space, 121,400 square feet of retail space, 125 marina slips and other improvements described generally in the attached **Exhibit A**.

Other capitalized terms not defined in this Article shall have the meanings assigned to them elsewhere in this Agreement.

Article 3.
APPROVALS; PERFORMANCE SCHEDULES

3.1 **Approval of Agreement.**

By the execution hereof, the parties certify as follows:

- (a) The Developer certifies that
 - (i) the execution and delivery hereof has been approved by all parties whose approval is required under the terms of the governing documents creating the Developer entity;
 - (ii) this Agreement does not violate any of the terms or conditions of such governing documents and the Agreement is binding upon the Developer and enforceable against it in accordance with its terms;

- (iii) the person or persons executing this Agreement on behalf of the Developer are duly authorized and fully empowered to execute the same for and on behalf of the Developer;
- (iv) the Developer is duly authorized to transact business in the State of Florida and has received all necessary permits and authorizations required by appropriate governmental agencies as a condition to doing business in the State of Florida; and
- (v) the Developer, its business operations, and each person or entity composing the Developer are in compliance with all federal, state and local laws.

(b) The City and the DIA certify that the execution and delivery hereof is binding upon the City and DIA to the extent provided herein and enforceable against each of them in accordance with its terms.

3.2 **Performance Schedule.**

Subject to the terms and conditions of this Agreement, the Developer and the DIA have jointly established certain dates and milestones as set forth on the Performance Schedule attached hereto as **Exhibit J** for the design, engineering, permitting and construction of the Project. The City, the DIA and the Developer have approved the Performance Schedule. By its execution of the Joinder Agreement, and subject to the terms of this Agreement, the CDD shall approve the Performance Schedule and agree to complete the construction and development of the Project in accordance with the Performance Schedule. Representatives of the Developer and the CDD shall meet with the CEO of the DIA or his or her designee(s) from time-to-time (and no event less frequently than once each calendar quarter) to update the DIA on progress made and anticipated delays (if any) in the Performance Schedule, and as otherwise may be required in the Disbursement Agreement. From and after the Commencement Date, the CEO of the DIA may grant extensions of the Performance Schedule herein and in the Disbursement Agreement in the cumulative amount under each Agreement of up to six (6) months in the CEO's sole discretion for good cause shown by the Developer or the CDD. Thereafter, the DIA Board may grant extensions of the Performance Schedule herein and in the Disbursement Agreement in the cumulative amount under each Agreement of up to six (6) months for good cause shown by the Developer or the CDD. In addition, the timeframes for items on the Performance Schedule shall be extended to address any delays not caused by the Developer or CDD arising from or relating to governmental action on permits (e.g., permits relating to the development and operation of the marina), other governmental review/approval processes, or third party appeals or litigation challenging governmental permits or approvals (collectively, "Regulatory Delays"). Except as may otherwise be expressly permitted in this Agreement and subject to extension for force majeure and for Regulatory Delays, the Material Milestones may be extended (a) for one year beyond the timeframes set forth in the Performance Schedule with the prior approval of the CEO of the DIA and (b) for one additional year thereafter with the prior approval of the DIA Board. Any requested extensions thereafter shall require the approval of City Council.

3.3 **Waiver of State Law Rights to Development Deadline Extensions.**

State laws have previously allowed developers to extend development deadlines in local government development orders/agreements by giving notice to the local government. The Developer and the CDD acknowledge and agree that such past extension requests do not apply to the timeframes set forth in the Performance Schedule for the Material Milestones. In consideration for the City's and the DIA's obligations under this Agreement, the Developer and the CDD hereby waive any and all rights under any existing or future state laws that may affect the timeframes set forth in the Performance Schedule for the Material Milestones. If in the future the Florida legislature enacts additional rights for community development districts or community redevelopment areas to extend development deadlines in development orders or development agreements, the Developer and the CDD hereby waive any and all rights to such extensions with respect to the timeframes set forth in the Performance Schedule for the Material Milestones and acknowledge and agree that if they attempt to exercise any such rights, then such an event shall be an Event of Default hereunder. Any request for extension of development deadlines shall be made, if at all, pursuant to Section 3.2 above.

Article 4.
CREATION OF COMMUNITY DEVELOPMENT DISTRICT

4.1 **Creation of CDD.**

Consistent with the time frames set forth in the Performance Schedule, the Developer shall initiate, oversee and manage the creation of the CDD, in accordance with Chapter 190, Florida Statutes and Chapter 92 of the Ordinance Code, to (among other things) develop, construct, operate and maintain the Project, consistent with this Agreement and the documents attached hereto. The City agrees that, upon petition of the Developer and satisfaction of all applicable requirements, the City will file legislation with its City Council to authorize the creation of the CDD. Each of the City and the DIA agree to use reasonable efforts to support the creation of the CDD. The City and the DIA make no representation or warranty regarding the approval or denial of such petition. The Developer shall pay for all costs associated with the creation of the CDD.

Article 5.
CONVEYANCE OF CITY PARCELS TO THE CITY

5.1 **Property Conveyed.**

Subject to the terms and conditions of this Agreement and the Permitted Exceptions (as hereafter defined), the Developer hereby agrees to sell and convey to the City, and The City hereby agrees to purchase from the Developer, the City Parcels for the sum of Ten and No/100 Dollars (\$10.00) (the "Purchase Price"), pursuant to the terms and conditions of this Article 5. The boardwalk and trail component of the City Parcels shall be granted to the City by the Developer or by JEA by easement. Upon the election of the CEO of the DIA as provided in Section 5.4(e) below, the City may receive a grant of rights to any component of the City Parcels by easement rather than by transfer of fee title. Conveyances of waterfront property associated with the marina shall be structured in such a manner as will permit the development and operation of the marina as part of the RiversEdge Project, while recognizing the City's intended uses and property rights

in the City Parcels. The City's obligations herein to fund the CRA Infrastructure Improvements and provide the REV Grant to the CDD also constitute consideration for the purchase of the City Parcels by the City.

5.2 Conditions to Closing.

(a) Title Commitment and Survey. The City hereby acknowledges receipt from the Developer of a survey of the Project Parcel furnished by the Developer to the JEA in connection with the Developer's purchase of the Project Parcel (the "Project Parcel Survey") and a commitment for title insurance (the "Project Parcel Title Commitment") for an Owner's Policy of Title Insurance for the Project Parcel. The City hereby acknowledges that the City has reviewed the Project Parcel Title Commitment and the Project Parcel Survey and has agreed that the City does not object to any exception to title shown on the Project Parcel Title Commitment or any matter shown on the Project Parcel Survey as adversely affecting the real property interests to be acquired by the City in the City's acquisition of the City Parcels. Within 5 days after the CDD's execution and delivery of the Joinder Agreement, the Developer shall at its own expense obtain a survey of the City Parcels (the "City Parcels Survey") and a commitment for title insurance (the "City Parcels Title Commitment") for an Owner's Policy of Title Insurance for the City Parcels, and provide copies of each to the City. The City shall have twenty (20) days thereafter (the "Approval Period") within which to review the City Parcels Title Commitment and the City Parcels Survey and to object to any exception to title shown on the City Parcels Title Commitment or any matter shown on the City Parcels Survey; provided, however, that the City shall have no right to object with respect to any item included on the Project Parcel Survey or in the Project Parcel Title Commitment. If the City fails to object to any such title exception or Survey matter (subject to the limitations set forth above as to items included on the Project Parcel Survey or the Project Parcel Title Commitment) by written notice to the Developer within the Approval Period, the City shall be deemed to have approved the City Parcels Title Commitment and the City Parcels Survey. If the City objects to any such exception or Survey matter by written notice to the Developer during the Approval Period, the Developer shall have the right to cure or attempt to cure the City's objection to such exception or Survey matter within thirty (30) days after the City's notice of objection, or, if sooner, by the Closing Date, as hereinafter defined; provided however that the Developer shall not have any obligation to cure any such objected to exception or objection to title or Survey or to bring suit to cure any or all title or Survey exceptions or defects; provided, further, that the Developer will use reasonable efforts to do so without incurring any out of pocket costs. In the event the Developer is unable to or elects not to cure any one or more of the City's objections, the Developer shall notify the City in writing of such election (the "Election Notice"), and the City may at its option terminate this Agreement by notifying the Developer in writing within thirty (30) days after receiving the Election Notice, in which event the parties shall have no further liability to one another hereunder, except as specifically set forth herein. If the City fails to terminate the Agreement within thirty (30) days after receiving the Election Notice, the City shall be deemed to have waived such objection and the sale of the City Parcels shall proceed to Closing, subject to the terms of this Agreement. The term "Permitted Exceptions," as used herein, shall mean the title exceptions listed in Schedule B, Section 2 (and Section 1 if Section 1 requires the cure or release of items typically inserted on Section 2) of any title commitment that the City approves or is deemed to approve pursuant to this Section 5.2. Notwithstanding any other provision in this Agreement to the contrary, Developer at Closing shall tender the City Parcels free

and clear of any encumbrances, mortgage, liens, pledges or other security interests not shown on the Project Parcel Title Commitments.

(b) Information and Reports. Within five (5) business days of the Effective Date, Developer shall provide to DIA the following items (collectively, the “Due Diligence Materials”) as it relates to the City Parcels:

- (i) All information, drawings, permits, correspondence and reports relating to the City Parcels as determined or prepared by Developer’s consultants, agents, or engineers, including any correspondence with any local, state or federal governmental agency regarding the operation or use of the City Parcels (except that the Developer may withhold or redact information, correspondence and reports containing proprietary market or financial data);
- (ii) All existing surveys and maps of the City Parcels;
- (iii) A copy of any protective covenants, conditions, restrictions, development order, development standards, rules or regulations, together with any amendments thereto, that have been imposed upon the City Parcels;
- (iv) All engineering data, drawings, plans, specifications, site plans, architectural renderings relating to the City Parcels (including but not limited to all AutoCAD drawings);
- (v) Copies of all studies, surveys, soil tests, audits and reports and other information dealing with jurisdictional wetlands, the environmental soil and subsurface conditions of the City Parcels in Developer’s possession or control, including any reports which said party may have obtained from others; and
- (vi) Names and addresses of all consultants or engineers who have been retained by the Developer from time to time to study the City Parcels.

(c) Condition of City Parcels. The City Parcels shall be conveyed to The City in their “as-is” condition, with all physical faults; provided, however, the City Parcels shall be free and clear of all mortgages, liens, security interests, pledges or other encumbrances and title defects. It shall be the sole responsibility of the City, at the City’s expense, to investigate and determine the soil, groundwater, and other environmental conditions of the City Parcels. City makes no representation or warranty as to the City Parcels’ suitability for the CRA Infrastructure Improvements to be constructed by the CDD. If the condition of the City Parcels is not, in the opinion of the City, suitable for such improvements, then it is the sole responsibility of Developer and or the CDD to take all actions and do all things required to render such City Parcels suitable. Developer shall make the City Parcels available for inspection by the City, the City’s employees, agents and contractors, during regular business hours and upon twenty-four (24) hours notice. The City may, at the City’s sole risk and expense, undertake a complete physical inspection of the City Parcels as the City deems appropriate, including but not limited to soil tests, environmental audits and other environmental inspections and tests; provided, however, that any such inspection does

not cause any permanent damage to the City Parcels. In addition, the City shall have the right to review, and Developer shall make available to the City all reports, studies, projections, or other materials relating to the ownership, use, operation, management, maintenance or physical and environmental condition of the City Parcels to the extent in Developer's possession or control. The City's right to inspect the City Parcels shall include the right to conduct such investigations, tests, surveys, interviews and other analyses as the City determines is necessary, including, without limitation, entry into or upon every portion of the City Parcels including those portions leased to tenants. All such inspections, investigations and examinations shall be undertaken at the City's sole cost and expense. The City will coordinate all on-site inspections with the Developer so that the Developer shall have the option of having one of Developer's representatives present at any and all such on-site inspections. After completing any such inspections, the City shall restore and repair any damage caused by the City's inspections to substantially the same condition that existed immediately prior to such inspection. The terms of this Section shall survive the Closing and expiration or the termination of this Agreement, as applicable. Furthermore, the City agrees to cause all of its contractors and other representatives conducting any inspections to maintain and have in effect workers' compensation insurance, with statutory limits of coverage, and comprehensive general liability insurance with (i) appropriate coverages, (ii) waiver of subrogation, and (iii) limits of not less than Two Million Dollars (\$2,000,000), combined single limit, for personal injury, including bodily injury and death, and property damage. Such insurance shall name Developer and Affiliates identified by Developer as additional insured parties, and shall not be modified or terminated without thirty (30) days' prior written notice to Developer. The City shall deliver to the Developer, prior to entry upon the City Parcels, evidence reasonably satisfactory to the Developer that the insurance required hereunder is in full force and effect.

(d) Release and Relocation of Easements. The Developer shall use reasonable efforts to assist the City in causing the release or relocation of any existing access, utility or other easements encumbering the City Parcels as may be required for the development of the CRA Infrastructure Improvements. The Developer will use reasonable efforts to see that the release or relocation of such existing easements is completed and finalized in accordance with the Performance Schedule. The City, the Developer and the DIA shall consult together in identifying and implementing any such easement release or relocation requirements prior to Closing. -Any costs incurred after Closing in the relocation or release of easements as may be required to complete the CRA Infrastructure Improvements on the City Parcels and authorized by this Agreement that are not covered within the budgets and contingencies contemplated by the Disbursement Agreement shall be deemed "cost overruns" to be paid by the CDD. As part of the CRA Infrastructure Improvements, CDD shall be obligated at its sole cost and expense as a cost overrun to relocate any easements encumbering the City Parcels as necessary for the construction of the CRA Infrastructure Improvements.

(e) Release and Satisfaction of Mortgages and Liens. Prior to Closing the Developer shall provide its release and satisfaction of mortgage and other release of lien documents as may be necessary in form and content satisfactory to the DIA in its reasonable discretion, as necessary for the City to take title to the City Parcels free and clear.

(f) Termination. If this Agreement is terminated pursuant to this Article 5, the parties shall have no further rights or obligations under this Agreement except as otherwise specified herein.

(g) Environmental Laws. “Environmental Laws” or “Environmental Law” shall mean any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any Hazardous Materials, drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, retention ponds, storm water systems, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, regulations, orders, decrees, permits, licenses and deed restrictions now or hereafter promulgated thereunder, and amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time: (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.) (“CERCLA”); (ii) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) (“RCRA”); (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.); (iv) the Toxic Substances Control Act (15 U.S.C. Section 2061 et seq.); (v) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vi) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vii) the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.); (viii) the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.); (ix) the Superfund Amendments and Reauthorization Act of 1986 (codified in scattered sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (x) Title III of the Superfund Amendments and Reauthorization Act (42 U.S.C. Section 11001 et seq.); (xi) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); (xii) the Occupational Safety and Health Act (29 U.S.C. Section 651 et seq.); (xiii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (xiv) the Noise Control Act (42 U.S.C. Section 4901 et seq.); and (xv) the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 11001 et seq.).

(h) Hazardous Materials. “Hazardous Materials” means each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law. Without limiting the generality of the foregoing, the term shall mean and include: (a) “Hazardous Substance(s)” as defined in CERCLA, the Superfund Amendments and Reauthorization Act of 1986, or Title III of the Superfund Amendments and Reauthorization Act, each as amended, and regulations promulgated thereunder including, but not limited to, asbestos or any substance containing asbestos, polychlorinated biphenyls, any explosives, radioactive materials, chemicals known or suspected to cause cancer or reproductive toxicity, pollutants, effluents, contaminants, emissions, infectious wastes; (b) any petroleum or petroleum-derived waste or product or related materials, and any items defined as hazardous, special or toxic materials, substances or waste; (c) “Hazardous Waste” as defined in the Resource Conservation and Recovery Act of 1976, as amended, and regulations promulgated thereunder; (d) “Materials” as defined as “Hazardous Materials” in the Hazardous Materials Transportation Act, as amended, and regulations promulgated thereunder; (e) “Chemical Substance” or “Mixture” as defined in the Toxic Substances Control Act, as amended, and regulations promulgated thereunder; and (f) mold, microbial growth, moisture impacted building material, lead-based paint or lead-containing coatings, components, materials, or debris, and self-illuminated tritium containing structures, including but not limited to tritium containing exit signs.

(i) Release. “Release” or “Releases” mean the release of any Hazardous Materials and which release or presence may be generally consistent with any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, dumping,

discarding, burying, abandoning, disposing, dispersing or migrating thereof on, into or from the City Parcels.

(j) Hazardous Materials Indemnity in Favor of City and DIA. The Developer and the CDD hereby expressly acknowledge that from and after the Closing, the Developer and the CDD, jointly and severally, shall be responsible for the proper maintenance and handling of any and all Hazardous Materials, if any, located in or on the City Parcels or in the CRA Infrastructure Improvements in accordance with all Environmental Laws, and all regulations promulgated or to be promulgated under all other applicable local, state or federal laws, rules or regulations, as same may be amended from time to time, subject to the terms of Sections 5.2(j) and (k) and Section 5.3 of this Agreement. The Developer and the CDD, jointly and severally, shall indemnify, defend, and hold harmless the City and the DIA, and the City and DIA disclaim and shall not be responsible, for any and all responsibility, obligation, or liability under any Environmental Laws relating to, arising from, or in connection with any regulatory violations or environmental conditions at, on, within, concerning, or affecting the City Parcels, including but not limited to, any regulatory violations, Releases (other than a New Release, as hereinafter defined, directly caused by the City or DIA after Closing), discharges, spills, disposal, migration onto or off of the City Parcels (other than caused by the City) or the presence of Hazardous Materials occurring or present at, on, upon, into, within, under, from, or affecting the City Parcels, which are known or unknown, past or present in nature, and that first occurred at any time prior to the Closing, regardless of when such regulatory violations or Hazardous Materials were discovered or manifested themselves prior to City's possession and occupancy of the City Parcels, subject to Sections 5.2(j) and (k) and Section 5.3 of this Agreement ("Environmental Baseline Matters"). Furthermore, from and after Closing, Developer shall indemnify and hold the DIA, the City, its members, officials, officers, employees and agents harmless from and against any and all claims, costs, damages or other liability, incurred by the DIA, the City, its members, officials, officers, employees and agents as a result of the failure of the Developer, the CDD and their agents to comply with the requirements of this Section in connection with the CDD's proper maintenance and handling of any and all Hazardous Materials, if any, located in or on the City Parcels, subject to Sections 5.2(j) and (k) and Section 5.3 of this Agreement. From and after the Closing, the Developer and the CDD, as between the City/DIA and the Developer/CDD, shall have the sole responsibility with respect to and shall retain liability for the Environmental Baseline Matters with respect to the City Parcels, subject to the terms of this Agreement. This Indemnification shall survive the Closing and expiration or earlier termination of this Agreement. For the avoidance of doubt, there is nothing budgeted for treatment of contaminated soil, water, water monitoring in perpetuity or sewer disposal of water monitoring in the Budget for the CRA Infrastructure Improvements or maintenance of these issues after construction and Developer and the CDD, jointly and severally, shall pay all direct and indirect costs for these issues, subject to the terms of this Agreement. Prior to Closing, the Developer and/or the CDD shall provide the DIA and the City the form of financial assurance approved or accepted by the Florida Department of Environmental Protection ("FDEP") in connection with the BSRA.

(k) City Releases. The City shall be responsible for any new Release (exclusive of the Environmental Baseline Matters) of Hazardous Materials directly caused by the actions of the City or DIA occurring after the Closing Date ("New Release"). For purposes of clarity, any migration of Hazardous Materials relating to the Environmental Baseline Matters shall not constitute a New Release caused by the City or DIA, provided, however, the City shall be responsible to the extent

of any increased liability or financial costs incurred by the CDD or Developer for the spreading, worsening, or exacerbation of a Release if directly caused by the negligence, recklessness or intentional wrongful conduct of the City. The City shall indemnify and hold the Developer and the CDD and their members, officials, officers, employees, and agents harmless from and against any and all claims, costs, damages, or other liability, incurred by the Developer or the CDD in connection with New Releases or the spreading, worsening, or exacerbation of a Release directly caused by the City to the extent of and due to the City's negligence, recklessness, or intentional wrongful misconduct.

5.3 **Brownfield Site Rehabilitation Agreement.**

(a) The City, the DIA, and the Developer acknowledge that there are, or may be, certain environmental obligations and risks with respect to the Project Parcel. Specifically, but without limitation, the parties acknowledge that the Project Parcel is a “brownfield site” and is subject to a Brownfield Site Rehabilitation Agreement and Clean Closure Plan dated August 1, 2001, between the FDEP and JEA (the seller of most of the Project Parcel to the Developer), as amended or to be amended by and between the Developer, JEA, and FDEP prior to the Closing under this Agreement (the “BSRA”), together with various requirements included in or imposed by FDEP’s or other agency’s approval of plans, reports, petitions, institutional controls, and engineering controls pursuant to the BSRA or other environmental laws, as such requirements now exist or may be added or amended in the future. The parties acknowledge that under the BSRA and Environmental Laws and other applicable environmental laws and requirements, the Project Parcel is subject to various requirements including approval of plans, reports, institutional controls, and engineering controls, which requirements may be subject to change by the appropriate regulatory agencies (“BSRA Requirements”). In connection with the BSRA and BSRA Requirements, the following documents were recorded in the public records of Duval County, Florida and encumber the Project Parcel: the Declaration of Restrictive Covenant dated February 12, 2013, in Official Records Book 16254, page 1001 of the public records of Duval County, Florida, as amended by that certain First Amendment to Declaration of Restrictive Covenant dated August 25, 2014, in Official Records Book 16922, page 294 of the public records of Duval County, Florida, as may be amended (collectively, the “BSRA Declaration”). The City and DIA agree that after completion of the CRA Infrastructure Improvements, the City and DIA shall not violate the provisions applicable to the real property owner (as to the City Parcels) set forth in the BSRA Declaration and the Site Rehabilitation Completion Order With Controls issued by FDEP dated August 17, 2017 (the “FDEP Closure Order”). For purposes of clarity, the failure of the Developer or CDD to perform any of their obligations set forth in this Agreement shall not be deemed a City or DIA violation as described above. The City shall indemnify and hold the Developer and the CDD and their members, officials, officers, employees, and agents harmless from and against any and all claims, costs, damages, or other liability, incurred by the Developer or the CDD in connection with any such violations and to the extent of and due to the City's negligence, recklessness, or intentional wrongful misconduct. The Developer and the CDD represent and warrant that the City’s intended use of the City Parcels for public recreational uses for parks, riverwalks, pedestrian and vehicle uses, utility uses and as otherwise contemplated by this Agreement do not violate any of the BSRA Requirements, the BSRA Declaration or the FDEP Closure Order and that there shall be no amendment of any of such documents as to the City Parcels without the prior written consent of the City, which shall not be unreasonably withheld. All financial and other obligations applicable to the real property owner in the foregoing documents, as between the City and DIA on

one hand, and the Developer and CDD on the other hand, shall be the obligation of the Developer and the CDD, provided that the City and DIA shall not violate the BSRA Declaration or the FDEP Closure Order and subject to the terms of this Agreement.

(b) Prior to Closing, the Developer will use commercially reasonable efforts to amend (or cause or otherwise demonstrate that it has been amended) the BSRA to add the Developer to the BSRA and to set forth and clarify the respective obligations between the Developer and JEA (the “Amended BSRA”). The parties acknowledge and agree that the Amended BSRA may include, by or following the Closing Date, additional parcels as described in the DCSB Agreement and such BSRA may reflect other changes agreed by the parties necessary or appropriate to effectuate the DCSB Agreement, subject to approval by the applicable agencies. Subject to the terms of this Agreement, (i) at Closing, the Developer or the CDD shall undertake and assume all obligations under the Amended BSRA with respect to the City Parcels and (ii) from and after the Closing, the Developer or the CDD shall perform and comply with all covenants, conditions, and restrictions under the Amended BSRA, as may thereafter be amended from time to time. In the event the City is required by the FDEP to be a party to the Amended BSRA, the Developer and the CDD shall undertake and assume all obligations of the City thereunder with respect to the City Parcels, subject to and consistent with the terms of this Agreement. The City and DIA agree to execute BSRA site access agreements in the form (or substantially the form) required by FDEP in connection with the Closing if requested by the Developer or the CDD. Prior to Closing, the Developer reserves the right to further amend the BSRA Declaration in connection with the amendment to the BSRA, amend other approvals relating to the BSRA (subject to regulatory agency approval), or pursue and/or obtain other amendments to documents or approvals in connection with the Project Parcel (inclusive of the City Parcels) if needed in order to permit, develop, and/or construct the Project (including, without limitation, the CRA Infrastructure Improvements and CDD Infrastructure Improvements), to restrict or provide for access to or contact with groundwater under the Project Parcel, protect, manage, or amend the soil cover, manage or limit exposure to contaminated soils under the soil cover, manage or maintain any engineering or institutional controls or otherwise amend or impose restrictions to meet the requirements of the BSRA or the Amended BSRA and any site rehabilitation or constructions plans for the Project, subject to agency approval and the prior written consent of the City as to the City Parcels, which shall not be unreasonably withheld. The Amended BSRA and any associated covenants, restrictions, and provisions in the BSRA Declaration, or any restrictive covenants recorded in accordance with this paragraph, shall constitute Permitted Exceptions.

(c) For the avoidance of doubt, subject to the terms of this Agreement, the Developer and the CDD agree that, as between the Developer and the CDD on one side, and the City and the DIA on the other side, all obligations of the DIA or the City under the Environmental Laws or other applicable environmental laws, Amended BSRA, BSRA Requirements, BSRA Declaration, and FDEP Closure Order in connection with the City Parcels and development, construction, and maintenance of the RiversEdge Project and Project shall be the sole obligations of the Developer and the CDD, with the exception of New Releases directly caused by the City or DIA on the City Parcels after Closing. Additionally, notwithstanding anything to the contrary in the BSRA or Amended BSRA, the Developer and the CDD shall be responsible for all costs attendant to the ongoing groundwater and any other monitoring obligations under the BSRA or Amended BSRA, including but not limited to costs attendant to the operation and maintenance of the groundwater pumping system and costs of the water disposal discharged into the JEA system, subject to the

terms of this Agreement. The provisions of Sections 5.2(j) and (k) and Section 5.3 shall survive the Closing or the expiration or earlier termination of this Agreement.

5.4 **Closing.**

(a) **Closing.** The closing for the conveyance of the City Parcels (the “Closing”) occurred on December 30, 2020 (the “Closing Date”).

(b) **Possession.** Exclusive possession of the City Parcels shall be delivered to the City at the Closing.

(c) **Prorations.** At Closing, pro-rations of expenses and the apportionment of taxes shall be as follows:

(i) All utilities and all other operating expenses with respect to the City Parcels, if any, for the month in which the Closing occurs, and all taxes, if any, and other assessments with respect to the City Parcels for the year in which the Closing occurs, shall be prorated as of the date of Closing.

(ii) The agreements of the City, the DIA and the Developer set forth in this Section 5.3(c), and as set forth elsewhere herein, shall survive the Closing.

(d) **Closing Costs.** Except as otherwise expressly provided herein, the City shall pay, on the Closing Date, the City’s attorney’s fees. The Developer shall pay, on the Closing Date, the premium for an owner’s title policy with an insured value of \$2,500,000, all recording costs, any documentary stamps on the deed, the cost of surveys, and all other closing costs except for the above-described closing costs to be paid by the City.

(e) **Developer’s Obligations at the Closing.** At the Closing, the Developer shall deliver to the City each of the following documents:

(i) **Deed.** Special Warranty Deed (the “Deed”) executed by the Developer conveying the City Parcels to the City in the form attached hereto as **Exhibit N**; provided, however, that upon written notice from the CEO of the DIA to the Developer given not less than thirty (30) days prior to the Closing, the CEO of the DIA may elect to forego receipt of fee title to any component of the City Parcels and, instead, receive public access, use, and enjoyment of such component(s) by grant of perpetual easement (in form reasonably satisfactory to the parties to be agreed prior to Closing). Title to the City Parcels shall be free and clear of all mortgages, liens, security interests, pledges, or other encumbrances.

(ii) **Pedestrian Use Easement.** One or more easements granted by the Developer or by JEA with respect to public access to the boardwalk and trail (the “Boardwalk/Trail Easement”). The form of such Boardwalk/Trail Easement shall be substantially in the form attached hereto as **Exhibit M**.

- (iii) Evidence of Authority. Copies of such documents and resolutions as may be acceptable to the Title Company, so as to evidence the authority of the person signing the Deed, the Boardwalk/Trail Easement and other documents to be executed by the Developer (or JEA, if applicable) at the Closing and the power and authority of the Developer (or JEA, if applicable) to convey the City Parcels to the City in accordance with this Agreement.
 - (iv) Foreign Person. An affidavit of the Developer certifying that the Developer is not a “foreign person”, as defined in the Federal Foreign Investment in Real Property Tax Act of 1980 and the 1984 Tax Reform Act, as amended.
 - (v) Owner’s Affidavit. An executed affidavit or other document acceptable to the Title Company in issuing the Owner’s Policy without exception for the “gap” exception, possible lien claims of mechanics, laborers and materialmen or for parties in possession.
 - (vi) Closing Statement. A closing statement setting forth the allocation of closing costs.
 - (vii) Other Documentation. Such other documents as may be reasonable and necessary in the opinion of the City or its counsel and the Developer or its counsel to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions of this Agreement.
- (f) City’s/DIA’s Obligations at the Closing. At the Closing, the City shall deliver to the Developer the following:
- (i) Evidence of Authority. A copy of the Ordinance to evidence authorization of the City for the purchase of the City Parcels, the execution and delivery of any documents reasonably required in connection with Closing and the taking of all action to be taken by the City in connection with Closing.
 - (ii) Other Documentation. Such other documents as may be reasonable and necessary in the opinion of the Developer or its counsel to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions of this Agreement.

Article 6.

CONSTRUCTION OF CRA INFRASTRUCTURE IMPROVEMENTS BY THE CDD

6.1 Design Team.

Reference is hereby made to Item (b) in the Performance Schedule attached hereto as **Exhibit J** for certain timelines and milestones established by the parties with respect to, among other matters, the establishment of a “Design Team” to create design and engineering plans and specifications for the Project.

6.2 **CRA Infrastructure Improvements Construction.**

Pursuant to the terms and conditions of the Interlocal Agreement, Disbursement Agreement and related agreements attached thereto and the terms of this Agreement, the CDD agrees to construct and Complete or cause to be Completed the construction of the Project. Should the CDD Abandon the CRA Infrastructure Improvements and such Abandonment shall continue after delivery by the City of written notice to the Developer and the CDD providing thirty (30) days following delivery of such written notice to cure, then such Abandonment shall constitute an Event of Default hereunder. If the City declares an Event of Default under this Section 6.2, then the City's sole remedy (which shall include the right to draw on the Payment and Performance Bonds referenced in Section 6.4 below) shall be to complete construction of the CRA Infrastructure Improvements; provided, however, that the City's election to complete the CRA Infrastructure Improvements shall not release the CDD or the Developer from their respective obligations with respect to the payment of cost overruns with respect to the CRA Infrastructure Improvements. If the City elects to undertake construction of the CRA Infrastructure Improvements under this Section 6.2, then the City shall thereafter diligently pursue Substantial Completion of the CRA Infrastructure Improvements.

6.3 **Temporary Construction Easement.**

Prior to commencement of the CRA Infrastructure Improvements by the CDD, the City shall provide a temporary construction easement over the City Parcels substantially in the form attached hereto as **Exhibit O.**

6.4 **Payment and Performance Bonds.**

Prior to commencing any work on the Project, the CDD shall cause all primary contractors to furnish payment and performance bonds for the CRA Infrastructure Improvements in compliance with Section 255.05, Florida Statutes, and as required in the Disbursement Agreement. The cost thereof shall be paid by the CDD and is not included in the budget for the CRA Infrastructure Improvements. The Performance and Payment Bonds for the CRA Infrastructure Improvements shall be delivered prior to Commencement of Construction thereof.

6.5 **No Warranty by City or DIA**

Nothing contained in this Agreement or any other document attached hereto or contemplated hereby shall constitute or create any duty on or warranty by the City or the DIA regarding: (a) the accuracy or reasonableness of the Project budgets; (b) the feasibility or quality of the construction documents for the Project; (c) the quality or condition of the work; or (e) the competence or qualifications of any third party furnishing services, labor or materials in connection with the construction of the Project. The Developer and the CDD acknowledge that they have not relied and will not rely upon any experience, awareness or expertise of the City or the DIA, or any City or DIA inspector, regarding the aforesaid matters.

6.6 **Dedicated Public Parking.**

The CDD shall fund and construct the Dedicated Public Parking at no cost to the City or DIA, and which shall not be included within the CRA Infrastructure Improvements budget. The Dedicated Public Parking shall be readily accessible to the City Parcels, and signage within the Project Parcel shall clearly and conspicuously identify the Dedicated Public Parking. The Dedicated Public Parking and related signage shall be identified on the construction plans for the CDD Infrastructure Improvements and thereby shall be subject to the review and approval of the Department of Public Works. To ensure availability to the public, the Dedicated Public Parking shall be metered or otherwise effectively regulated for public use during the operating or “open” hours of the City Parcels, which shall at a minimum be dawn to dusk, daily. The metering and enforcement during standard working hours of the City’s Office of Public Parking (standard enforcement hours) shall be at the cost of the City or DIA; however, to the extent the open hours of the City Parcels extend beyond the standard enforcement hours (8:00 a.m. to dusk during weekends and holidays and from 6:00 p.m. to dusk during weekdays) the cost of such excess enforcement shall be funded by the Developer or the CDD through the Parks Partnership Program as provided in Part 7 of Chapter 664, Ordinance Code, or through any other lawful and appropriate funding mechanism, or by the CDD as enhanced security pursuant to Section 190.012(2)(d), Florida Statutes, the selection of which would be subject to the reasonable review and approval of the CEO of the DIA. Additionally, if the Dedicated Public Parking is not completed prior to the completion of the CRA Infrastructure Improvements, the Developer shall coordinate with the CEO of the DIA and shall provide a minimum of 100 transitional/temporary parking spaces within the Project Parcel for use by the public until such time as the Dedicated Public Parking is completed. If the Dedicated Public Parking is to be included within a parking garage or garages constructed as a part of the Vertical Improvements, the Dedicated Public Parking shall be located on the ground floor of such facility and the spaces segregated and signed so that such spaces are to be used exclusively for public use relating to the CRA Infrastructure Improvements, and not tenants, visitors or users of the Vertical Improvements, and subject to the other requirements of this Section.

Article 7.
REV GRANT

7.1 **Recapture Enhanced Value Program; Amount.**

The DIA shall make a Recapture Enhanced Value grant (the “REV Grant”) to the CDD, in a total amount not to exceed the lesser of: (i) \$97,986,000 or (ii) the sum of (a) principal and interest on the CDD Bonds, (b) fees associated with the ongoing administration and payment of the CDD Bonds (trustee fees, paying agent fees, rebate analyst fees, and the like), and (c) the costs of any credit enhancements on the CDD Bonds (not including any repricing, liquidity, or fees associated with a letter of credit regularly drawn upon) to the extent the CDD elects to include credit enhancements, partially payable beginning in the first year following the issuance of a final certificate of occupancy for any component of the Vertical Improvements having a construction value in excess of \$2,000,000 on the Project Parcel and its inclusion on the City tax rolls at full assessed value (the “Initial Year”) and ending 20 years thereafter, but not later than 2045 (the “Final Year”), all as more fully described below in this Article 7.

7.2 Payments of REV Grant.

So long as the CDD Bonds or Supporting Advances (as defined below) are outstanding, the REV Grant shall be paid by the DIA to the CDD Bond Trustee by federal funds wire, in annual installments (each, an “Annual Installment”) determined in accordance with Section 7.3, due and payable on or before May 15 of each calendar year (the due date of such Annual Installment, the “Annual Installment Due Date”), commencing May 15 of the Initial Year and ending May 15 of the Final Year, or when the maximum amount of the REV Grant shall have been paid to the CDD Bond trustee, whichever occurs first. Neither the DIA nor the City shall have any liability for any REV Grant in excess of the amount stated in Section 7.1 or after payment of the final installment due May 15 of the Final Year, and, except as expressly provided in this Agreement, the REV Grant payments as determined pursuant to Section 7.3 shall not be subject to reduction or repayment. The Annual Installments shall be applied to the debt service of the CDD Bonds as contemplated herein and by Section 3 of the Interlocal Agreement. If any Annual Installment is more than the annual debt service on the CDD Bonds, the CDD shall (as permitted by the terms of the CDD Bonds) apply: (i) 50% of the excess as a partial prepayment of the then outstanding Bond principal; and (ii) 50% of the excess to repayment of the principal balance of outstanding Supporting Advances (the “CDD Debt Service Repayment”). For purposes of clarity, if there is a default under Section 9.3(c) below, 100% of any excess shall be applied to as a partial prepayment of the then outstanding Bond principal. At such time as the CDD Bonds shall have been retired and all principal amounts paid in full, any remaining balance of the REV Grant, if any, may be applied by the CDD to repayment of the Developer or third parties (other than in connection with any CDD special assessments) who paid any CDD Bond debt service on behalf of the CDD (each, a “Supporting Advance”) in any year for which the Annual Installment was less than the CDD debt service for such year. CDD shall timely provide documentation acceptable to the CEO of the DIA in his or her reasonable discretion of all Supporting Advances applied to the CDD Bond debt service. The CDD Debt Service Repayment, if any, shall be paid to the CDD. For all REV Grant Annual Installments authorized hereunder to occur after the expiration or termination of the Southside Community Redevelopment Area, the City agrees to make such Annual Installments as calculated in this Article 7.

7.3 Determination of Annual Installments of REV Grant.

The amount of each annual installment of the REV Grant shall be the sum which is equal to 75% of the “Annual Project Revenues” (as defined and determined in this Section 7.3) received by the DIA during the twelve (12) month period ended April 1 preceding the due date of such annual installment. For the purposes of this Agreement, “Annual Project Revenues” means the amount of all municipal and county ad valorem taxes, exclusive of any amount from any debt service millage or Business Improvement District (“BID”) millage or special assessments imposed by the CDD, actually paid by any taxpayer for that tax year (net of any discount pursuant to Section 197.162, Florida Statutes, or any successor provision, actually taken by the taxpayer) during such period with respect to all real property and tangible personal property comprising the RiversEdge Project on the Developer Parcel, less the amount of all municipal and county ad valorem taxes that would have been levied or imposed on RiversEdge Project using the assessed value for the Base Year, which for the purpose of this Agreement shall be \$15,834,060 exclusive of any debt service millage. The foregoing references to ad valorem taxes shall be deemed to include any other municipal or county taxes, or other municipal or county fees or charges in the nature of or in lieu

of taxes, that may hereafter be levied or imposed on the Developer with respect to real property or tangible personal property comprising the RiversEdge Project on the Developer Parcel, in lieu of or in substitution for the aforesaid taxes and which are levied or imposed for general municipal or county purposes or shall be available for the City's general fund, but not including stormwater or garbage fees or assessments or assessments or special assessments of the CDD. The parties acknowledge that as of the Effective Date of this Agreement, the Developer has not obtained a separate real estate tax parcel identification number for the Developer Parcel, and it is the obligation of the Developer to do so and report the same to the DIA for its use in the calculations to be made in accordance with this Article 7.

By April 1 of each calendar year, commencing April 1, Initial Year and ending April 1, Final Year, the CDD shall give written notice to the DIA of the amount of county ad valorem taxes paid during the preceding twelve (12) month period ending April 1, quantified by real property and tangible property amounts. If, by April 1 of any year, the CDD has failed to give notice of taxes paid during the preceding twelve (12) month period, then following notice of such failure provided by the DIA to the Developer and the CDD, consistent with Section 10.3 of this Agreement, and an opportunity for the Developer and the CDD to timely cure by thereafter providing such tax notice consistent with Article 9 of this Agreement, the Developer and/or the CDD shall not be eligible for a REV Grant payment for that year. Provided, however, that if the CDD provides timely notice in future years, the CDD shall be eligible for a REV Grant payment based on the Annual Projected Revenues in such future year's notice. Each written notice of the amount of county ad valorem taxes paid pursuant to this section shall also contain then current wire instructions for the CDD Bond trustee.

Except as provided below, within thirty (30) business days of receipt of said notice, DIA shall provide the CDD with a calculation as to the annual REV Grant. If the CDD does not give written notice to the DIA of its objection to the DIA's calculation within thirty (30) business days after its receipt thereof, the DIA's calculation shall be considered acceptable. Except as provided below, the DIA shall make payment of the REV Grant by the later of May 15th of each calendar year or thirty (30) days after DIA's receipt of notification by the CDD that it is in agreement with the DIA's annual calculation. In the event of a disagreement as to the calculation, the DIA shall make payment of the amount not in dispute and the parties shall negotiate in good faith any disputed amount.

The dates set forth in the immediately preceding paragraph for the DIA to provide the REV Grant calculation and make the REV Grant payment shall be extended if on either of such dates the Developer or any other owner of the Developer Parcel has a pending proceeding before the Value Adjustment Board, Circuit Court, or otherwise that could change the amount of the Annual Project Revenues that the Developer or other owner(s) of the Developer Parcel were obligated to pay for the related tax year and upon which the REV Grant payment would be based. In that event, the date that the DIA is required to provide the REV Grant calculation to the CDD shall be extended until 30 days after the date that the Developer or other owner(s) of the Developer Parcel notifies the DIA that any such proceeding has been finally resolved (including any appeals) and any adjustment to the Annual Project Revenues for that tax year has been made and paid. Such notice shall include (i) a copy of any final order or final judgment or other evidence of the resolution of such proceeding that sets forth any change to the assessed value of the Developer Parcel upon which the Annual Project Revenues are based for that tax year, and (ii) the amount of

the adjusted Annual Project Revenues paid by the Developer or other owners of the Developer Parcel.

Notwithstanding anything provided in this Section 7.3, the parties recognize that the CDD may not be able to timely obtain the necessary ad valorem tax information required to be provided by the CDD pursuant to this Section 7.3, and, in such event, agree to negotiate in good faith to adjust any related deadlines. CDD shall use good faith efforts to timely obtain said tax information. CDD acknowledges that failure to timely obtain and provide said tax information prior to the end of the City's fiscal year will result in the CDD not receiving the REV Grant payment for said fiscal year in which the tax information was not provided.

7.4 **Further disclaimer.**

The REV Grant shall not be deemed to constitute a debt, liability, or obligation of the City, the DIA or of the State of Florida or any political subdivision thereof within the meaning of any constitutional or statutory limitation, or a pledge of the faith and credit or taxing power of the City, the DIA or of the State of Florida or any political subdivision thereof. Neither the DIA nor the City shall be obligated to pay the REV Grant or any installment thereof except from the non-ad valorem revenues or other legally available funds provided for that purpose, and neither the faith and credit nor the taxing power of the City, the DIA or of the State of Florida or any political subdivision thereof is pledged to the payment of the REV Grant or any installment thereof. The CDD, the Developer or any person, firm or entity claiming by, through or under the CDD or the Developer, or any other person whomsoever, shall never have any right, directly or indirectly, to compel the exercise of the ad valorem taxing power of the City, the DIA or of the State of Florida or any political subdivision thereof for the payment of the REV Grant or any installment thereof.

**Article 8.
REPORTING**

8.1 **Reporting.**

On an annual basis, and otherwise consistent with the requirements of the Disbursement Agreement, the CDD shall submit reports to the DIA regarding the status of construction of the Project and all other activities affecting the implementation of this Agreement, including a narrative summary of progress on the Project in the form required for Progress Reports in the Disbursement Agreement except that "Project" shall be inserted for "CRA Infrastructure Costs".

The CDD's obligation to submit such reports shall continue until the CDD has complied with all of the terms of this Agreement concerning the Project and end upon Substantial Completion thereof.

Within thirty (30) days following a request of the DIA or the City, the CDD shall provide the DIA or the City with additional information regarding the Project or its performance under this Agreement as reasonably requested by the DIA or the City.

**Article 9.
DEFAULTS AND REMEDIES**

9.1 General.

An “Event of Default” under this Agreement with respect to the Project and any portion thereof shall consist of the breach of any covenant, agreement, representation, provision, or warranty (that has not been cured prior to the expiration of any applicable grace period or notice and cure period contained in this Agreement or such other documents, as applicable) contained in: (i) this Agreement; (ii) the documents executed in connection with the Agreement; (iii) any document provided by the Developer to the City or the DIA relating to the Project (subparagraphs (ii) and (iii) collectively, the “Project Documents”); or (iv) any default beyond the applicable cure periods under any and all financing agreements between or among the Developer relating to any portion of the Project, and the failure to cure any such breach within the cure periods set forth below; provided, however, that it expressly agreed by the parties that no failure by the Developer or the CDD to achieve in a timely manner any of the milestones identified in the Performance Schedule shall constitute or give rise to an “Event of Default” except for the Material Milestones; and, provided, further, that the City’s sole remedy with respect to a default arising under subsection (j) of the Performance Schedule is to treat the CDD’s breach as an “Abandonment” of the CRA Infrastructure Improvements with the terms and conditions of Section 6.2 to govern the rights and obligations of the parties with respect thereto.

If any such Event of Default occurs under this Agreement, with respect to any portion of the Project the DIA may, during the continuance of such Event of Default, refuse to pay any portion of the DIA Funding Obligation related to the CRA Infrastructure Improvements and additionally may at any time or from time to time with respect to any portion of the Project as to which an Event of Default has occurred proceed to protect and enforce all rights available to the City and/or the DIA under this Agreement with respect to the Project by suit in equity, action at law or by any other appropriate proceeding whether for specific performance of any covenant or agreement contained in this Agreement, or damages, or other relief, or proceed to take any action authorized or permitted under applicable laws or regulations; provided, however, that in no event shall the Developer be liable to the City or the DIA for any punitive, speculative, or consequential damages of any kind. No occurrence shall constitute an Event of Default until the DIA/City has given the Developer written notice of the default and thirty (30) calendar days within which to cure the default; provided, however, that the City/DIA may withhold any portion the DIA Funding Obligation with respect to the CRA Infrastructure Improvements immediately upon the occurrence of a default and throughout any notice or cure period until such default is cured. If any default cannot reasonably be cured within the initial thirty (30) calendar days, no Event of Default shall be deemed to occur so long as the defaulting party has commenced and is diligently implementing a cure within such thirty (30) day period and diligently pursues such cure to a conclusion. Notwithstanding the foregoing, the Developer shall immediately and automatically be in default with respect to the Project, and the City/DIA shall not be required to give the Developer any notice or opportunity to cure such default (and thus the City/DIA shall immediately be entitled to act upon such default), upon the occurrence of any of the following:

Should the Developer make any assignment for the benefit of creditors; or should a receiver, liquidator, or trustee of the CDD or the Developer be appointed; or should any petition for the adjudication of bankruptcy, reorganization, composition, arrangement or similar relief as to the CDD or the Developer, pursuant to the Federal Bankruptcy Act or any other law relating to insolvency or relief for debtors, be filed by the CDD or the Developer; or should the CDD or the

Developer be adjudicated as bankrupt or insolvent; or should the CDD or the Developer be liquidated or dissolved; or should an involuntary petition seeking to adjudicate the CDD or the Developer as a bankrupt or to reorganize the CDD or the Developer be filed against the CDD or the Developer and remain undismissed for a period of ninety (90) days after the filing date thereof.

9.2 **Breach by City.**

No occurrence shall constitute an Event of Default until the Developer has given the City written notice of the default and thirty (30) calendar days within which to cure the default. If any default cannot reasonably be cured within the initial thirty (30) calendar days, no Event of Default shall be deemed to occur so long as the defaulting party has commenced and is diligently implementing a cure within such thirty (30) day period and diligently pursues such cure to a conclusion. If the City or the DIA commits an Event of Default under this Agreement, the Developer shall have, in addition to the remedies expressly provided herein, all remedies allowed by law or equity; provided, however, that in no event shall the City or the DIA be liable to the Developer for any punitive, speculative, or consequential damages of any kind, and notwithstanding anything herein, in no event shall the City or the DIA be liable for any costs or damages exceeding the maximum indebtedness amount described in Section 1.7 for any and all City or DIA obligations at issue.

9.3 **Specific Defaults.**

Additionally, for any of the specific Events of Default described in this Section 9.3 below, the parties agree that the City's and the DIA's damages recoverable from the Developer shall include, but not be limited to, the following:

(a) In the event reporting requirements are not met in the time period specified in Article 8 of this Agreement and such default is not cured within the time period provided in Section 9.1 after written notice from the City/DIA, the DIA will be entitled to withhold any remaining, undisbursed balance of the Maximum Public Infrastructure Disbursement Amount (as defined in the Disbursement Agreement) until such reporting requirements are met;

(b) In the event the Developer fails to comply with any benchmark within the time period specified in the performance schedule attached hereto as **Exhibit J**, the City will be entitled to withhold any undisbursed amount of the REV Grant until satisfaction of said benchmark in accordance with this Agreement; provided, however, if the cure of said benchmark is not made within the same City fiscal year such payment is due, the City shall have no obligation to make the applicable REV Grant payment for such year.

(c) Any Event of Default under the Interlocal Agreement or Disbursement Agreement shall be an Event of Default under this Agreement and the DIA will be entitled to withhold any remaining, undisbursed balance of the Maximum Public Infrastructure Disbursement Amount (as defined in the Disbursement Agreement) until such default has been cured.

(d) Failure of the CDD to complete the CDD Infrastructure Improvements by the Completion date set forth in the Performance Schedule, as the same may be extended as authorized by this Agreement, shall result in the forfeiture of the CDD's eligibility to receive any CDD Debt Service Repayment.

(e) In the event the CDD fails or refuses to timely execute the Joinder Agreement attached hereto, which execution shall be before the date the CDD enters into the Disbursement Agreement and Interlocal Agreement, then after notice and opportunity to cure as set forth in Section 9.1 above, the City and DIA may terminate this Agreement without liability.

9.4 **Liens, Security Interests.**

The DIA and the City agree and acknowledge that this Agreement does not create any security interest in the Project.

The non-defaulting party shall be entitled to prejudgment interest from the date of default plus costs and attorneys' fees incurred by the non-defaulting party.

Article 10.
GENERAL PROVISIONS

10.1 **Non-liability of City and DIA Officials.**

No member, official or employee of the City or the DIA shall be personally liable to the Developer or to any person or entity with whom the Developer shall have entered into any contract, or to any other Person, in the event of any default or breach by the City or the DIA, or for any amount which may become due to the Developer or any other person or entity under the terms of this Agreement.

10.2 **Force Majeure.**

No party to this Agreement shall be deemed in default hereunder where such a default is based on a delay in performance as a result of war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualty, acts of God, acts of public enemy, epidemic, quarantine restrictions, freight embargo, shortage of labor or materials, interruption of utilities service, lack of transportation, severe weather and other acts or failures beyond the control or without the control of any party (collectively, a "Force Majeure Event"); provided, however, that the extension of time granted for any delay caused by any of the foregoing shall not exceed the actual period of such delay.

10.3 **Notices.**

All notices to be given hereunder shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, or delivered by an air courier service utilizing return receipts to the parties at the following addresses (or to such other or further addresses as the parties may designate by like notice similarly sent) and such notices shall be deemed given and received for all purposes under this Agreement three (3) business days after the date same are deposited in the United States mail if sent by registered or certified mail, or the date actually received if sent by personal delivery or air courier service, except that notice of a change in address shall be effective only upon receipt.

(a) the DIA:

Downtown Investment Authority
117 West Duval Street, Suite 310
Jacksonville, Florida 32202
Attn: Chief Executive Officer

With a copy to:

City of Jacksonville
Office of the General Counsel
City Hall-St. James Building
117 West Duval Street, Suite 480
Jacksonville, Florida 32202

(b) The Developer:

Elements Development of Jacksonville, LLC
c/o PHCC LLC
2121 North Pearl Street, Suite 600
Dallas, TX 75201
Attn: John Dinan, General Counsel;
Ramiro Albarran, Managing Director

(c) With a copy to:

Foley & Lardner LLP
One Independent Drive, Suite 1300
Jacksonville, Florida 32202
Attn: David C. Cook

10.4 **Time.**

Time is of the essence in the performance by any party of its obligations hereunder.

10.5 **Entire Agreement.**

This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior negotiations and agreements between them with respect to all or any of the matters contained herein.

10.6 **Amendment.**

This Agreement may be amended by the parties hereto only upon the execution of a written amendment or modification signed by the parties. Notwithstanding the foregoing, the CEO of the

DIA is authorized on behalf of the City to approve, in his or her sole discretion, any “technical” changes to this Agreement. Such “technical” changes include without limitation non-material modifications to legal descriptions and surveys, ingress and egress, easements and rights of way, and design standards, and the Performance Schedule subject to the limitations of Section 3.2 above, as long as such modifications do not involve any increased financial obligation or liability to the City.

10.7 **CDD Guarantor of the Developer Obligations.**

By its execution of the Joinder Agreement, the CDD agrees to unconditionally guarantee the performance of all obligations of the Developer hereunder, and also agrees to undertake such obligations of the CDD as set forth herein and in accordance with the terms of this Agreement and the documents attached hereto. Liability of the CDD may be enforced without requiring the City or the DIA to pursue enforcement against the Developer. This guarantee shall apply to all amendments, renewals, or extensions of this Agreement and the documents attached hereto.

10.8 **Waivers.**

Except as otherwise provided herein, all waivers, amendments or modifications of this Agreement must be in writing and signed by all parties. Any failures or delays by any party in insisting upon strict performance of the provisions hereof or asserting any of its rights and remedies as to any default shall not constitute a waiver of any other default or of any such rights or remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties hereto are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by any other party.

10.9 **Indemnification.**

The indemnification in this Section 10.9, shall not apply to any loss, claim, action, damage, injury, liability, cost, and expense of whatsoever kind or nature (including without limitation attorneys’ fees and costs) related to any demands, suits and actions covered in Sections 5.2(j) and (k) and 5.3 herein.

The Developer shall indemnify, hold harmless and defend the City and the DIA from and against any loss, claim, action, damage, injury, liability, cost, and expense of whatsoever kind or nature (including without limitation attorneys’ fees and costs) related to any demands, suits and actions of any kind brought against the City or the DIA or other damages or losses incurred or sustained, or claimed to have been incurred or sustained, by any person or entity arising out of or in connection with any negligent act or omission or willful misconduct by the Developer, its contractors, subcontractors, agents, officers, employees, representatives, successors or assigns in connection with construction of the Project. The term “City” and “DIA” as used in this Section 10.9 shall include all officers, board members, City Council members, employees, representatives, agents, successors and assigns of the City and the DIA, as applicable. Subject to the provisions and limitations of Section 768.28, Florida Statutes, and other Florida Statutes, the City shall indemnify, hold harmless and defend the Developer and the CDD from and against any loss, claim, action, damage, injury, liability, cost, and expense of whatsoever kind or nature (including without

limitation attorneys' fees and costs) related to any demands, suits and actions of any kind brought against the Developer or the CDD or other damages or losses incurred or sustained, or claimed to have been incurred or sustained arising out of or in connection with any negligent act or omission or willful misconduct by the City or the DIA in connection with the performance by the City or the DIA of their respective duties and obligations hereunder. These indemnification obligations shall survive the termination of this Agreement. The term "Developer" and "CDD" as used in this Section 10.9 shall include all officers, board members, members, employees, representatives, agents, successors and assigns of the Developer and the CDD, as applicable.

10.10 **Insurance.**

See **Exhibit P** attached hereto and incorporated herein by this reference for the insurance requirements of the Developer and/or CDD.

10.11 **Severability.**

The invalidity, illegality or unenforceability of any one or more of the provisions of this Agreement shall not affect any other provisions of this Agreement, but this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

10.12 **Compliance with State and Other Laws.**

In the performance of this Agreement, the Developer must comply with any and all applicable federal, state and local laws, rules and regulations, as the same exist and may be amended from time to time. Such laws, rules and regulations include, but are not limited to, Chapter 119, Florida Statutes (the Public Records Act) and Section 286.011, Florida Statutes, (the Florida Sunshine Law). If any of the obligations of this Agreement are to be performed by a subcontractor, the provisions of this Section shall be incorporated into and become a part of the subcontract.

10.13 **Non-Discrimination Provision.**

In conformity with the requirements of Section 126.404, *Ordinance Code*, the Developer represents that it has adopted and will maintain a policy of non-discrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age or handicap, in all areas of employment relations, throughout the term of this Agreement. The Developer agrees that, on written request, to the extent not prohibited by privacy laws or other laws, it will permit reasonable access to its records of employment, employment advertisement, application forms and other pertinent data and records, by the Executive Director of the Human Rights Commission, or successor agency or commission, for the purpose of investigation to ascertain compliance with the nondiscrimination provisions of this Chapter 126, Part 4 of the *Ordinance Code*, provided however, that the Developer shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the day and year first above written or any employee files. The Developer agrees that, if any of its obligations to be provided pursuant to this Agreement are to be performed by a subcontractor, the provisions of this Section shall be incorporated into and become a part of the subcontract.

10.14 **Ethics.**

The Developer represents that it has reviewed the provisions of the Jacksonville Ethics Code, as codified in Chapter 602, *Ordinance Code*, and the provisions of the Jacksonville Purchasing Code, as codified in Chapter 126, *Ordinance Code*.

10.15 **Conflict of Interest.**

The parties will follow the provisions of Section 126.110, *Ordinance Code* with respect to required disclosures by public officials who have or acquire a financial interest in a bid or contract with the City, to the extent the parties are aware of the same.

10.16 **Public Entity Crimes Notice.**

In conformity with the requirements of Section 126.104, *Ordinance Code* and Section 287.133, Florida Statutes, the Parties agree as follows:

The parties are aware and understand that a person or affiliate who has been placed on the State of Florida Convicted Vendor List, following a conviction for a public entity crime, may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity, in excess of \$35,000.00, for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List.

10.17 **Incorporation by Reference.**

All exhibits and other attachments to this Agreement that are referenced in this Agreement are by this reference made a part hereof and are incorporated herein.

10.18 **Order of Precedence.**

In the event of any conflict between or among the provisions of this Agreement and those of any exhibit attached hereto or of any amendment, the priority, in decreasing order of precedence shall be: 1) any fully executed amendment; 2) provisions in this Agreement; and 3) exhibits to this Agreement.

10.19 **Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument

10.20 **Independent Contractor.**

In the performance of this Agreement, the Developer will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer or association of the City or the DIA. The Developer and its employees or agents shall be solely responsible for the

means, method, technique, sequences and procedures utilized by the Developer in the performance of this Agreement.

10.21 **Retention of Records/Audit**

The Developer and the CDD agree:

(a) To establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by the DIA under this Agreement.

(b) To retain, with respect to the CRA Infrastructure Improvements project, all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Agreement for a period of six (6) years after completion of the date of final payment by the DIA under this Agreement with respect to such Project. If an audit has been initiated and audit findings have not been resolved at the end of six (6) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement, at no additional cost to the City or the DIA.

(c) Upon demand, at no additional cost to the City or DIA, to facilitate the duplication and transfer of any records or documents during the required retention period.

(d) To assure that these records shall be subject at all reasonable times to inspection, review, copying, or audit by personnel duly authorized by the City or DIA, including but not limited to the City Council auditors.

(e) At all reasonable times for as long as records are maintained, to allow persons duly authorized by the City or DIA, including but not limited to the City Council auditors, full access to and the right to examine any of the Developer's and/or the CDD's contracts and related records and documents, regardless of the form in which kept.

(f) To ensure that all related party transactions are disclosed to the City and DIA.

(g) To include the aforementioned audit, inspections, investigations and record keeping requirements in all subcontracts and assignments of this Agreement and the Interlocal Agreement.

(h) Upon reasonable prior notice and during regular business hours, to permit persons duly authorized by the City and DIA, including but not limited to the City Council auditors, to inspect and copy any records, papers, documents, facilities, goods and services of the Developer and CDD that are relevant to this Agreement, and to interview any employees and subcontractor employees of the Developer to assure the City and DIA of the satisfactory performance of the terms and conditions of this Agreement. Following such review, the City and DIA as applicable will deliver to the Developer or the CDD as applicable a written report of its findings and request for development by the Developer or the CDD as applicable of a corrective action plan where appropriate. The Developer and the CDD hereby agree to timely correct all deficiencies identified in the corrective action plan.

(i) Additional monies due as a result of any audit or annual reconciliation shall be paid within thirty (30) days of date of the City's or DIA's invoice.

(j) Should the annual reconciliation or any audit reveal that the Developer or the CDD owe the City or DIA additional monies, and the Developer or the CDD as applicable do not make restitution within thirty (30) days from the date of receipt of written notice from the City, then, in addition to any other remedies available to the City and DIA, the City or DIA may terminate this Agreement, solely at its option, by written notice to the Developer and the CDD. No payment made by the Developer or the CDD under this Section 10.21 shall constitute a waiver by the Developer or the CDD of their right to later contest the validity or correctness of such payment.

10.22 **Non-merger.**

None of the terms, covenants, agreements or conditions set forth in this Agreement shall be deemed to be merged with any deed conveying title to the Project Parcel, if applicable.

10.23 **Exemption of City.**

Neither this Agreement nor the obligations imposed upon the City or the DIA hereunder shall be or constitute an indebtedness of the City or the DIA within the meaning of any constitutional, statutory or charter provisions requiring the City or the DIA to levy ad valorem taxes nor a lien upon any properties of the City.

10.24 **Parties to Agreement; Successors and Assigns.**

This is an agreement solely between the City, the DIA and the Developer. The execution and delivery hereof shall not be deemed to confer any rights or privileges on any person not a party hereto (other than the CDD); provided, however, that the Developer may assign this Agreement in its entirety after the CDD shall have issued the CDD Bonds. Developer shall provide documentation in form and content acceptable to the CEO of the DIA in his reasonable discretion that any such assignee has the financial ability to meet the obligations proposed to be assigned and undertaken pursuant to this Agreement, and that the proposed assignee has adequate experience with mixed use developments of comparable scope and complexity to the portion of the Project and RiversEdge Project that remains to be developed and is subject to the assignment. Any assignee shall enter into an assignment and assumption agreement with developer (or subsequent assignee) in form and content acceptable to the CEO of the DIA in his reasonable discretion. Nothing contained herein shall limit the right of the Developer to convey parcels within or comprising the Developer Parcel. This Agreement shall be binding upon the Developer and the Developer's successors and assigns, and shall inure to the benefit of the City and the DIA and their respective successors and assigns.

10.25 **Venue; Applicable Law.**

All legal actions arising out of or connected with this Agreement must be instituted in the Circuit Court of Duval County, Florida, or in the U.S. District Court for the Middle District of Florida, Jacksonville Division. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement. Each party shall be responsible for its own attorneys' fees and

costs in connection with any action to enforce the terms of this Agreement and/or the other agreements attached hereto.

10.26 **Civil Rights.**

The Developer agrees to comply with all of the terms and requirements of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1968, as amended, and the antidiscrimination provisions of Chapter 126, Part 4, of the City Ordinance Code, and further agrees that in its operation under this Agreement it will not discriminate against anyone on the basis of race, color, age, disability, sex or national origin.

10.27 **Further Assurances.**

The CDD and the Developer will, on request of the City/DIA, and the City/DIA will, on request of the CDD or the Developer,

(a) promptly correct any defect, error or omission herein or in any documents executed in connection herewith (collectively, "Project Documents");

(b) execute, acknowledge, deliver, procure, record or file such further instruments and do such further acts necessary, desirable or proper to carry out the purposes of the Project Documents; and

(c) provide such certificates, documents, reports, information, affidavits and other instruments and do such further acts necessary, desirable or proper to carry out the purposes of the Project Documents.

10.28 **Construction.**

All parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. The Developer and the CDD further acknowledge that they have had ample time to review this Agreement and related documents with counsel of its choice. Any doubtful or ambiguous provisions contained herein shall not be construed against the party who drafted the Agreement.

10.29 **Headings.**

The captions and headings used in this Agreement are for convenience only and do not in any way limit, amplify, or otherwise modify the provisions of this Agreement.

10.30 **Further Authorizations.**

The parties acknowledge and agree that the CEO, or his designee, are hereby authorized to execute any and all other contracts and documents and otherwise take all necessary action in connection with this Agreement.

10.31 **Remedies.**

The City and the DIA shall have all remedies available at law or in equity as to any default under this Agreement by the Developer. In the event of any breach by the City or the DIA of any obligations in this Agreement, the sole remedy of the Developer, the CDD, and their respective successors and assigns, shall be injunctive relief or specific performance. The Developer understands and agrees that the City Council of the City has approved this Agreement on the foregoing basis and that any funds to be paid by the City or the DIA in connection with this Agreement are subject to lawful appropriation therefor by the City Council.

10.32 **Estoppel Certificate.**

The parties agree from time to time, but no more frequently than twice annually, within not more than ten (10) business days after receipt of written request from the other party, to execute, acknowledge and deliver to the other party a statement (“Estoppel Certificate”) in writing, certifying: (a) this Agreement is unmodified and in full force and effect, or in full force and effect as modified, and stating the modification; and (b) that there are not, to that party’s actual knowledge, any uncured defaults, or events which with the passage of time would become a default, on the part of the other party, or specifying existing defaults. Any such Estoppel Certificate delivered pursuant to this Section 10.32 may be relied upon by any prospective purchaser or mortgagee of all or any portion of the Project, or any prospective assignee of any such mortgagee, or any ground lessor under any ground lease with respect to any portion of the Project.

IN WITNESS WHEREOF, this Agreement is executed the day and year above written.

WITNESS:

DOWNTOWN INVESTMENT AUTHORITY

Print Name: _____

By: _____
Lori N. Boyer, CEO

Print Name: _____

ATTEST:

CITY OF JACKSONVILLE

By: _____
Print Name: _____
Corporation Secretary

By: _____
Donna Deegan, Mayor

FORM APPROVED:

Office of the General Counsel

Encumbrance and funding information for internal City use:

Account or PO Number: _____

Amount.....\$ _____**.00**

This above stated amount is the maximum fixed monetary amount of the foregoing Contract. It shall not be encumbered by the foregoing Contract. It shall be encumbered by one (1) or more subsequently issued purchase order(s) that must reference the foregoing Contract. All financial examinations and funds control checking will be made at the time such purchase order(s) are issued.

In accordance with Section 24.103(e), of the *Jacksonville Ordinance Code*, I do hereby certify that there is an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing Contract; provided however, this certification is not nor shall it be interpreted as an encumbrance of funding under this Contract. Actual encumbrance[s] shall be made by subsequent purchase order[s], as specified in said Contract.

Director of Finance
City Contract Number: _____

WITNESS:

**ELEMENTS DEVELOPMENT OF
JACKSONVILLE, LLC**, a Florida limited
liability company

Print Name: _____

By: **PHCC LLC**, a Delaware limited liability
company, d/b/a/ Preston Hollow Community
Capital, its Manager

Print Name: _____

By: _____
Name: _____
Its: _____

JOINDER

The undersigned joins in the execution of the Agreement for the purpose of reaffirming its guaranty of the Developer obligations under this Agreement and its obligations under the Redevelopment Agreement as amended and restated by this Agreement.

IN WITNESS WHEREOF, intending to be legally bound, the CDD has executed this Joinder as of _____, 2023.

WITNESS:

DISTRICT COMMUNITY DEVELOPMENT DISTRICT, a community development district established pursuant to Chapter 190, Florida Statutes

Print Name: _____

By: _____

Print Name: _____

Name: _____

Title: _____

EXHIBIT LIST

- Exhibit A - Description of the RiversEdge Project
- Exhibit B - Project Parcel
- Exhibit B-1 - Intake Parcel
- Exhibit B-2 - Broadcast Parcel
- Exhibit C - CDD Infrastructure Improvements
- Exhibit D - City Parcels
- Exhibit E - CRA Infrastructure Improvements
- Exhibit F - Reserved
- Exhibit G - Reserved
- Exhibit H - Developer Parcel
- Exhibit I - Reserved
- Exhibit J - Performance Schedule
- Exhibit K - Budget/Scope of Work for CDD Infrastructure Improvements
- Exhibit L - Budget/Scope of Work for CRA Infrastructure Improvements
- Exhibit M - Boardwalk/Trail Easement
- Exhibit N - Special Warranty Deed conveying City Parcels to City
- Exhibit O - Temporary Construction Easement
- Exhibit P - Insurance Requirements of the Developer/CDD

Exhibit A
Description of the RiversEdge Project

The Developer has submitted a proposal to the DIA to oversee and manage the development of RiversEdge, a mixed use master planned development anticipated to include approximately 1,170 residential units, 200 hotel rooms, 200,000 square feet of Class A Office Space, 121,400 square feet of retail space, 125 marina slips (collectively, the “Vertical Improvements”) and inclusive of the CDD Infrastructure Improvements the (“RiversEdge Project”). The RiversEdge Project will be developed on property to be acquired by Developer from JEA, formerly known as the Southside Generating Station. The Developer will convey approximately 4.0 acres of the project site to the City for park space and for the construction of roads to access the park space.

Exhibit B
Project Parcel

Parcel 1

ALL OF LOTS 7 THROUGH 10, WATER LOTS SECOND SERIES, REEDS FOURTH SUBDIVISION OF SOUTH JACKSONVILLE, AS SHOWN ON THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 46 OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, A PART OF KANSAS STREET, A 60 FOOT RIGHT OF WAY, CLOSED BY ORDINANCE BB-246 AND A PART OF SECTIONS 44 AND 45, THE ISAAC HENDRICKS GRANT, AND A PART OF SECTION 60, THE F. BAGLEY AND I. HENDRICKS GRANT, ALL LYING IN TOWNSHIP 2 SOUTH, RANGE 26 EAST, DUVAL COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF COMMENCEMENT, COMMENCE AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT OF WAY LINE OF REED AVENUE, A 60 FOOT RIGHT OF WAY AS PRESENTLY ESTABLISHED AND THE EASTERLY RIGHT OF WAY LINE OF BROADCAST PLACE, A 60 FOOT RIGHT OF WAY AS PRESENTLY ESTABLISHED; THENCE NORTH 02 DEGREES 27 MINUTES 30 SECONDS EAST, 240.42 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING, NORTH 02 DEGREES 27 MINUTES 30 SECONDS EAST, CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE, THE NORTHERLY PROLONGATION THEREOF, AND ALONG THE WESTERLY LINE OF SAID LOT 7, WATER LOTS SECOND SERIES, REEDS FOURTH SUBDIVISION OF SOUTH JACKSONVILLE; A DISTANCE OF 822.36 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 7; THENCE NORTH 27 DEGREES 38 MINUTES 14 SECONDS EAST, DEPARTING SAID WESTERLY LINE AND ALONG THE EASTERLY LINE AND NORTHEASTERLY PROJECTION OF THE EASTERLY LINE OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 5103, PAGE 759 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, A DISTANCE OF 283.34 FEET TO A POINT ON A LINE BEING THE BOUNDARY SEPARATING THE LANDS OF PRIVATE OWNERSHIP FROM THE ADJACENT STATE OWNED SOVEREIGNTY LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 9008, PAGE 1216 AND OFFICIAL RECORDS BOOK 12686, PAGE 910 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA; THENCE EASTERLY ALONG LAST SAID LINE THE FOLLOWING 14 COURSES: COURSE 1, THENCE NORTH 72 DEGREES 33 MINUTES 56 SECONDS EAST, 61.48 FEET; COURSE 2, THENCE SOUTH 73 DEGREES 04 MINUTES 04 SECONDS EAST, 220.55 FEET TO A POINT ON THE FACE OF AN EXISTING SEAWALL; COURSE 3, THENCE NORTH 27 DEGREES 29 MINUTES 56 SECONDS EAST ALONG SAID EXISTING SEAWALL, 25.35 FEET; COURSE 4, THENCE SOUTH 62 DEGREES 16 MINUTES 12 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 154.29 FEET; COURSE 5, THENCE SOUTH 17 DEGREES 34 MINUTES 47 SECONDS EAST DEPARTING SAID EXISTING SEAWALL, 23.74 FEET; COURSE 6, THENCE SOUTH 39 DEGREES 24 MINUTES 04 SECONDS EAST, 32.94 FEET; COURSE 7, THENCE SOUTH 50 DEGREES 13 MINUTES 49 SECONDS EAST, 74.57 FEET TO A POINT ON THE FACE OF AN EXISTING SEAWALL; COURSE 8, THENCE SOUTH 62 DEGREES 32 MINUTES 42 SECONDS EAST ALONG SAID EXISTING SEAWALL,

100.76 FEET; COURSE 9, THENCE NORTH 71 DEGREES 02 MINUTES 59 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 31.40 FEET; COURSE 10, THENCE SOUTH 62 DEGREES 38 MINUTES 03 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 447.96 FEET; COURSE 11, THENCE SOUTH 62 DEGREES 16 MINUTES 36 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 156.94 FEET; COURSE 12, THENCE SOUTH 78 DEGREES 43 MINUTES 28 SECONDS EAST DEPARTING SAID EXISTING SEAWALL, 60.20 FEET; COURSE 13, THENCE SOUTH 56 DEGREES 36 MINUTES 20 SECONDS EAST, 348.39 FEET; COURSE 14, THENCE SOUTH 26 DEGREES 50 MINUTES 05 SECONDS EAST, 107.15 FEET TO THE POINT OF TERMINATION OF SAID LINE DESCRIBED IN OFFICIAL RECORDS BOOK 9008, PAGE 1216 AND OFFICIAL RECORDS BOOK 12686, PAGE 910 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA; THENCE SOUTH 72 DEGREES 27 MINUTES 52 SECONDS WEST, 53.09 FEET TO A POINT ON THE WATERS OF THE ST. JOHNS RIVER; THENCE SOUTH 23 DEGREES 45 MINUTES 12 SECONDS WEST DEPARTING SAID WATERS OF THE ST. JOHNS RIVER, 356.01 FEET; THENCE SOUTH 86 DEGREES 36 MINUTES 07 SECONDS WEST, 885.56 FEET TO THE NORTHWEST CORNER OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 14316, PAGE 1471 OF THE CURRENT PUBLIC RECORDS OF SAID COUNTY; THENCE NORTH 61 DEGREES 14 MINUTES 42 SECONDS WEST, 189.34 FEET; THENCE NORTH 85 DEGREES 43 MINUTES 46 SECONDS WEST, 481.49 FEET TO SAID EASTERLY RIGHT OF WAY LINE OF BROADCAST PLACE AND THE POINT OF BEGINNING. BEING THE SAME LANDS CONVEYED BY JEA TO MASTER DEVELOPER PURSUANT TO THE SPECIAL WARRANTY DEED DATED JULY 12, 2018 AND RECORDED IN OFFICIAL RECORDS BOOK 18455, PAGE 205 OF THE PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA

Parcel 2

THE NORTH ½ OF IOWA STREET CLOSED, VACATED AND ABANDONED BY ORDINANCE NO. FF-265 LYING SOUTHERLY, ADJACENT AND CONTIGUOUS TO LOTS 1 AND 15, BLOCK 5, REEDS SUBDIVISION, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 1, PAGE 46 OF THE PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA

Parcel 3

LOTS 1 THROUGH 3 AND LOTS 13 THROUGH 15, A PORTION OF LOTS 4 AND 12, A PORTION OF AN ALLEY, ALL LYING IN BLOCK 5 AND A PORTION OF COLORADO AVENUE (FORMERLY WISCONSIN AVENUE) AS SHOWN ON THE PLAT OF REEDS FOURTH SUBDIVISION OF SOUTH JACKSONVILLE AS RECORDED IN PLAT BOOK 1, PAGE 46 OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 15, BLOCK 5 OF SAID REEDS FOURTH SUBDIVISION, SAID POINT BEING THE POINT OF INTERSECTION OF THE FORMER NORTHERLY RIGHT OF WAY LINE OF IOWA STREET (A 60 FOOT RIGHT OF

WAY CLOSED BY ORDINANCE FF-265) AND THE EASTERLY RIGHT OF WAY LINE OF MONTANA AVENUE (FORMERLY ATLANTIC AVENUE) (A 30' RIGHT OF WAY AS SHOWN ON THE PLAT OF SAID REEDS FOURTH SUBDIVISION); THENCE SOUTH 87 DEGREES 33 MINUTES 46 SECONDS EAST, DEPARTING SAID EASTERLY RIGHT OF WAY LINE AND ALONG SAID FORMER NORTHERLY RIGHT OF WAY LINE AND THE EASTERLY PROJECTION THEREOF, A DISTANCE OF 269.59 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COLORADO AVENUE (FORMERLY WISCONSIN AVENUE) (A 60 FOOT RIGHT OF WAY CLOSED BY ORDINANCE FF-265); THENCE NORTH 02 DEGREES 27 MINUTES 30 SECONDS EAST. ALONG LAST SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 188.95 FEET; THENCE NORTH 86 DEGREES 44 MINUTES 19 SECONDS WEST, DEPARTING LAST SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 236.96 FEET TO A POINT OF CURVATURE OF A CURVE BEING CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 39.27 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 48 DEGREES 15 MINUTES 41 SECONDS WEST, 35.36 FEET TO A POINT OF TANGENCY; THENCE SOUTH 03 DEGREES 15 MINUTES 41 SECONDS WEST, A DISTANCE OF 9.40 FEET; THENCE NORTH 86 DEGREES 44 MINUTES 19 SECONDS WEST, A DISTANCE OF 7.28 FEET TO SAID EASTERLY RIGHT OF WAY LINE OF MONTANA AVENUE; THENCE SOUTH 02 DEGREES 25 MINUTES 07 SECONDS WEST, ALONG LAST SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 158.44 FEET TO THE POINT OF BEGINNING.

Exhibit B-1
Intake Parcel

An accurate legal description of the Intake Parcel will be inserted at the time of adoption of any Resolution expressly incorporating it into the Project Parcel. In general, the intake parcel is that parcel shown below which is waterward of current tax parcel 080096-0525 currently owned by District Community Development District and the site of current over water intake structures formerly associated with Southside Generating Station.



Exhibit B-2
Broadcast Parcel

An accurate legal description of the abandoned section of the relocated Broadcast Place will be inserted at the time of adoption of any Resolution expressly incorporating it into the Project Parcel. At such time as the construction of the relocated Broadcast Place is completed and accepted by the City, and in the event the segment of former Broadcast Place depicted below is formally abandoned, the eastern one -half of the abandoned segment may be added to the Project Parcel upon DIA Board approval.

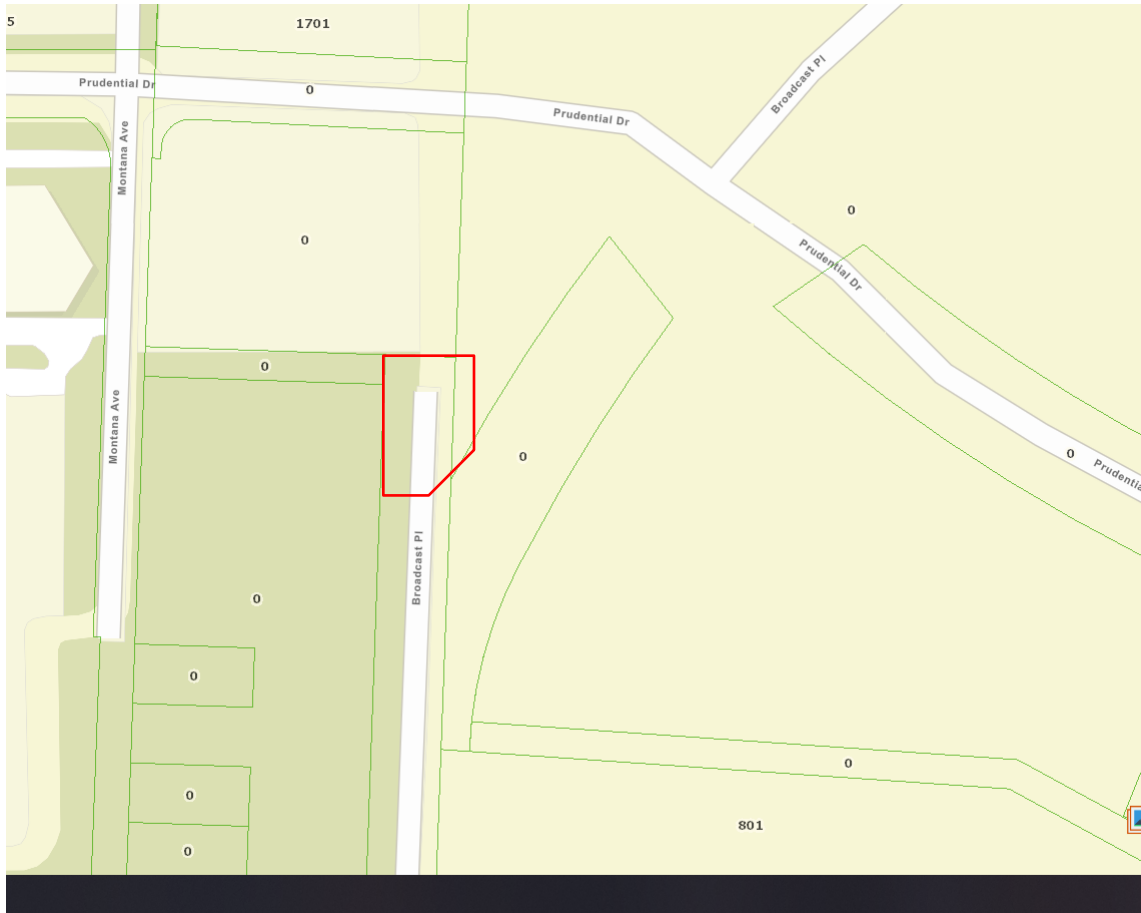


Exhibit C
CDD Infrastructure Improvements

The CDD shall pay for the design, construction, and conveyance to the City of those items of infrastructure which aid in the development or provide services or benefits to what will be development parcels within the Project Parcel. The estimated budget for CDD Infrastructure Improvement costs (the “CDD Infrastructure Budget”) is \$34,480,132. The CDD shall be responsible for all costs and any overruns attendant to the construction of the CDD Infrastructure Improvements.

The CDD Infrastructure Improvements shall include the following:

- The public utilities necessary to serve both the project and the public space/public roads
- Stormwater management facilities necessary to serve both the CDD and CRA Infrastructure Improvements, inclusive of the public spaces and public roads
- An extension of Prudential Drive with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking
- An extension of Broadcast Place with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking
- A new Health Walk Way with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking
- A new Back Bay Drive with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking.
- New pedestrian-only promenades
- New school board parking
- New marina/riverfront parking
- New public use parking

Notwithstanding anything in the Redevelopment Agreement (as amended and restated by the Agreement) or the Disbursement Agreement to the contrary, subject to the Public Works Department’s approval, Developer or CDD may engage up to six (6) Contractors to construct the CDD Infrastructure Improvements.

Exhibit D
City Parcels

Those lands (excluding #4 below) as described in that certain Special Warranty Deed dated December 30, 2020, and recorded in Official Records Book 19523, page 1444, in the Official Public Records of Duval County, Florida. The City Parcels shall include the minimum acreages and areas as described below.

1. Three riverfront parks **totaling a minimum of 3.5 acres** to be transferred to the City unencumbered at the time of closing.

1.1 Central Riverfront Park- a large riverfront tract with unobstructed waterfront views and access to the Riverwalk, designed to accommodate a variety of fitness activities and equipment as well as information on wellness, medical research and medical facilities in the City and an iconic marker identifying the node, with a minimum continuous front footage along the river of 475', a minimum depth of 140 feet not including the Riverwalk (a minimum depth of 165 feet inclusive of the Riverwalk)
Minimum acreage of 2.25 inclusive of the Riverwalk)

1.2 Northeastern Riverfront Park – a linear waterfront park adjacent to the Riverwalk. Minimum front footage along the river of 330', a minimum average depth of 75' and no less than 50' at its narrowest point. **Minimum 1 acre inclusive of the Riverwalk**

1.3 Northwestern Riverfront Linear Park- a linear waterfront park adjacent to and inclusive of the Riverwalk with a minimum front footage of 260 feet, a minimum depth of 50 feet inclusive of the Riverwalk. **Minimum .25 acres**

2. One marshfront park between the southern roadway and southern property boundary with no less than 150' frontage on the marsh and no less than 50' in depth to be transferred to the City at the time of closing. **Minimum .25 acres**

3. A minimum 25' wide Riverwalk parcel transferred to the City along the entire riverfront within which the Riverwalk extension will be constructed

4. A minimum 25' wide marsh easement over JEA land within which the marsh loop boardwalk trail will be constructed and that will be conveyed to the City.

5. A minimum 25' wide multi-use path parcel to be transferred to the City along the southern property boundary, and adjacent to the relocated Broadcast Place to connect the trail from the terminus of the marsh boardwalk over JEA land through the development parcel back to the Riverfront.

6. To the extent any portions of the completed constructed bulkhead encroaches on to land owned by Developer or CDD (the "Encroachment Parcels"), said Encroachment Parcels shall be conveyed or dedicated to the City by special warranty deed, corrective warranty deed, perpetual easement or dedication by plat, with such method of conveyance as approved by the DIA, and upon conveyance or dedication shall be deemed part of the City Parcels. Developer or CDD as applicable shall grant a perpetual access and maintenance agreement to the City providing access to the City to perform bulkhead maintenance, repair and replacement from the northern edge of the bulkhead.

Exhibit E CRA Infrastructure Improvements

The Master Developer has transferred unencumbered title via either (at the City's sole option): (i) special warranty deed or the equivalent thereof; or (ii) perpetual easement, to the land for the parks and public open spaces, including the Riverwalk, (including any submerged lands under the Riverwalk) bulkhead and riverfront park, and the overland trail. The Master Developer will transfer unencumbered title via either (at the City's sole option): (i) special warranty deed or the equivalent thereof; or (ii) perpetual easement, the easement interest in the boardwalk portion of the trail, and parking for a minimum of 100 public parking spaces constructed by the CDD (at CDD's sole cost and expense and not as part of the CRA Infrastructure Improvements budget); provided, however, that at Developer's option, Developer may satisfy its 100 public parking space obligation by providing an exclusive easement over Parcel 3 as identified on **Exhibit B** attached hereto, the Prudential Drive expansion, traffic circle, Broadcast Place north of the traffic circle and Riverplace Drive (collectively, the "Public Space").

The CRA Infrastructure Improvements shall include the following, as further detailed on Exhibit L attached hereto:

- approximately 1,900 feet of new riverfront bulkhead.
- A top of bank extension of the Southbank Riverwalk for a total of approximately 1,900 linear feet, to a minimum total width of twenty (20) feet as follows: sixteen (16) feet of unobstructed new pathway and a minimum of four (4) feet of perimeter consisting of landscaping, furniture (e.g. benches), lighting, signage and trash receptacles. The extension shall be constructed with materials and furnishings (i.e., lighting, benches, shade structures, railing) matching the existing Southbank Riverwalk.
- approximately 1,255 linear feet of New Boardwalk as follows: a minimum twelve (12) foot wide boardwalk through marsh to connect the extension of the Southbank Riverwalk to an overland trail segment along the southern boundary of the development. The boardwalk shall include platforms to accommodate furnishings (e.g. benches) as well as lighting. Approximately 1,650 linear feet of new overland trail as follows; a minimum twelve (12) foot wide overland trail to connect Boardwalk to southwest corner of development.
- The parks shall have approximately 820 linear feet of river frontage (length), and an average depth of 112 feet. Riverfront park shall include amenities (e.g., fitness equipment to enhance wellness theme), as well as Riverfront Activation Node elements. The Northeast park will include a destination playground as well as adult fitness opportunities and a yoga lawn. The Parks will be health themed and include interactive wellness art and covered digital kiosks capable of displaying changing video content about Jacksonville's extraordinary medical facilities, research and Jacksonville's status as a medical tourism destination as well as wellness initiatives such as Blue Zones.
- A New Water Taxi stop, new transient boat docking facilities and new beach kayak launch.
- An extension of Prudential Drive with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking.
- An extension of Broadcast Place with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking.
- Riverside Drive with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking.
- An iconic lighted sculpture by Marc Fornes approximately 40 feet plus in height to be

located in Central Park.

- A pavilion building that will include a small performance stage, restrooms and storage for park equipment and supplies.

Exhibit F
Reserved

Exhibit G

Reserved

Exhibit H

Parcel 1:

ALL OF LOTS 7 THROUGH 10, WATER LOTS SECOND SERIES, REEDS FOURTH SUBDIVISION OF SOUTH JACKSONVILLE, AS SHOWN ON THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 46 OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, A PART OF KANSAS STREET, A 60 FOOT RIGHT OF WAY, CLOSED BY ORDINANCE BB-246 AND A PART OF SECTIONS 44 AND 45, THE ISAAC HENDRICKS GRANT, AND A PART OF SECTION 60, THE F. BAGLEY AND I. HENDRICKS GRANT, ALL LYING IN TOWNSHIP 2 SOUTH, RANGE 26 EAST, DUVAL COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF COMMENCEMENT, COMMENCE AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT OF WAY LINE OF REED AVENUE, A 60 FOOT RIGHT OF WAY AS PRESENTLY ESTABLISHED AND THE EASTERLY RIGHT OF WAY LINE OF BROADCAST PLACE, A 60 FOOT RIGHT OF WAY AS PRESENTLY ESTABLISHED; THENCE NORTH 02 DEGREES 27 MINUTES 30 SECONDS EAST, 240.42 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING, NORTH 02 DEGREES 27 MINUTES 30 SECONDS EAST, CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE, THE NORTHERLY PROLONGATION THEREOF, AND ALONG THE WESTERLY LINE OF SAID LOT 7, WATER LOTS SECOND SERIES, REEDS FOURTH SUBDIVISION OF SOUTH JACKSONVILLE; A DISTANCE OF 822.36 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 7; THENCE NORTH 27 DEGREES 38 MINUTES 14 SECONDS EAST, DEPARTING SAID WESTERLY LINE AND ALONG THE EASTERLY LINE AND NORTHEASTERLY PROJECTION OF THE EASTERLY LINE OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 5103, PAGE 759 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, A DISTANCE OF 283.34 FEET TO A POINT ON A LINE BEING THE BOUNDARY SEPARATING THE LANDS OF PRIVATE OWNERSHIP FROM THE ADJACENT STATE OWNED SOVEREIGNTY LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 9008, PAGE 1216 AND OFFICIAL RECORDS BOOK 12686, PAGE 910 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA; THENCE EASTERLY ALONG LAST SAID LINE THE FOLLOWING 14 COURSES: COURSE 1, THENCE NORTH 72 DEGREES 33 MINUTES 56 SECONDS EAST, 61.48 FEET; COURSE 2, THENCE SOUTH 73 DEGREES 04 MINUTES 04 SECONDS EAST, 220.55 FEET TO A POINT ON THE FACE OF AN EXISTING SEAWALL; COURSE 3, THENCE NORTH 27 DEGREES 29 MINUTES 56 SECONDS EAST ALONG SAID EXISTING SEAWALL, 25.35 FEET; COURSE 4, THENCE SOUTH 62 DEGREES 16 MINUTES 12 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 154.29 FEET; COURSE 5, THENCE SOUTH 17 DEGREES 34 MINUTES 47 SECONDS EAST DEPARTING SAID EXISTING SEAWALL, 23.74 FEET; COURSE 6, THENCE SOUTH 39 DEGREES 24 MINUTES 04 SECONDS EAST, 32.94 FEET; COURSE 7, THENCE SOUTH 50 DEGREES 13 MINUTES 49 SECONDS EAST, 74.57 FEET TO A POINT ON THE FACE OF AN EXISTING SEAWALL; COURSE 8, THENCE SOUTH 62 DEGREES 32 MINUTES 42 SECONDS EAST ALONG SAID EXISTING SEAWALL, 100.76 FEET; COURSE 9, THENCE NORTH 71 DEGREES 02 MINUTES 59 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 31.40 FEET; COURSE 10, THENCE SOUTH 62 DEGREES 38 MINUTES 03 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 447.96 FEET; COURSE 11, THENCE SOUTH 62 DEGREES 16 MINUTES 36 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 156.94 FEET; COURSE 12, THENCE SOUTH 78 DEGREES 43 MINUTES 28 SECONDS EAST DEPARTING SAID EXISTING SEAWALL, 60.20 FEET; COURSE 13, THENCE SOUTH 56 DEGREES 36 MINUTES 20 SECONDS EAST, 348.39 FEET; COURSE 14, THENCE SOUTH 26 DEGREES 50 MINUTES 05 SECONDS EAST, 107.15 FEET TO THE POINT OF

TERMINATION OF SAID LINE DESCRIBED IN OFFICIAL RECORDS BOOK 9008, PAGE 1216 AND OFFICIAL RECORDS BOOK 12686, PAGE 910 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA; THENCE SOUTH 72 DEGREES 27 MINUTES 52 SECONDS WEST, 53.09 FEET TO A POINT ON THE WATERS OF THE ST. JOHNS RIVER; THENCE SOUTH 23 DEGREES 45 MINUTES 12 SECONDS WEST DEPARTING SAID WATERS OF THE ST. JOHNS RIVER, 356.01 FEET; THENCE SOUTH 86 DEGREES 36 MINUTES 07 SECONDS WEST, 885.56 FEET TO THE NORTHWEST CORNER OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 14316, PAGE 1471 OF THE CURRENT PUBLIC RECORDS OF SAID COUNTY; THENCE NORTH 61 DEGREES 14 MINUTES 42 SECONDS WEST, 189.34 FEET; THENCE NORTH 85 DEGREES 43 MINUTES 46 SECONDS WEST, 481.49 FEET TO SAID EASTERLY RIGHT OF WAY LINE OF BROADCAST PLACE AND THE POINT OF BEGINNING. BEING THE SAME LANDS CONVEYED BY JEA TO MASTER DEVELOPER PURSUANT TO THE SPECIAL WARRANTY DEED DATED JULY 12, 2018 AND RECORDED IN OFFICIAL RECORDS BOOK 18455, PAGE 205 OF THE PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA

LESS AND EXCEPT THOSE LANDS CONVEYED TO THE CITY OF JACKSONVILLE PURSUANT TO THAT SPECIAL WARRANTY DEEDS RECORDED IN OFFICIAL RECORDS BOOK 19523, PAGE 1444.

Parcel 2:

THE NORTH 1/2 OF IOWA STREET CLOSED, VACATED AND ABANDONED BY ORDINANCE NO. FF-265 LYING SOUTHERLY, ADJACENT AND CONTIGUOUS TO LOTS 1 AND 15, BLOCK 5, REEDS SUBDIVISION, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 1, PAGE 46, OF THE PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.

Parcel 3:

LOTS 1 THROUGH 3 AND LOTS 13 THROUGH 15, A PORTION OF LOTS 4 AND 12, A PORTION OF AN ALLEY, ALL LYING IN BLOCK 5 AND A PORTION OF COLORADO AVENUE (FORMERLY WISCONSIN AVENUE) AS SHOWN ON THE PLAT OF REEDS FOURTH SUBDIVISION OF SOUTH JACKSONVILLE AS RECORDED IN PLAT BOOK 1, PAGE 46 OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 15, BLOCK 5 OF SAID REEDS FOURTH SUBDIVISION, SAID POINT BEING THE POINT OF INTERSECTION OF THE FORMER NORTHERLY RIGHT OF WAY LINE OF IOWA STREET (A 60 FOOT RIGHT OF WAY CLOSED BY ORDINANCE FF-265) AND THE EASTERLY RIGHT OF WAY LINE OF MONTANA AVENUE (FORMERLY ATLANTIC AVENUE) (A 30' RIGHT OF WAY AS SHOWN ON THE PLAT OF SAID REEDS FOURTH SUBDIVISION); THENCE SOUTH 87 DEGREES 33 MINUTES 46 SECONDS EAST, DEPARTING SAID EASTERLY RIGHT OF WAY LINE AND ALONG SAID FORMER NORTHERLY RIGHT OF WAY LINE AND THE EASTERLY PROJECTION THEREOF, A DISTANCE OF 269.59 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COLORADO AVENUE (FORMERLY WISCONSIN AVENUE) (A 60 FOOT RIGHT OF WAY CLOSED BY ORDINANCE FF-265); THENCE NORTH 02 DEGREES 27 MINUTES 30 SECONDS EAST. ALONG LAST SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 188.95 FEET; THENCE NORTH 86 DEGREES 44 MINUTES 19 SECONDS WEST, DEPARTING LAST SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 236.96 FEET TO A POINT OF CURVATURE OF A CURVE BEING CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 39.27 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 48 DEGREES 15 MINUTES 41 SECONDS WEST, 35.36 FEET TO A POINT OF TANGENCY; THENCE SOUTH 03 DEGREES 15 MINUTES 41 SECONDS WEST, A DISTANCE OF 9.40 FEET; THENCE NORTH 86 DEGREES 44 MINUTES 19 SECONDS

WEST, A DISTANCE OF 7.28 FEET TO SAID EASTERLY RIGHT OF WAY LINE OF MONTANA AVENUE; THENCE SOUTH 02 DEGREES 25 MINUTES 07 SECONDS WEST, ALONG LAST SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 158.44 FEET TO THE POINT OF BEGINNING.

Exhibit I
Reserved

Exhibit J
Performance Schedule

PERFORMANCE SCHEDULE

(a) On or before July 12, 2018 (the Effective Date), the Developer entered into a fully executed DCSB Agreement in form and substance acceptable to the DIA and provided a copy thereof to the DIA. The DCSB Agreement shall provide that, in the event the Developer or CDD default under the DCSB Agreement, the DCSB Agreement at the option of the City may be collaterally assigned to the City.

(b) On or before August 11, 2018, the Developer engaged a design, engineering and permitting team ("Design Team") and authorized that Design Team to proceed with the design and engineering plans and specifications for the Project and shall have provided the DIA with copies of the Contracts of engagements, evidence of the notice to proceed and schedule for production of the plans and specifications (the "Plans and Specifications"). Within sixty (60) days thereafter, and every thirty (30) days thereafter, the Design Team shall meet with and provide the Chief Engineer for the City (the "Chief Engineer") the Plans and Specifications produced during the prior thirty (30) days and all design and engineering of the CRA Infrastructure Improvements shall be subject to the reasonable approval of the Chief Engineer. This schedule may be reasonably modified by the Chief Engineer and the Design Team for better coordination and effectiveness of the review process.

(c) On or before October 10, 2018, the Developer submitted the Preliminary Plat for the Project Parcel to the City;

(d) On or before October 1, 2020:

- a. Prior to December 31, 2018, the Developer shall have overseen, petitioned the City and caused the creation of the CDD pursuant to Chapter 190, Florida Statutes, for the purposes of causing the development and construction of the Project, and prior to December 31, 2020, the CDD shall have purchased the Design and Engineering Plans (as defined in the Disbursement Agreement) from the Developer; and
- b. The Developer and/or the CDD shall have substantially completed the final design and engineering for the Project and the final plat for the Project Parcel (excluding the final design and engineering for the marina improvements, including the water taxi stop, transient boat docking facilities and kayak launch).

(e) Prior to December 31, 2020, the CDD shall have issued the CDD Bonds the proceeds of which shall be sufficient to fund the CDD Infrastructure Improvements and to satisfy reasonable capitalized interest and debt service reserves together with reasonable placement agent fees and other CDD bond industry standard issuance costs attendant to the issuance of the bonds.

(f) Prior to December 31, 2020, but after issuance of the CDD Bonds, the Closing on the City Parcels shall have occurred in accordance with this Agreement.

(g) On or before December 31, 2020, the CDD had applied for all permits reasonably necessary for the commencement of construction of the Project, and the CDD provided to the DIA all permit documents and information required by the City under its standard permit application processes.

(h) On or before May 18, 2021;

a. The CDD obtained all permits reasonably necessary for commencement of construction of portions of the CRA Infrastructure Improvements and CDD Infrastructure Improvements; and

b. The CDD signed contracts with General Contractors for construction of the bulkhead portion of the CRA Infrastructure Improvements and the contract for construction of the DCSB parking lot portion of the CDD Infrastructure Improvements.

(i) On or before June 14, 2021, the CDD Commenced Construction of the bulkhead portion of the CRA Infrastructure Improvements and the DCSB parking lot portion of the CDD Infrastructure Improvements (the “Initial Commencement of Construction Date”) and provided written notice of the date thereof to the DIA.

(j) On or before October 27, 2021, the CDD signed a contract with a General Contractor for the roadway portion of the remaining CRA Infrastructure Improvements, and a general contractor for the roadway portion of the remaining CDD Infrastructure Improvements.

(k) On or before November 24, 2021, the CDD Commenced Construction of the roadway portion of the remaining CRA Infrastructure Improvements and the CDD Infrastructure Improvements and provided written notice of the date thereof to the DIA.

(l) On or before June 30, 2024, the CDD shall have signed a contract with General Contractors for all remaining CRA Infrastructure Improvements, including the marsh boardwalk, but with the exception of the water taxi stop, transient boat docking facilities and kayak launch (the “Upland CRA Infrastructure Improvements”) and with General Contractors for all remaining CDD Infrastructure Improvements.

(m) On or before June 30, 2024, the CDD shall have signed a contract with General Contractors for the water taxi stop, transient boat docking facilities and kayak launch.

(n) The CDD shall Complete Construction of the CRA Infrastructure Improvements by no later than December 31, 2024.

(o) The CDD shall Complete Construction of the CDD Infrastructure Improvements by no later than December 31, 2025.

In the event of any conflict between this Performance Schedule and the Performance Schedule in the Disbursement Agreement, this Performance Schedule shall control.

Exhibit K

Budget/Scope of Work for CDD Infrastructure Improvements

[See 1 page, following]

The attached are preliminary estimates. Actual schedule of values to be inserted at time CDD enters into agreements with its contractors for the construction of the Project.

CDD CAPITAL IMPROVEMENTS

**Engineers Opinion of Probable Costs
Summary**

Description	Total Estimated Cost	Estimated Unit Cost	Unit
ROADWAYS (NEW)			
Health Walk (Between Prudential Drive and Riverside Drive)	\$585,855	\$	1,592.00 Per Lineal Foot
Prudential Drive Extension (Between western cul-de-sac and eastern property line, includes eastern cul-de-sac)	\$2,387,420	\$	1,771.08 Per Lineal Foot
Broadcast Place Extension (From existing Broadcast Place to western cul-de-sac)	\$878,782	\$	1,658.08 Per Lineal Foot
Backbay Drive (Between Broadcast Place and Prudential Drive)	\$1,171,710	\$	1,251.83 Per Lineal Foot
Marina Way (Between Prudential Drive and Riverside Drive)	\$585,855	\$	1,457.35 Per Lineal Foot
Cul-de-sac (Northern terminus of Broadcast Place)	\$239,668	\$	1,997.23 Per Lineal Foot
OPEN SPACE (NEW)			
Sourter Lane (Between 2A and 2B)	\$60,000		
Pocket Park (Adjacent to 9A)	\$90,000		
PARKING (NEW)			
School Board (Surface)	\$1,150,000		
Marina (Surface)	\$120,000		
100-Space Public Parking (Surface)	\$600,000		
INFRASTRUCTURE (NEW)			
Potable Water (Pipe)	\$1,383,772		
Sanitary Sewer (Pipe)	\$977,041		
Stormwater (Pipe)	\$1,234,880		
Lift Station	\$750,000		
Stormwater (Other)	\$4,121,765		
Electrical - Duct Bank and Site Lighting	\$1,493,276		
Subtotal	\$17,830,024		
			Construction Costs Only
Design Costs (15%)	\$2,674,504		
Contingency Allowance (15%)	\$2,674,504		
Escalation of Cost (approx. 3% Increase Per Year for 3 Years)	\$1,597,744		
Total Budget	\$24,776,775		

Budget/Scope of Work for CRA Infrastructure Improvements

The District - CRA Infrastructure Budget - June 27, 2023			
DESCRIPTION	CRA SHARE	CDD SHARE (PLUS OVERRUNS)	TOTAL
RIVERFRONT BULKHEAD			
RIVERFRONT BULKHEAD CONSTRUCTION TOTAL	\$4,733,364	\$0	\$4,733,364
RIVERWALK EXTENSION			
FLOATING DOCKS FOR WATER TAXI/BOATERS ALLOWANCE	\$1,200,000	\$0	\$1,200,000
KAYAK LAUNCH ALLOWANCE	\$460,000	\$0	\$460,000
RIVERWALK SIGNAGE ALLOWANCE	\$100,000	\$0	\$100,000
RIVERWALK EXTENSION CONSTRUCTION TOTAL (Less Allowances)	\$2,586,383	\$683,263	\$3,269,646
BOARDWALK			
SITE FURNISHING LANDSCAPE ALLOWANCE	\$0	\$0	\$0
LIGHTING ALLOWANCE	\$87,500	\$0	\$87,500
BOARDWALK CONSTRUCTION TOTAL (Less Allowances)	\$1,833,459	\$470,120	\$2,303,579
OVERLAND TRAIL			
OVERLAND TRAIL CONSTRUCTION TOTAL (LESS Allowance)	\$422,741	\$352,489	\$775,230
PARKS (NE, NW, CENTRAL AND MARSHFRONT)			
RESTROOM & CITY FACILITY ALLOWANCE	\$1,000,000	\$0	\$1,000,000
WELLNESS NODE ALLOWANCE FOR VERTICAL ART (LIGHTED)	\$1,000,000	\$0	\$1,000,000
8 INTERACTIVE HEALTH RELATED KIOSKS AND INTERPRETIVE SIGNAGE; INSTALLATION	\$500,000	\$0	\$500,000
MAINTENANCE BUILDING ALLOWANCE	\$250,000	\$0	\$250,000
PAVILION ADDITIONAL COST	\$1,750,000	\$0	\$1,750,000
PLAYGROUND AND EXERCISE EQUIPMENT ALLOWANCE	\$1,080,000	\$0	\$1,080,000
PARK SIGNAGE ALLOWANCE	\$87,470	\$0	\$87,470
PARKS CONSTRUCTION TOTAL (LESS ALLOWANCES)	\$2,761,366	\$4,908,052	\$7,669,418
PRUDENTIAL DRIVE EXTENSION, PHASES 1 & 2			
PRUDENTIAL DRIVE EXTENSION, PHASES 1 & 2 CONSTRUCTION TOTAL	\$480,865	\$944,828	\$1,425,693
BROADCAST PLACE			
BROADCAST PLACE CONSTRUCTION TOTAL	\$907,663	\$1,816,002	\$2,723,665
RIVERSIDE DRIVE			
RIVERSIDE DRIVE CONSTRUCTION TOTAL	\$928,477	\$1,676,481	\$2,604,958
CRA TOTAL ALLOWANCES	\$7,514,970		
TOTAL CRA SHARE LESS ALLOWANCES	\$14,654,318		
CEI FUNDING FOR VIA	\$816,563		\$816,563
CEI FUNDING CONTINGENCY	\$350,000		\$350,000
TREE FUND GRANT TOTAL (CREDIT TO CRA SHARE)	(\$450,000)		(\$450,000)
100 PUBLIC PARKING SPACES REQUIRED BY RDA	\$0	TBD	TBD

CRA TOTAL- MAXIMUM INDEBTEDNESS*	\$22,885,851		
CREDIT FOR DIRECT CONTRACT WITH UCC		(\$349,899)	(\$349,899)
TOTAL CDD SHARE (ESTIMATED OBLIGATION)		\$10,501,336	
TOTAL approved budget as of execution of the Disbursement Agreement			\$33,387,187

*CRA Total Maximum Indebtedness of \$22,885,851 reflects realized tax savings of \$114,149 (\$23,000,000 - \$114,149 = \$22,885,851).

This CRA Infrastructure budget is agreed to as of the execution date of the Disbursement Agreement and Interlocal Agreement by the Director of Public Works, The CEO of the Downtown Investment Authority, the Master Developer and the CDD pursuant to Section 1.7 of the Disbursement Agreement. The “CRA share” represents the maximum eligible disbursement of CRA funds for a particular project element (Overland Trail, Broadcast Place, etc.). All items identified as allowances as of the Effective Date of this Agreement will be designed and more accurately budgeted prior to Commencement of Construction, however the CDD has agreed to the expenditure of up to the allowance amounts for each such line item. Upon completion of any project element, any cost overrun shall be the responsibility of the CDD. Upon completion of any project element, if there is a cost savings from the budgeted CRA share, such savings shall be added to the CRA Share budget of remaining elements so that the CRA share will equal \$23 million in the event the total CRA Infrastructure cost exceeds \$23 million. For purposes of clarity, no portion of any item identified as an allowance in this Exhibit D shall be eligible for disbursement until such time as the element has been fully designed and the budget for the same has been approved consistent with this Agreement.

This budget will be further amended in accordance with Section 1.7 upon receipt of final designs for allowance elements and upon receipt of construction bids and negotiation of a construction contract.

Exhibit M
Boardwalk/Trail Easement

[Legal Description to be provided upon completion of construction of the walkway.]

The boardwalk/trail easement shall be a minimum 12 foot wide walkway constructed within a 25' wide marsh easement over JEA land within which the marsh loop boardwalk trail will be constructed, which easement and Boardwalk shall connect the extension of the Riverwalk to the overland trail segment along the southern boundary of the Project Parcel.

Exhibit N
Special Warranty Deed conveying City Parcels to City

THIS INSTRUMENT PREPARED BY
AND RECORD AND RETURN TO:

John Sawyer
Assistant General Counsel
Office of General Counsel
117 West Duval Street, Suite 480
Jacksonville, Florida 32202

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED made and executed this ____ day of _____, 20__, by ELEMENTS DEVELOPMENT OF JACKSONVILLE, LLC, a Florida limited liability company, whose address is 2538 River Road, Jacksonville, Florida 32207, hereinafter called the Grantor, to the CITY OF JACKSONVILLE, a body politic and municipal corporation, whose address is 117 W. Duval Street, Jacksonville, FL 32202, hereinafter called the Grantee.

WITNESSETH: That the Grantor, for and in consideration of the sum of Ten and No/100 Dollars, and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, all that certain land situate in Duval County, Florida, which is described as follows:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF
(THE "PROPERTY")

TOGETHER with all tenements, hereditaments, improvements (if any), easements and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever; SUBJECT, HOWEVER to the exceptions set forth on EXHIBIT B attached hereto.

AND the Grantor hereby covenants with said Grantee that it is lawfully and solely seized of said land in fee simple; that it has good right and lawful authority to sell and convey the property; and that the Property is free of all encumbrances except the matters herein-above mentioned to which this Deed is made subject. The Grantor does hereby fully warrant the title to the Property and will defend the same against the lawful claims of all persons claiming by, through or under the said Grantor. Grantee hereby assumes payment of real estate taxes and assessments, if any, for the current and subsequent years due to change in land usage, ownership, or both.

Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.

EXECUTED on the date set forth in the acknowledgment attached hereto to be effective as of the ___ day of ___, 201_.

Witnesses: ELEMENTS DEVELOPMENT OF JACKSONVILLE, LLC, a Florida limited liability company

By: _____
Name Printed: _____

By: _____
Name Printed: _____
Its: _____

By: _____
Name Printed: _____

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, the _____ of Elements Development of Jacksonville LLC, a Florida limited liability company, on behalf of the company. Such persons are personally known to me or have produced _____ as identification.

Notary Public, State of Florida
My commission expires: _____

Exhibit "A" to Special Warranty Deed

To be provided by survey pursuant to the terms of the Agreement

Exhibit "B" to Special Warranty Deed

Permitted Exceptions

Exhibit O
Temporary Construction Easement

Prepared By:
John Sawyer
Assistant General Counsel
Office of General Counsel
117 West Duval Street, Suite 480
Jacksonville, Florida 32202

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT (“Easement Agreement”) is made and entered into as of the _____ day of _____, 20__ (the “Effective Date”) between **CITY OF JACKSONVILLE**, a municipal corporation, whose address is 214 N. Hogan Street, 10th Floor, Jacksonville, Florida 32202; Attention: Real Estate Division (“Grantor”) and **DISTRICT COMMUNITY DEVELOPMENT DISTRICT**, a community development district established pursuant to Chapter 190, Florida Statutes, whose address is _____ (“Grantee”).

R E C I T A L S

A. Grantor, Grantee and the Downtown Investment Authority have previously entered into that certain Redevelopment Agreement dated _____ (the “Redevelopment Agreement”) and CRA Infrastructure Improvements Costs Disbursement Agreement dated _____ (the “Disbursement Agreement”) that, in part, authorizes the Grantee to construct on behalf of the City certain horizontal public infrastructure improvements on the Easement Property (defined below), inclusive of roadways, a Riverwalk installation and extension, utilities, parks, parking, pedestrian walking and biking trails, bulkhead improvements, and certain other improvements (as defined in the Redevelopment Agreement, the “CRA Infrastructure Improvements”), in conjunction with the CDD’s construction of the CDD Infrastructure Improvements (as defined in the Redevelopment Agreement).

B. Grantee has previously conveyed to Grantor, and Grantor owns certain property in the Southside Community Redevelopment Area in Duval County, Florida, which property is described in **Exhibit “A”**, attached hereto (the “Easement Property”) and is a portion of a parcel of land known generally as the JEA Southside Generation parcel.

C. Grantee owns the surrounding and adjacent real property described in **Exhibit “B”** (the “Developer Parcel”), which Developer Parcel is currently vacant and undeveloped.

D. The Developer Parcel is to be developed by Grantee as a mixed use development.

E. Grantee has requested, and Grantor has agreed to grant, all as provided in the Redevelopment Agreement, a temporary construction easement to Grantee over the Easement Property so that Grantee may construct the CRA Infrastructure Improvements and take and perform such actions as Grantee may be required to perform pursuant to the Redevelopment

Agreement on the Easement Property.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Grantor and Grantee, the parties agree as follows:

1. **Recitals**. The Recitals set forth above are true and correct and incorporated herein by this reference. Any capitalized terms not otherwise defined herein shall have the meaning as set forth in the Redevelopment Agreement.

2. **Grant of Easement Rights**. Grantor hereby bargains, sells, grants and conveys unto Grantee a non-exclusive temporary construction easement upon the Easement Property over which Grantee, and Grantee's employees, agents and contractors may pass and repass with vehicles, equipment and materials to be used in the construction of the CRA Infrastructure Improvements in accordance with the terms and conditions of the Redevelopment Agreement and the documents attached thereto. The easement granted herein is personal to Grantee and is subject to all matters of public record.

3. **Reserved Rights**. Grantor reserves unto itself, and its successors and assigns, the right to use, and to grant to others the right to use the Easement Property for any and all purposes that do not unreasonably interfere with the rights granted herein.

4. **Term**. The term of this Easement Agreement ("Term") shall commence on the Effective Date and automatically expire upon such time as Grantee completes the construction of the CRA Infrastructure Improvements in accordance with the Redevelopment Agreement and Disbursement Agreement, without the need for further action on the part of either party. Notwithstanding the foregoing, the parties agree to execute and record an instrument terminating this Easement Agreement if so requested by either party.

5. **Use of Easement Property**. Grantee agrees that in utilizing the Easement Property, Grantee will not unreasonably interfere with any existing or future use of the Easement Property by the Grantor, its successors and assigns. Any property of Grantor disturbed or damaged by the Grantee in the exercise of the rights granted herein will be restored as soon as reasonably practical following such activity to its previously existing condition by the Grantee, at its sole cost and expense.

6. **Improvements**. Grantee shall not place or allow the placement of any items, structures or anything else on the Easement Property at any time without prior written permission from the Grantor, which permission may be denied in the Grantor's sole discretion.

7. **Maintenance and Use**. Grantee shall keep the Easement Property in good condition and repair, excluding ordinary wear and tear and damage by the elements or by Grantor, or Grantor's employees, contractors, agents and/or invitees. Grantee shall not allow the Easement Property to be used for any unlawful purpose. Grantee shall comply with all applicable governmental laws, ordinances, rules and regulations while using the Easement Property for the purposes granted herein.

8. **Redevelopment Agreement**. All of the terms and conditions set forth in the Redevelopment Agreement relating to the Easement Property and the construction by Grantee of

the CRA Infrastructure Improvements are hereby made a part hereof. Any inconsistencies between this Temporary Easement and the Redevelopment Agreement shall be resolved in favor of the provisions of the Redevelopment Agreement.

9. **Survival.** The provisions of Sections 6 and 7 shall survive the expiration or termination of this Easement Agreement.

10. **Amendment.** Except as otherwise provided herein, this Easement Agreement may only be modified or amended with the written consent of Grantor and Grantee.

11. **Further Assurances.** The parties agree to mutually cooperate and to execute such other documents as may be reasonably required to effectuate the uses described herein and as otherwise may be reasonable and necessary to carry out the terms of this Easement Agreement, provided that the same does not expose any such party to material additional cost or liability.

12. **Title to Improvements.** Upon expiration or termination of this Easement Agreement improvements built on, or made to, the Easement Property by the Grantee shall, at Grantor's election, remain on the Easement Property and shall immediately become the exclusive property of the Grantor. Upon surrender of the Easement Property, Grantee shall remove all equipment, trade fixtures and personal property belonging to it or leased from third parties which have not assumed the characteristics of a permanent fixture. All personal property of Grantee not removed from the Easement Property upon termination or natural expiration of this Agreement shall be deemed abandoned and shall become property of the Grantor, unless the Grantor elects not to assume ownership, and in such case Grantee shall remove such items and immediately upon Grantor's request, and if Grantee fails to do so, Grantor may dispose of the same or store the same for Grantee's benefit, in either case at Grantee's sole cost and expense.

13. **Notices.** Any notice required or permitted to be given pursuant to the terms of this Easement Agreement shall be in writing, and hand delivered, or sent via overnight delivery or via certified mail, return receipt requested, postage prepaid, by U.S. Mail. Notices shall be effective upon delivery in the case of hand delivery or overnight courier. Notice sent via certified mail shall be effective on the second business day after being placed in the U.S. Mail. The address for notices pursuant to this Easement Agreement shall be as follows:

To Grantor: City of Jacksonville
Downtown Investment Authority
117 W. Duval Street, Suite 310
Jacksonville, Florida 32208
Attention: Chief Executive Officer

Copy to: Department of Public Works
City of Jacksonville
214 N. Hogan Street
Jacksonville, Florida 32202
Attention: Real Estate Division

Copy to: Office of General Counsel
Government Operations
117 West Duval Street, Suite 480

Jacksonville, Florida 32202
Attention: Corporation Secretary

Grantee: _____

Addresses for notices pursuant to this Easement Agreement may be changed by written notice given in accordance with the terms of this Easement Agreement.

14. **Severability.** All provisions herein are intended to be severable. If any provision or part hereof is deemed void or unenforceable by any court of competent jurisdiction, then the remaining provisions shall continue in full force and effect.

15. **Successors and Assigns Bound.** All the covenants, agreements, conditions and restrictions set forth in this Easement Agreement are intended to be and shall be construed as covenants, appurtenant to the land affected, binding upon, inuring to the benefit of and enforceable by the parties hereto, their respective successors and assigns in title with respect to the Grantor's Property, upon the terms, provisions and conditions therein set forth.

16. **Attorneys' Fees.** In connection with any litigation, including appellate proceedings, arising out of this Easement Agreement, each party shall be responsible for its own attorneys' fees and costs.

17. **Miscellaneous.** This Easement Agreement shall be construed under the laws of the State of Florida. Venue for any action for the interpretation or enforcement of this Easement Agreement shall lie only in Duval County, Florida. There are no third party beneficiaries to this Easement Agreement. This agreement may be executed in counterparts, each of which is an original, and all of which together constitute one and the same instrument.

[Signature pages and exhibits follow.]

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first written above.

WITNESSES:

GRANTOR:

CITY OF JACKSONVILLE

By: _____
Name: _____

By: _____
Donna Deegan, Mayor

By: _____
Name: _____

ATTEST:

By: _____
James R. McCain, Jr., Corporation Secretary

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this _____ day of _____, 201_, by Donna Deegan, Mayor and James R. McCain, Jr., Corporation Secretary, both on behalf of the City of Jacksonville, a Florida municipal corporation. Such person is *(notary must check applicable box)*:

- is personally known to me; or
- produced a current _____ driver's license as identification; or
- produced _____ as identification.

Print name: _____
Notary Public, State of Florida
My commission Expires: _____
Commission No.: _____
(NOTARIAL SEAL)

Form Approved:

By: _____
Office of General Counsel

WITNESSES:

GRANTEE:

**DISTRICT COMMUNITY DEVELOPMENT
DISTRICT**, a community development district
established pursuant to Chapter 190, Florida Statutes

By: _____
Name: _____

By: _____
Print Name: _____
Title: _____

By: _____
Name: _____

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this _____ day of _____, 201_, by _____ the Chairman of District Community Development District, a community development district established pursuant to Chapter 190, Florida Statutes, on behalf of the district. Such person is *(notary must check applicable box)*:

- is personally known to me; or
- produced a current _____ driver's license as identification; or
- produced _____ as identification.

Print name: _____
Notary Public, State of Florida
My commission Expires: _____
Commission No.: _____
(NOTARIAL SEAL)

Exhibit A to Temporary Construction Easement

Easement Property

[Legal description immediately follows this page and is to be verified by title commitment and survey.]

Exhibit B to Temporary Construction Easement

Developer Parcel

Exhibit P
Insurance Requirements of Developer and CDD

Without limiting its liability under this Agreement, the Developer, CDD or its General Contractor (for this Exhibit P, collectively the “**Contractor**”) shall at all times during the term of this Agreement procure prior to commencement of work and maintain at its sole expense during the life of this Agreement (and Contractor shall require its, subcontractors, laborers, materialmen and suppliers to provide, as applicable if not provided by the Contractor), insurance of the types and limits not less than amounts stated below:

Insurance Coverages

Schedule	Limits
Worker’s Compensation Employer’s Liability	Florida Statutory Coverage \$ 1,000,000 Each Accident \$ 1,000,000 Disease Policy Limit \$ 1,000,000 Each Employee/Disease

This insurance shall cover the Contractor (and, to the extent they are not otherwise insured, its subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers’ Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers’ Compensation Act, where appropriate, coverage is to be included for the Federal Employers’ Liability Act, USL&H and Jones, and any other applicable federal or state law.

Commercial General Liability	\$2,000,000 General Aggregate \$2,000,000 Products & Comp. Ops. Agg. \$1,000,000 Personal/Advertising Injury \$1,000,000 Each Occurrence \$ 50,000 Fire Damage \$ 5,000 Medical Expenses
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The policy shall be endorsed to provide a separate aggregate limit of liability applicable to the Work via a form no more restrictive than the most recent version of ISO Form CG 2503

Contractor shall continue to maintain products/completed operations coverage for a period of ten (10) years after the final completion of the project. The amount of products/completed operations coverage maintained during the ten year period shall be not less than the combined limits of Products/ Completed Operations coverage required to be maintained by Contractor in the combination of the Commercial General Liability coverage and Umbrella Liability Coverage during the performance of the Work.

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management.

Automobile Liability \$1,000,000 Combined Single Limit
(Coverage for all automobiles, owned, hired or non-owned used in performance of the Agreement)

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

Design Professional Liability \$15,000,000 per Claim
\$15,000,000 Aggregate

Any entity hired to perform professional services as a part of this Agreement shall maintain professional liability coverage on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Agreement and with a ten (10) year reporting option beyond the annual expiration date of the policy.

Builders Risk %100 Completed Value of the Project

Such insurance shall be on a form acceptable to the City's Office of Insurance and Risk Management. The Builder's Risk policy shall include the SPECIAL FORM/ALL RISK COVERAGES. The Builder's Risk and/or Installation policy shall not be subject to a coinsurance clause. A maximum \$10,000 deductible for other than windstorm and hail. For windstorm and hail coverage, the maximum deductible applicable shall be 2% of the completed value of the project. Named insured's shall be: Developer, Contractor, the City, and respective members, officials, officers, employees and agents, the Engineer, and the Program Management Firms(s) (when program management services are provided). The City of Jacksonville, its members, officials, officers, employees and agents are to be named as a loss payee.

Pollution Liability \$5,000,000 per Loss
\$5,000,000 Annual Aggregate

Any entity hired to perform services as part of this Agreement for environmental or pollution related concerns shall maintain Contractor's Pollution Liability coverage. Such Coverage will include bodily injury, sickness, and disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to destruction of tangible property including resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense including costs charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; coverage for losses caused by pollution conditions that arises from the operations of the contractor including transportation.

Pollution Legal Liability \$5,000,000 per Loss
\$5,000,000 Aggregate

Any entity hired to perform services as a part of this Agreement that require disposal of any hazardous material off the job site shall maintain Pollution Legal Liability with coverage for bodily injury and property damage for losses that arise from the facility that is accepting the waste under this Agreement.

Watercraft Liability \$1,000,000 Per Occurrence
(to the extent that watercraft is utilized in the services of this Agreement)

Umbrella Liability \$15,000,000 Each Occurrence/ Aggregate.

The Umbrella Liability policy shall be in excess of the above limits without any gap. The Umbrella coverage will follow-form the underlying coverages and provides on an Occurrence basis all coverages listed above.

In the event that any part of the work to be performed hereunder shall require the Contractor or Subcontractors to enter, cross or work upon or beneath the property, tracks, or right-of-way of a railroad or railroads, the Developer shall, before commencing any such work, and at its expense, procure and carry liability or protective insurance coverage in such form and amounts as each railroad shall require.

The original of such policy shall be delivered to the railroad involved, with copies to DIA and the City, Engineer, and Program Management Firm(s) (when program management services are provided).

The Contractor shall not be permitted to enter upon or perform any work on City's property until such insurance has been furnished to the satisfaction of the City. The insurance herein specified is in addition to any other insurance which may be required by the City, and shall be kept in effect at all times while work is being performed on or about the City Parcels.

Additional Insurance Provisions

- A. Additional Insured: All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the DIA, City of Jacksonville and their respective members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.
- B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of DIA and the City of Jacksonville and their respective members, officials, officers employees and agents.

- C. Contractor's Insurance Primary. The insurance provided by the Contractor shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by DIA, the City or any DIA or City members, officials, officers, employees and agents.
- D. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Agreement shall remain the sole and exclusive responsibility of the named insured Contractor. Under no circumstances will DIA or the City of Jacksonville and their members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Agreement.
- E. Contractor's Insurance Additional Remedy. Compliance with the insurance requirements of this Agreement shall not limit the liability of the Contractor or its subcontractors, employees or agents to the City or others. Any remedy provided to DIA, City or DIA's or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Agreement or otherwise.
- F. Waiver/Estoppel. Neither approval by DIA or City nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide insurance as required under this Agreement.
- G. Certificates of Insurance. Contractor shall provide the DIA and City Certificates of Insurance that shows the corresponding DIA Agreement Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.
- H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- I. Notice. The Contractor shall provide an endorsement issued by the insurer to provide the DIA and City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, the Contractor shall provide a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of the Contractor under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.

- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the DIA or City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.
- L. Special Provisions: Prior to executing this Agreement, Contractor shall present this Agreement and this Exhibit P to its Insurance Agent affirming: (1) that the Agent has personally reviewed the insurance requirements of the Project Documents, and (2) that the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Contractor.
- M. Modified Insurance Requirements for Certain Contractors. Notwithstanding the provisions of this Exhibit P, the insurance requirements for those Contractors engaged to construct the artwork, playground equipment, vertical construction for the pavilion and the boardwalk shall not apply and instead shall be subject to the insurance requirements as provided by the City's Risk Management Division.

Bonds and Other Performance Security. CDD shall not perform or commence any construction services for the CRA Infrastructure Improvements until the following performance bond and labor and material payment bond or other performance security have been delivered to DIA and City: Bonds - In accordance with the provisions of Section 255.05, Florida Statutes, Design-Builder shall provide to DIA and City on forms furnished by the City, a 100% Performance Bond and a 100% Labor and Material Payment Bond for each Public Infrastructure Improvement performed under this Agreement, each in an amount not less than an amount at least equal to the amount of the Direct Costs for the construction of the CRA Infrastructure Improvements. No qualification or modifications to the Bond forms are permitted.

To be acceptable as Surety for Performance Bonds and Labor and Material Payment Bonds, a Surety Company shall comply with the following provisions:

1. The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida.
2. The Surety Company shall have a currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.
3. The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.
4. The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code during the life of this agreement.
5. If the Contract Award Amount exceeds \$500,000, the Surety Company shall also comply with the following provisions:

a. The Surety Company shall have at least the following minimum ratings in the latest issue of A.M. Best's Key Rating Guide.

CONTRACT AMOUNT	RATING	RATING
\$ 500,000 TO \$1,000,000	A-	CLASS IV
\$1,000,000 TO \$2,500,000	A-	CLASS V
\$2,500,000 TO \$5,000,000	A-	CLASS VI
\$5,000,000 TO \$10,000,000	A-	CLASS VII
\$10,000,000 TO \$25,000,000	A-	CLASS VIII
\$25,000,000 TO \$50,000,000	A-	CLASS IX
\$50,000,000 TO \$75,000,000	A-	CLASS X

b. The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten (10) percent of its surplus to policyholders, provided:

1) Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Insurance to conduct business in this state have been met.

2) In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.

**Insurance Requirements for General Contractors Consisting
exclusively of Artist and Playground Equipment Installers**

Without limiting its liability under this Agreement, General Contractors whose services are limited to: (i) providing sculpture and pavilion artwork; (ii) provision and installation of playground equipment; (iii) boardwalk construction, shall at all times during the term of their agreement for construction services with the CDD and/or Master Developer maintain, at its sole expense, insurance of the types and limits not less than amounts stated below:

Type of Insurance	Limits
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000 Each Accident \$1,000,000 Disease – Each Employee \$1,000,000 Disease – Policy Limit
Commercial General Liability ✓ Contractual Liability ✓ Completed Operations/Product Liability	\$2,000,000 General Aggregate \$2,000,000 Products/Comp/Ops Aggregate \$1,000,000 Personal and Advertising Injury \$1,000,000 Each Occurrence

<ul style="list-style-type: none"> ✓ Personal & Advertising Injury ✓ Written on a per occurrence basis ✓ Severability of Interests ✓ Additional Insured including completed operations endorsement 	
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Additional Insurance Provisions

1. Additional Insured: All insurance except Worker’s Compensation and Professional Liability shall be endorsed to name the CDD, City, and DIA and their respective members, officials, officers, employees, and agents as Additional Insured.
2. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter’s rights of subrogation in favor of the CDD, City, and DIA and their respective members, officials, officers, employees, and agents.

AMENDED AND RESTATED CRA INFRASTRUCTURE IMPROVEMENTS COSTS DISBURSEMENT AGREEMENT

This **AMENDED AND RESTATED CRA INFRASTRUCTURE IMPROVEMENTS COSTS DISBURSEMENT AGREEMENT** (this “**Agreement**”) dated as of the ___ day of _____, 2023 (the “**Effective Date**”) is by and among the **DOWNTOWN INVESTMENT AUTHORITY**, a community redevelopment agency on behalf of the City of Jacksonville, a Florida municipal corporation (the “**DIA**”), **DISTRICT COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special-purpose government organized and existing under the laws of the State of Florida (the “**CDD**”) and **ELEMENTS DEVELOPMENT OF JACKSONVILLE, LLC**, a Florida limited liability company (the “**Master Developer**”). [OGC – some changes to this document to track changes to the RDA.]

WHEREAS, DIA, CDD and Master Developer previously entered into that certain CRA Infrastructure Improvements Costs Disbursement Agreement dated December 22, 2020, as amended by that certain First Amendment to the Redevelopment Agreement and CRA Infrastructure Improvements Costs Disbursement Agreement dated May 4, 2021 (collectively, the “**CRA Disbursement Agreement**”) regarding the CDD’s construction of the CRA Infrastructure Improvements, as further detailed therein; and

WHEREAS, the parties hereto wish to amend and restate the CRA Disbursement Agreement in its entirety as set forth herein and this Agreement does not serve as a termination of the CRA Disbursement Agreement, which is hereby ratified and reaffirmed by the parties hereto.

RECITALS:

- A. Master Developer has acquired approximately 30 acres of land for the development of the Mixed-Use Improvements, as defined below, and such land is described on attached **Exhibit A** (the “**Project Parcel**”). The Project Parcel may include such additional real property as authorized under the Redevelopment Agreement.
- B. Pursuant to the terms of the Redevelopment Agreement among the City of Jacksonville (the “**City**”), DIA and Master Developer executed on July 12, 2018 (inclusive of any amendments, collectively, the “**Redevelopment Agreement**”), the (i) Master Developer petitioned the City to form the CDD and, after the CDD was formed, (ii) the CDD issued bonds to fund the construction of the horizontal mixed use community improvements described on attached **Exhibit B** (the “**CDD Infrastructure Improvements**”) for the mixed use buildings and ancillary facilities on the Southbank area of downtown Jacksonville known as the “**RiversEdge Project**” (f/k/a the “**District Project**”) (the “**Vertical Improvements**”; the CDD Infrastructure Improvements and Vertical Improvements are collectively referred to as the “**Mixed Use Improvements**”), and (iii) Master Developer and the CDD propose to oversee and manage the Mixed Use Improvements.

- C. Pursuant to the Redevelopment Agreement, the Master Developer has conveyed fee simple or easement interests to the City for certain right of way, riverwalk, bulkhead, park, parking, pedestrian walking and biking trails and other property shown on attached **Exhibit C** (the “**City Parcels**”) and the DIA has requested and the CDD has agreed to construct certain road, riverwalk, utility and other horizontal improvements described on the attached **Exhibit D** (the “**CRA Infrastructure Improvements**” and an “**Improvement**” shall be a component thereof) on the City’s behalf to be constructed by the CDD in combination with the CDD Infrastructure Improvements (the CRA Infrastructure Improvements and the CDD Infrastructure Improvements are hereinafter referred to as, the “**Project**”). CDD’s construction of the CRA Infrastructure Improvements pursuant to this Agreement will allow the timely and efficient delivery of such infrastructure in conjunction with the construction of the CDD Infrastructure Improvement.
- D. Master Developer and the School Board of Duval County (the “**School Board**”) entered into an Access and Land Swap Option Agreement dated July 1, 2018 (the “**DCSB Agreement**”) and Master Developer assigned all of its right title and interest in the DCSB Agreement to the CDD by way of that Acceptance of Designation dated August 26, 2019. The primary purpose of DCSB Agreement is to obtain the right to extend Prudential Drive through the existing parking lot of the School Board and the DCSB Agreement is conditioned on the CDD constructing and conveying to the School Board a new parking lot referred to as the “**Replacement Parcel**” in the DCSB Agreement before the new Prudential Drive can be constructed and some existing parking lot area now owned by the School Board is conveyed to the Master Developer. The construction of the extension of Prudential Drive is a part of the CRA Infrastructure Improvements but is contingent on the construction of the new parking lot. The Redevelopment Agreement obligates Master Developer to provide a minimum of 100 parking spaces for the public to use for visiting and enjoying the City Parcels and CRA Infrastructure Improvements (the “**Dedicated Public Parking**”) but the construction costs for such spaces shall be provided by the CDD at no costs to the City or DIA. The location(s) for the Dedicated Public Parking will be determined as part of the development of the Plans and Specifications and as approved by the CEO of the DIA in her reasonable discretion and show \$0.00 paid by DIA with a note that the CDD is to pay all costs for such improvements. The parking spaces will be clearly marked, limited to 2-hour duration, and accessible to all public elements within the City Parcels.
- E. The acquisition of the Project Parcel and the development of the Mixed-Use Improvements will represent a substantial investment in downtown Jacksonville by CDD, Master Developer and owners of the Vertical Improvements of up to an approximate Six Hundred Ninety-Three Million Three Hundred Ninety-Six Thousand Nine Hundred Forty-Three Dollars (\$693,396,943).
- F. The parties wish to enter into this Agreement to provide for construction of the CRA Infrastructure Improvements by CDD and the DIA’s disbursement to CDD of a portion of such costs, upon the terms and conditions of this Agreement.

- G. As provided in this Agreement, the DIA shall have no obligation to pay CDD for any construction in advance of such construction taking place, and the DIA is only required to reimburse CDD for construction which has been reviewed and accepted by the DIA in accordance with the terms and conditions of this Agreement.
- H. The City has authorized execution of this Agreement pursuant to Ordinance 2018-313-E (the “Ordinance”), and the DIA has authorized this Agreement pursuant to DIA Resolution 2018-04-1.

ACCORDINGLY, in consideration of the mutual agreements, covenants, representations and warranties contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged by the parties, the parties hereby agree as follows:

ARTICLE 1 PRELIMINARY STATEMENTS

1.1 **Recitals.** The above referenced recitals are true and correct and are incorporated herein by this reference.

1.2 **CRA Infrastructure Improvements.** CDD will oversee the design, engineering, permitting and construction of the CRA Infrastructure Improvements. The CRA Infrastructure Improvements are more specifically delineated and described in the Scope of Work and Budget attached as **Exhibit D** (the “**Scope of Work/Budget**”), and subject to the restrictions and limitations in Section 3.1 and elsewhere in this Agreement.

1.3 **Estimated Costs.** The total estimated Direct Costs (as defined in Section 2.12 below) of the CRA Infrastructure Improvements is Twenty-Three Million and No/100 Dollars (\$23,000,000.00).

1.4 **Jacksonville Small and Emerging Businesses.** It is important to the economic health of the community that whenever a person receives incentives for construction, that person and its contractors use good faith efforts to provide contracting opportunities to small and emerging business enterprises in Duval County, pursuant to Section 7.26 hereof.

1.5 **Maximum Indebtedness.** The total maximum indebtedness of the DIA for the CRA Infrastructure Improvements and all DIA obligations under this Agreement is Twenty Three Million and No/100 Dollars (\$23,000,000.00), which is defined as the Maximum Public Infrastructure Disbursement Amount in Section 2.16 below. The parties acknowledge and agree that the foregoing amount is a maximum amount of the anticipated costs and that the parties will endeavor to incur less costs than the maximum allowed amount. Any costs savings shall inure to the DIA and may be used for other DIA funding needs unrelated to this Agreement. The Budget in attached **Exhibit D** contains a summary of the DIA’s expenses under this Agreement.

1.6 **Availability of Funds.** The DIA’s financial obligations are conditioned on appropriation of funds from the City. The DIA hereby commits to include the payments by the DIA contemplated hereunder in budget requests to the City Council. Notwithstanding anything to the contrary herein, all of the DIA’s financial obligations under this Agreement and the

Redevelopment Agreement are subject to the availability of lawfully appropriated funds from the City.

1.7 **Director of Public Works May Adjust Budget Allocations.**

Notwithstanding the amounts shown on **Exhibit D** for the CRA Infrastructure Improvements, the City's Director of Public Works or his designee shall work with the CDD to evaluate the costs of the CRA Infrastructure Improvements, and the Director of Public Works and CEO of the DIA may adjust the allocations in **Exhibit D** for such improvements accordingly, by written notice to CDD, but no such adjustment shall increase the financial obligations of the DIA, CDD or the Master Developer without their prior written consent.

NOW THEREFORE, in consideration of the mutual undertakings and agreements herein of the Master Developer, the DIA and the CDD, and for Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged, DIA and CDD agree that the above preliminary statements are true and correct, and the parties represent, warrant, covenant, and agree as follows:

**ARTICLE 2
DEFINITIONS**

As used in this Agreement, the following terms shall have the following meanings.

2.1 **“Abandon or Abandonment”** means the CDD's cessation of all work on the CRA Infrastructure Improvements at any time prior to the Completion of such CRA Infrastructure Improvements, which cessation continues for a period of more than one hundred fifty (150) consecutive days, except as excused by Regulatory Delays or events of force majeure or as permitted by the CEO of the DIA exercising his or her powers to extend timeframes as described in Section 3.2 of the Redevelopment Agreement. Notwithstanding the foregoing, any cessation of construction activities arising from required changes to the Plans or Specifications caused by unforeseen archeological, hydrological, floodplain, soils, or environmental conditions or circumstances (or delays caused by unforeseen design, engineering or planning) shall not constitute an Abandonment as long as the CDD continues its diligent efforts to resolve such matters and provides the CEO of the DIA and the Director of Public Works reasonable updates with respect thereto.

2.2 **“Budget”** means the line item budget of Direct Costs of the CRA Infrastructure Improvements as shown on the Scope of Work/Budget attached hereto as **Exhibit D**, and showing the total costs for each line item, as the same may be revised from time to time with the written approval of the City Director of Public Works and the CEO of the DIA. The attached **Exhibit D** contains a summary of the DIA's expenses under this Agreement, also subject to the foregoing restrictions and limitations.

2.3 **“Commence Construction”**. The terms **“Commence”** or **“Commenced”** or **“Commencing”** Construction as used herein when referencing the CRA Infrastructure Improvements means the date when CDD (i) has obtained all permits for the construction of the CRA Infrastructure Improvements or the portion thereof to be commenced, and (ii) has “broken ground” and begun physical, material construction (e.g., removal of vegetation or site

preparation work or such other evidence of commencement of construction as may be approved by the DIA in its discretion) of such CRA Infrastructure Improvements on an ongoing basis without any Abandonment.

2.4 **“Complete Construction”**. The terms “Complete Construction” or “Completion of Construction” as used herein when referencing the CRA Infrastructure Improvements means Substantial Completion (as defined below in this Article II) of such CRA Infrastructure Improvements.

2.5 **“Completion Date”**. The term “Completion Date” or “Completion Dates” as used herein when referencing the CRA Infrastructure Improvements or CDD Infrastructure Improvements means the completion dates described in Section 3.14 with respect to such CRA and CDD Infrastructure Improvements as the same may be extended pursuant to the Redevelopment Agreement.

2.6 **“Construction Contract”** means a contract between CDD and any authorized General Contractor for the construction of any portion of the CRA Infrastructure Improvements, and any amendments or modifications, all as approved by DIA.

2.7 **“Construction Documents”** means the Design Professional’s Contract (defined below), the Construction Contract, all construction, engineering, architectural and other design professional contracts and subcontracts, all change orders, all Governmental Approvals (as defined in Section 5.3 below), the Plans and Specifications, and all other drawings, budgets, bonds and agreements relating to the construction of the CRA Infrastructure Improvements.

2.8 **“Construction Inspector”** has the meaning ascribed in Section 3.12.

2.9 **“Construction Management Fees”** and **”Project Management Fees”** has the meaning ascribed in Section 3.9.

2.10 **“Design Professional”** means the engineers, architect, or other professional consultants approved in writing by the DIA providing technical advice in accordance with the terms of the Agreement. The Work may be performed on a design-build basis, in which case the Design Professional and General Contractor shall be one and the same.

2.11 **“Design Professional’s Contract”** means the contract between CDD and the Design Professional for the design of the CRA Infrastructure Improvements, and any amendments or modifications thereto approved by the DIA.

2.12 **“Direct Costs”** means direct design, engineering, permitting and construction costs incurred by CDD in connection with the CRA Infrastructure Improvements, including, without limitation, soft and hard costs associated with the design, engineering, permitting and construction of the CRA Infrastructure Improvements, surveys, geotechnical, environmental and construction testing, and Construction Inspector’s fees, all pertaining only to the CRA Infrastructure Improvements and as itemized in the Budget, as the Budget may be revised from time to time with the written approval of City Director of Public Works and CEO of the DIA, not exceeding the Maximum Public Infrastructure Disbursement Amount unless CDD pays the excess amounts without reimbursement from the DIA.

2.13 “**Disbursement(s)**” means disbursements to CDD of sums equivalent to CDD’s Direct Costs for the CRA Infrastructure Improvements as approved by the DIA pursuant to this Agreement for the design, engineering, permitting and construction of the CRA Infrastructure Improvements, not to exceed the Maximum Public Infrastructure Disbursement Amount. The Disbursements will be made at the times and subject to the conditions set forth in this Agreement. No portion of the foregoing amount allocated for the CRA Infrastructure Improvements as shown in the Budget shall be disbursed to CDD unless such improvements comply in all material respects with the minimum requirements of the Scope of Work described on attached **Exhibit D** (which Scope of Work may be modified from time to time pursuant to the terms of this Agreement), as reasonably determined by the Director of Public Works or his or her designee, and the CEO of the DIA.

2.14 “**General Contractor**” means a person or entity licensed as a general contractor under Florida law and approved in writing by the DIA, providing construction and construction management of any portion of the CRA Infrastructure Improvements. For purposes of clarity, the CDD and/or Master Developer shall be permitted to engage (a) up to six (6) contractors for the construction of the CRA Infrastructure Improvements as further detailed on **Exhibit I** attached hereto, and (b) upon the approval of the City’s Director of Public Works in its sole discretion, one (1) additional contractor for construction of a portion of the CRA Infrastructure Improvements.

2.15 “**CRA Infrastructure Improvements**” has the meaning ascribed in the Preamble paragraph C.

2.16 “**Maximum Public Infrastructure Disbursement Amount**” means \$23,000,000, which is the maximum amount the DIA is obligated to disburse to CDD or any other person or entity for the design, engineering, permitting and construction of the CRA Infrastructure Improvements, less any reductions thereof pursuant to Section 3.3.

2.17 “**Payment Bond**” and “**Performance Bond**” have the meanings ascribed in Section 7.25.

2.18 “**Performance Schedule**” has the meaning ascribed in Section 3.14.

2.19 “**Plans and Specifications**” means the final plans and specifications, including without limitation all maps, sketches, diagrams, surveys, drawings and lists of materials, for the construction of the CRA Infrastructure Improvements, prepared by the Design Professional and approved by the DIA, and any and all modifications thereof made with the written approval of the DIA.

2.20 “**Project**” has the meaning ascribed in the Preamble of this Agreement.

2.21 “**Project Documents**” means this Agreement and the Construction Documents.

2.22 “**Project Management Fees**” has the meaning ascribed in Section 3.9.

2.23 “**Redevelopment Agreement**” has the meaning ascribed in the Preamble.

2.24 “**Substantial Completion**” means the satisfaction of the CRA Infrastructure Improvements Completion Conditions, as described in Section 7.9. The date of Substantial Completion shall be confirmed by the City to CDD upon request by CDD, in a letter from the City to CDD and such letter shall be referred to herein as the “**Substantial Completion Letter**”. The one year warranty as described herein on the CRA Infrastructure Improvements begins on the Substantial Completion date.

2.25 “**Vertical Improvements**” means the buildings constructed in the community known as the District.

2.26 “**Verified Improvements Costs**” means the aggregate, from time to time, of Direct Costs actually incurred by CDD for Work in place as part of the CRA Infrastructure Improvements, as certified by Construction Inspector, from time to time, but not more frequently than monthly, pursuant to the provisions of this Agreement.

2.27 “**Work**” means workmanship, materials and equipment necessary to this Agreement, and any and all obligations, duties and responsibilities necessary to the successful completion of the CRA Infrastructure Improvements undertaken by CDD under this Agreement, including the furnishing of all labor, materials, and equipment, and any other construction services related thereto.

ARTICLE 3

PERFORMANCE OF WORK AND DISBURSEMENTS AND PERFORMANCE SCHEDULE

3.1 **Performance of Work.** CDD shall engage appropriately licensed contractor(s) and design professionals (the “**Contractors**”) to perform, or cause to be performed, the Work pursuant to the Scope, Budget and Schedule attached as **Exhibit D** hereto and workmanship, materials and equipment necessary to this Agreement, and any and all obligations, duties and responsibilities necessary to the successful completion of the CRA Infrastructure Improvements undertaken by CDD under the Redevelopment Agreement according to the Scope, Budget and Schedule attached as **Exhibit D**, including the furnishing of all labor, materials, and equipment, and any other construction services related thereto.

3.2 **Terms of Disbursement.** DIA agrees to pay CDD’s Direct Costs incurred in connection with the CRA Infrastructure Improvements on the terms and conditions hereinafter set forth. **Exhibit D** sets forth the Scope of Work and Budget for the CRA Infrastructure Improvements. In the event the Maximum Public Infrastructure Disbursement Amount is not sufficient to Complete Construction of the CRA Infrastructure Improvements, CDD and Master Developer shall be jointly and severally responsible for the completion costs beyond such amount.

3.3 **Sales Tax Exemption / Purchasing Agent.** If the CDD does not otherwise qualify for the sales tax exemption provisions set forth in Section 212, Florida Statutes, and Rule 12A-1.094, Florida Administration Code (the “**Sales Tax Exemption**”), the CDD shall reasonably cooperate with the City/DIA to make full use of the Sales Tax Exemption. The City may appoint a purchasing agent for the CRA Infrastructure Improvements to facilitate the

purchase of certain project materials free from the payment of sales tax. All Sales Tax Exemptions received, whether purchased through the CDD or through the City, shall accrue to the DIA and serve to reduce the Maximum Public Infrastructure Disbursement Amount on a dollar for dollar basis. CDD shall provide records and documentation as to any purchases made by it for which a sales tax exemption was granted by the State of Florida.

3.4 **Use of Proceeds.** The proceeds disbursed pursuant to this Agreement are solely for the purpose of reimbursing Direct Costs incurred by CDD in connection with the construction of the CRA Infrastructure Improvements and for no other purpose.

3.5 **Incorporation.** All of the Project Documents are hereby made a part of this Agreement to the extent and with the same effect as if fully set forth herein.

3.6 **Disbursements Directly to Contractors and Vendors.** Notwithstanding anything herein, the DIA may at its option upon the occurrence of an Event of Default, which is not cured within the applicable cure period after notice, and in accordance with the disbursement procedures described in this Article 3, and in Article 4 and Article 5, disburse directly to the Design Professionals, applicable General Contractor, subcontractors, suppliers, and vendors whom CDD has engaged in connection with the CRA Infrastructure Improvements, the reasonable amounts charged by such persons, upon submission to the DIA of invoices, receipts or other documents required by the DIA showing that the services rendered pertain to the CRA Infrastructure Improvements and are included in the Direct Costs. In the event the DIA makes any Disbursement direct as described in this Section 3.6, DIA shall, upon request of CDD, deliver to CDD a complete copy of any Disbursement documentation for CDD's records.

3.7 **Deficiency or Surplus in Maximum Public Infrastructure Disbursement Amount; CDD and Master Developer Obligation for any Shortfall.**

3.7.1 If, prior to any Disbursement, the DIA reasonably determines that the actual cost to complete construction of the CRA Infrastructure Improvements (assuming no change in design, labor or materials contemplated in the Plans and Specifications or in such items contemplated in **Exhibit D** has been made without the prior written consent of the CDD and the Master Developer) exceeds the aggregate undisbursed balance of the Maximum Public Infrastructure Disbursement Amount, the DIA shall provide written notice of such to the CDD. In such event, at request of the CDD, the City's Department of Public Works, the applicable General Contractor, the Design Professionals and the CDD shall meet and determine how to make adjustments to the Plans and Specifications. The CDD and the Master Developer shall be jointly and severally responsible for the payment of any amounts in excess of the undisbursed balance of the Maximum Public Infrastructure Disbursement Amount. The CDD and the Master Developer shall promptly provide to the DIA documentation of its ability to pay such excess, which may be satisfied by resolutions duly adopted by the CDD Board acknowledging its obligations to provide for cost overruns and imposing a special assessment to pay such excess, and otherwise in accordance with **Exhibit E** attached hereto. The foregoing documentation shall be subject to the reasonable approval of the CEO of the DIA. If the CEO withholds his or her approval and the CDD and the Master Developer disagree with the CEO's determination, the parties shall thereafter negotiate in good faith as to mutually acceptable documentation. If the parties are unable to agree within thirty (30) business days as to mutually acceptable

documentation, the issue shall be submitted to the DIA Board at a duly noticed meeting. Any determination as to the form and content of documentation made by the DIA Board shall be binding upon the CDD and Master Developer. Any failure by the CDD or the Master Developer (as applicable) to provide the mandated documentation within thirty (30) business days shall constitute an Event of Default hereunder.

3.7.2 In no event will the DIA be responsible for any shortfall in the amounts necessary to Complete Construction of the CRA Infrastructure Improvements. If CDD fails to continue such construction at its own cost or the cost of the Master Developer, or fails to timely complete such construction due to such shortfall or for any other reason, the DIA in its sole discretion may choose to terminate the DIA's additional obligations hereunder and complete the remaining CRA Infrastructure Improvements (on its own or through a third party contractor or developer and in compliance with the Plans and Specifications). If the DIA completes the CRA Infrastructure Improvements, the CDD and Master Developer shall be jointly and severally liable to the DIA for the costs of the CRA Infrastructure Improvements in excess of the amount allocated for such improvements as shown on the Budget attached as **Exhibit D**, and such repayment obligation of CDD and Master Developer shall survive any termination of the DIA's obligations hereunder. Notwithstanding anything to the contrary contained in this Agreement, to the extent that after the Effective Date the parties determine that the CDD's Direct Costs are anticipated to be lower than the Maximum Public Infrastructure Disbursement Amount, then upon request of CDD, the CDD, the City's Department of Public Works, the applicable General Contractor and the Design Professionals shall meet and determine how to make adjustments to the Plans and Specifications to include additional landscaping and/or other enhancements to the Scope of Work as shown on attached **Exhibit D**, but subject in all events to the Maximum Public Infrastructure Disbursement Amount and CDD's and Master Developer's obligation for all amounts exceeding such maximum amount.

3.8 **Contingency Reserve.**

3.8.1 That portion of the Direct Costs allocated to Contingency (the "**Contingency Reserve**"), if any, on the Budget for any particular CRA Infrastructure Improvements, may be disbursed in the DIA's reasonable discretion for payment of Direct Costs of such Improvements as documented by invoices and otherwise as provided herein. So long as no Event of Default exists, any balance in the Contingency Reserve necessary to cover Direct Costs will be disbursed to CDD at the time of, and subject to all conditions to, disbursement of the final Disbursement for such CRA Infrastructure Improvements including without limitation delivery to DIA of invoices or other documentation of Direct Costs incurred by CDD with respect to such requested Disbursement.

3.8.2 The DIA shall be entitled to retain and accumulate ten percent (10%) of all requested Disbursements ("**Retainage**") for the particular CRA Infrastructure Improvements under construction until such time as the DIA determines or receives an opinion from the Construction Inspector that fifty percent (50%) of such CRA Infrastructure Improvements are completed and that the construction of such Improvements is progressing in a timely fashion for completion by the applicable Completion Date for such Improvements. Thereafter, DIA shall not make further reductions and the existing Retainage amount will be disbursed with the final

Disbursement for such Improvements upon satisfaction of the Infrastructure Completion Conditions.

3.9 **Project Management Fees/Construction Management Fees.** No development fees, project management fees, construction management fees or other fees of the CDD or General Contractors shall be paid to CDD under this Agreement. Notwithstanding anything to the contrary herein, the DIA shall not be required to pay the CDD any fees payable to a project management firm dealing with all aspects of the real estate development process (e.g. from the initial assessment until the final completion) (“**Project Management Fees**”) in connection with this Agreement after the Effective Date and no such fees are owed to the CDD as of the Effective Date.

3.10 **Procedures.** All Disbursements shall be made from time to time as construction progresses upon written application of CDD pursuant to a Disbursement Request in the form of attached **Exhibit F** and as defined in Section 4.1. Subject to Section 5.2 below and the other terms of this Agreement, CDD shall file Disbursement Requests with the DIA no more frequently than once per month covering Work performed since the prior Disbursement Request. Each Disbursement Request shall constitute a representation by CDD that the Work done and the materials supplied to the date thereof are in accordance with the Plans and Specifications; that the Work and materials for which payment is requested have been physically incorporated into the CRA Infrastructure Improvements (except with respect to Stored Materials, which shall be physically incorporated into the CRA Infrastructure Improvements in accordance with Section 3.11 below); that any stored materials for which payment is requested have been secured in accordance with Section 3.11; that the value is as stated; that the Work and materials conform with all applicable rules and regulations of the public authorities having jurisdiction; that such Disbursement Request is consistent with the then current Budget; that the proceeds of the previous Disbursement have been actually paid by CDD in accordance with the approved Disbursement Request for such previous Disbursement; and that no Event of Default or event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing.

3.11 **Stored Materials.** The DIA shall not be required to make Disbursements for costs incurred by CDD with respect to materials stored on or off the City Parcels unless the following conditions shall have been satisfied: (a) copies of all invoices relating to such stored materials and a stored materials inventory sheet shall be submitted with the Disbursement Request; (b) with respect to materials stored on the City Parcels, such materials shall be adequately secured, as determined by Construction Inspector; and (c) with respect to materials stored off the City Parcels, such materials must be (i) adequately protected from damage by the elements and from theft, (ii) insured for the full cost thereof under a builder’s risk policy acceptable to the DIA and naming the DIA as an additional insured, and (iii) subject to inspection by Construction Inspector. With respect to any Disbursement hereunder for stored materials, all such stored materials must be incorporated into the CRA Infrastructure Improvements within a reasonable period of time not to exceed one hundred twenty (120) days of CDD’s Disbursement Request regarding such materials.

3.12 **Construction Inspector.** The Construction Inspector shall be a building construction consultant approved by the DIA and engaged and paid by DIA for standard

inspections of the construction of the CRA Infrastructure Improvements as provided herein, and all fees for the Construction Inspector are paid by DIA and are **NOT** included in the Budget. The Construction Inspector will inspect the construction of the CRA Infrastructure Improvements as provided herein, review and advise the CDD and the DIA jointly with respect to the Construction Documents, and other matters related to the construction, operation and use of the CRA Infrastructure Improvements, monitor the progress of construction, and review Disbursement Requests and change orders submitted hereunder. CDD shall make CDD's construction management facilities located on or around the City Parcels available for the DIA and Construction Inspector for the inspection of the CRA Infrastructure Improvements, and CDD shall afford full and free access by DIA and Construction Inspector to all Construction Documents.

CDD acknowledges that (a) Construction Inspector shall in no event have any power or authority to make any decision or to give any approval or consent or to do any other thing which is binding upon the DIA, and any such purported decision, approval, consent or act by Construction Inspector on behalf of the DIA shall be void and of no force or effect; (b) the DIA reserves the right to make any and all decisions required to be made by the DIA under this Agreement, in its reasonable discretion, without in any instance being bound or limited in any manner whatsoever by any opinion expressed or not expressed by Construction Inspector to the DIA or any other person with respect thereto; and (c) the DIA reserves the right in its sole and absolute discretion to replace Construction Inspector with another inspector at any time and with reasonable prior notice to CDD.

3.13 **No Third Party Beneficiaries.** The parties hereto do not intend the benefits of this Agreement to inure to any third party. Notwithstanding anything contained herein, any other Project Document, or any conduct or course of conduct by any of the parties hereto, this Agreement shall not be construed as creating any rights, claims, or causes of action against the DIA, or any of its officers, agents, or employees, in favor of any contractor, subcontractor, supplier of labor, materials or services, or any of their respective creditors, or any other person or entity other than CDD.

3.14 **Performance Schedule.** Subject to the terms and conditions of this Agreement, CDD and DIA have jointly established the following dates for the design, engineering, permitting and construction of the CRA Infrastructure Improvements (herein called the "**Performance Schedule**"):

(a) Master Developer commenced the design, engineering, permitting and construction of the CRA Infrastructure Improvements under the terms of this Agreement all of which were subject to the approval of the City's Chief Engineer (the "**Design and Engineering Plans**") after Master Developer's acquisition of the Project Parcel and completed the Design and Engineering Plans nine (9) months after the Effective Date of the Redevelopment Agreement and the CDD shall immediately purchase the appropriate portion of the Design and Engineering Product from the Master Developer, using the funds allocated therefor in the Budget.

(b) On or before December 31, 2020, the CDD had applied for all permits reasonably necessary for the commencement of construction of the Project, and the CDD provided to the DIA all permit documents and information required by the City under its standard permit application

processes.

- (c) On or before May 18, 2021;
 - (i) The CDD obtained all permits reasonably necessary for commencement of construction of portions of the CRA Infrastructure Improvements and CDD Infrastructure Improvements; and
 - (ii) The CDD signed contracts with General Contractors for construction of the bulkhead portion of the CRA Infrastructure Improvements and the contract for construction of the DCSB parking lot portion of the CDD Infrastructure Improvements.
- (d) On or before June 14, 2021, the CDD Commenced Construction of the bulkhead portion of the CRA Infrastructure Improvements and the DCSB parking lot portion of the CDD Infrastructure Improvements (the “Initial Commencement of Construction Date”) and provided written notice of the date thereof to the DIA.
- (e) On or before October 27, 2021, the CDD signed a contract with a General Contractor for the roadway portion of the remaining CRA Infrastructure Improvements, and a General Contractor for the roadway portion of the remaining CDD Infrastructure Improvements.
- (f) On or before November 24, 2021, the CDD Commenced Construction of the roadway portion of the remaining CRA Infrastructure Improvements and the CDD Infrastructure Improvements and provided written notice of the date thereof to the DIA.
- (g) On or before June 30, 2024, the CDD shall have signed a contract with General Contractors for all remaining CRA Infrastructure Improvements, including the marsh boardwalk, but with the exception of the water taxi stop, transient boat docking facilities and kayak launch (the “Upland CRA Infrastructure Improvements”) and with General Contractors for all remaining CDD Infrastructure Improvements.
- (h) On or before June 30, 2024, the CDD shall have signed a contract with General Contractors for the water taxi stop, transient boat docking facilities and kayak launch.
- (i) CDD shall Complete Construction of the CRA Infrastructure Improvements no later than December 31, 2024.
- (j) CDD shall Complete Construction of the CDD Infrastructure Improvements no later December 31, 2025.

3.14.1 Subject to the terms and conditions of this Agreement, CDD hereby agrees to undertake the completion of the design, engineering, permitting and construction of the CRA Infrastructure Improvements commenced by Master Developer, in accordance with this Agreement and the Performance Schedule, and to comply with all of the CDD’s obligations set forth herein. CDD shall oversee and manage the design, engineering, permitting and construction of the CRA Infrastructure Improvements and the DIA shall not be responsible for paying to CDD any management and/or development fees for such work. The CEO of the DIA, and the DIA Board, may extend the Performance Schedule as set forth in the Redevelopment Agreement. Except as may otherwise be expressly permitted in this Agreement, in no event will

the Performance Schedule be modified without the prior written approval of the DIA's CEO or his or her designee and the City's Director of Public Works or his or her designee, or the consent of the DIA Board, as applicable.

3.14.2 Waiver of State Law Rights to Development Deadline Extensions. State laws have previously allowed developers to extend development deadlines in local government development orders/agreements by giving notice to the local government. The CDD acknowledges and agrees that such past extension requests do not apply to the deadlines imposed in Sections 3.14(d), (e) and (f) above. In consideration for the DIA's obligations under this Agreement, CDD hereby waives any and all rights under any existing or future state laws that may affect the deadline imposed in Section 3.14(d), (e) and (f) above. If in the future the Florida legislature enacts additional rights for CDDs to extend development deadlines in development orders or development agreements, CDD hereby waives any all rights to such extensions with respect to the deadline imposed in Section 3.14(d), (e) and (f) above and acknowledges and agrees that if it exercises any such rights, then the CDD's obligations under this Agreement shall not automatically be extended with respect to the deadline imposed in Section 3.14(d), (e) and (f) above. The CDD must secure written approval of any extension with respect to the deadline imposed in Section 3.14(d), (e) and (f) above from the DIA's CEO or his or her designee or the City's Director of Public Works or his or her designee as set forth in the Redevelopment Agreement.

3.15 **Progress Reports.** All design, engineering and construction and related contracts for the CRA Infrastructure Improvements shall be contracted for independently from and segregated from the CDD Infrastructure Improvements and all rights and warranties thereunder shall be assignable to the DIA upon completion thereof. During the period of construction of any CRA Infrastructure Improvements, CDD shall provide to the DIA on a monthly basis (not later than fifteen (15) days after the close of each calendar month) progress reports of the status of completion of construction of the CRA Infrastructure Improvements and CDD Infrastructure Improvements which shall include (i) certification by CDD's engineer of (a) the total dollars spent to date, and (b) the percentage of completion of the applicable phase of the CRA Infrastructure Improvements and CDD Infrastructure Improvements, as well as the estimates of the remaining cost to complete such construction; (ii) on a semi-annual basis only, title evidence that no mechanic's liens have been filed encumbering the parcel(s) upon which such CRA Infrastructure Improvements are located; and (iii) evidence of full payment (less retainage) of all invoices or draw requests, to include copies of checks for payment and invoice draw requests, submitted for payment as to such CRA Infrastructure Improvements during such monthly reporting period. In addition, on a monthly basis CDD shall provide to the DIA copies of its internally generated monitoring reports and related documentation as to construction of the CRA Infrastructure Improvements and CDD Infrastructure Improvements within fifteen (15) days after the close of the month.

3.16 **Pre-Construction Meetings; Critical Path Diagram.** The DIA and CDD shall meet no later than ten (10) days prior to the Commencement Date for the CRA Infrastructure Improvements. At such meeting, CDD shall provide to the DIA a logical network diagram describing all components of the construction of CRA Infrastructure Improvements to be constructed, in a critical path format (the "**Critical Path Diagram**"), in accordance with the Performance Schedule in Section 3.14. CDD shall update the Critical Path Diagram monthly and

submit the updated diagram to the DIA with each Disbursement Request. Additionally at such meeting CDD shall submit a complete schedule of values for the construction of the CRA Infrastructure Improvements and a projected cash flow statement for the remaining time period of the project (collectively, the “**Schedule of Values**”), which CDD shall also update monthly to show all items completed and provide the updated version to the DIA with each Disbursement Request.

ARTICLE 4 DISBURSEMENT REQUESTS

4.1 **Request for Disbursement; Payment by DIA.** For each request, which shall be made no more frequently than monthly, for a Disbursement, CDD shall submit to the DIA, at least thirty (30) calendar days prior to the requested date of disbursement, a completed written disbursement request (each, a “**Disbursement Request**”) in the form attached hereto as **Exhibit F**. Disbursements shall be made on a work performed and invoiced basis. Each Disbursement Request shall certify in detail, reasonably acceptable to the DIA, (a) the cost of the labor that has been performed and the materials that have been incorporated into the CRA Infrastructure Improvements under construction, and (b) the amount of the Disbursement that CDD is seeking in accordance with the amounts set forth in the Budget and subject to Section 1.5 above. Each Disbursement Request shall be accompanied by the following supporting data: (i) invoices, waivers of mechanic’s and materialmen’s liens obtained for payments made by CDD on account of Direct Costs as of the date of the Disbursement Request, (ii) AIA Forms G702 and G703 certified by the applicable General Contractors and Design Professional for the completed CRA Infrastructure Improvements under construction, and (iii) the updated Critical Path Diagram and Schedule of Values as described in Section 3.16 (collectively, the “**Supporting Documentation**”). The DIA shall pay to CDD the amount of each Disbursement Request submitted by CDD in accordance with the applicable requirements of this Agreement, within thirty (30) calendar days of the DIA’s receipt of such Disbursement Request, provided, however, that if the DIA reasonably disputes any portion of the Disbursement Request, the DIA shall provide written notice to CDD of such dispute within ten (10) business days of the DIA’s receipt of such Disbursement Request. Thereafter, the parties shall negotiate in good faith to resolve such dispute. Notwithstanding the DIA’s rights to dispute a Disbursement Request as set forth herein, in the event of such a dispute, the DIA shall, within such original fifteen (15) business day period, disburse to CDD the non-disputed portion of the funds requested pursuant to such Disbursement Request. Each Disbursement Request shall be accompanied by a certification by CDD’s Design Professional of (a) updated budgets showing the amount of expenditures for the CRA Infrastructure Improvements and CDD Infrastructure Improvements to date, (b) the percentage of completion of the CRA Infrastructure Improvements and CDD Infrastructure Improvements and (c) estimates of the remaining costs to complete the overall CRA Infrastructure Improvements. CDD shall also promptly furnish to DIA such other information concerning the CRA Infrastructure Improvements as DIA may from time to time reasonably request.

4.2 **Inspection.** Upon receiving each Disbursement Request, Construction Inspector will determine in its reasonable discretion (a) whether the Work completed to the date of such Disbursement Request has been done satisfactorily and in accordance with the Plans and Specifications, (b) the percentage of construction of the CRA Infrastructure Improvements

completed as of the date of such Disbursement Request for purposes of determining, among other things, the Direct Costs actually incurred for Work in place as part of such CRA Infrastructure Improvements as of the date of such Disbursement Request, (d) the actual sum necessary to complete construction of such CRA Infrastructure Improvements in accordance with the Plans and Specifications, and (e) the amount of time from the date of such Disbursement Request which will be required to complete construction of such CRA Infrastructure Improvements in accordance with the Plans and Specifications until such improvements are completed. All inspections by or on behalf of the DIA shall be solely for the benefit of the DIA and CDD, but CDD shall have no right to claim any loss or damage against DIA arising from any alleged (i) negligence in or failure to perform such inspections, or (ii) failure to monitor Disbursements or the progress or quality of construction.

4.3 **Disbursements.** The DIA shall have no obligation after making Disbursements in a particular manner to continue to make Disbursements in that manner, except that the DIA shall provide CDD reasonable advance notice of any change in the DIA's disbursement procedures, and any new disbursement procedures shall be commercially reasonable and in conformance with this Agreement. Provided that in no event will the Disbursements be changed to vary from the terms of Section 1.5 above. Notwithstanding the foregoing, the DIA's records of any Disbursement made pursuant to this Agreement shall, in the absence of manifest error, be deemed correct and acceptable and binding upon CDD.

4.4 **No Warranty by DIA.** Nothing contained in this Agreement or any other Project Document shall constitute or create any duty on or warranty by the DIA regarding (a) the accuracy or reasonableness of the Budget, (b) the proper application by CDD of the Disbursement proceeds, (c) the quality of the CRA Infrastructure Improvements or Project, or (d) the competence or qualifications of the General Contractors, Design Professional, Construction Inspector any other party furnishing labor or materials in connection with the construction of the CRA Infrastructure Improvements or Project. CDD acknowledges that CDD has not relied and will not rely upon any experience, awareness or expertise of the DIA regarding the aforesaid matters.

ARTICLE 5 CONDITIONS TO DISBURSEMENTS

5.1 **General Conditions.** Subject to compliance by CDD with the terms and conditions of this Agreement, the DIA shall make Disbursements to CDD for Direct Costs of the CRA Infrastructure Improvements, up to the Maximum Public Infrastructure Disbursement Amount; provided, however, that in no event shall the DIA be obligated to make Disbursements in excess of the sum of Verified Improvements Costs applicable to such Improvements. The DIA will have no obligation to make any Disbursement (a) unless DIA is satisfied, in its reasonable discretion, that the conditions precedent to the making of such Disbursement have been satisfied; or (b) if an Event of Default or an event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing.

5.2 **Conditions to Initial Disbursement.** The DIA's obligation hereunder to make the first and second Disbursements with respect to the CRA Infrastructure Improvements is

conditioned upon the DIA's receipt of the following, each in form and substance reasonably satisfactory to the DIA:

- a) The Escrow Closing, as described and defined in the DCSB Agreement has occurred.
- b) Each of the Project Documents duly executed as necessary to be enforceable against the parties thereto, and CDD shall not be in material default under any of the Project Documents beyond any applicable cure period.
- c) If improvements have been constructed, a satisfactory inspection report with respect to the CRA Infrastructure Improvements from Construction Inspector, which shall be delivered by Construction Inspector with the Disbursement Request.
- d) The Supporting Documentation described in Section 4.1 above.
- e) The CDD shall be in compliance with its obligations under the Redevelopment Agreement as to Commencement and construction of the CDD Infrastructure Improvements.

5.3 **Conditions to Subsequent Disbursements.** The DIA's obligations hereunder to make any subsequent Disbursements with respect to the CRA Infrastructure Improvements are conditioned upon DIA's receipt of the following, each in form and substance reasonably satisfactory to the DIA:

- a) Disbursement Request, together with all required Supporting Documentation;
- b) Evidence that CDD has obtained all Governmental Approvals or, after construction has commenced, a satisfactory inspection report with respect to the applicable Improvements from Construction Inspector, which shall be delivered by Construction Inspector with the applicable Disbursement Request; and
- c) An updated Budget (showing the amount of money spent or incurred to date on particular items and the remaining costs for the CRA Infrastructure Improvements under construction).
- d) Additionally, prior to any Disbursement hereunder for the costs of construction of any CRA Infrastructure Improvements, the DIA must be satisfied that all necessary approvals from governmental or quasi-governmental authorities (including without limitation the St. Johns River Water Management District and FDEP) having jurisdiction over the CRA Infrastructure Improvements, including but not limited to street openings or closings, zonings and use and occupancy permits, sewer permits, stormwater drainage permits, and environmental permits and approvals (the "**Governmental Approvals**"), have been obtained for the applicable CRA Infrastructure Improvements under construction, and are or will be final, unappealed, and unappealable, and remain in full force and effect without restriction or modification.

5.4 **Conditions to Final Disbursement.** The DIA's obligation hereunder to make the final Disbursement with respect to the CRA Infrastructure Improvements is conditioned upon DIA's receipt of all of the following, each in form and substance reasonably satisfactory to the DIA:

a) Disbursement Request, together with all required Supporting Documentation.

b) Evidence that CDD has obtained all Governmental Approvals for the Completed CRA Infrastructure Improvements and a satisfactory inspection report with respect to the CRA Infrastructure Improvements from Construction Inspector, which shall be delivered by Construction Inspector with the Disbursement Request.

c) An updated Budget, showing the amount of money spent or incurred to date on all of the CRA Infrastructure Improvements.

d) Additionally, prior to any final Disbursement hereunder for the costs of construction of any CRA Infrastructure Improvements, the DIA must be satisfied that all necessary Governmental Approvals have been obtained or will be obtained in due course for the CRA Infrastructure Improvements, and are or will be final, unappealed, and unappealable, and remain in full force and effect without restriction or modification.

e) A final survey showing all of the CRA Infrastructure Improvements and applicable easements in compliance with the requirements of Section 7.13.

f) Evidence satisfactory to the DIA that CDD has Completed Construction of the CRA Infrastructure Improvements, and each of the items set forth in the CRA Infrastructure Improvements Completion Conditions set forth in Section 7.9 below.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

CDD represents and warrants to the DIA that:

6.1 **Casualty Damage.** No part of the City Parcels has been materially damaged or injured as a result of any fire, explosion, accident, flood, or other casualty which is not now fully restored.

6.2 **Project Documents.** CDD is not in default under any of the Project Documents and no event has occurred that with the passage of time would result in a default by CDD under any such documents.

6.3 **Authority; Enforceability.** (a) The execution and delivery hereof has been approved by all parties whose approval is required under the terms of the governing documents creating the CDD; (b) this Agreement and the other Project Documents do not violate any of the terms or conditions of such governing documents and the Project Documents are binding upon CDD and enforceable against it in accordance with their respective terms; (c) the person(s) executing this Agreement and the other Project Documents on behalf of CDD is (are) duly

authorized and fully empowered to execute the same for and on behalf of CDD; (d) CDD is duly authorized to transact business in the State of Florida and has received all necessary permits and authorizations required by appropriate governmental agencies as a condition to doing business in the State of Florida; and (e) CDD is a local unit of special-purpose government organized and existing under the laws of the State of Florida.

6.4 **Documents Provided to DIA; Project Summary.** The documents, plans, financial statements and other materials provided to the DIA in connection with the CRA Infrastructure Improvements, including all of the statements and information contained in any Project Summary attached to the Ordinance, are true and correct in all material respects.

6.5 **Survival.** All of the representations and warranties of CDD as set forth in this Agreement shall survive the making of this Agreement and shall be continuing for a period of one year after the Completion Date for the CRA Infrastructure Improvements as set forth herein. Each and every request submitted by CDD for a Disbursement under this Agreement shall constitute a new and independent representation and warranty to the DIA with respect to all of the matters set forth in this Agreement as of the date of each such. As to Section 6.1 above, CDD shall promptly notify the DIA if the representations and warranties in such Section become untrue after the Effective Date and CDD shall comply with any provisions of this Agreement applicable to such circumstances (e.g., making a claim on the builder risk policy).

ARTICLE 7 COVENANTS

7.1 **Construction of the CRA Infrastructure Improvements.** Subject to the provisions of Sections 2.1, 10.1.1 and 10.1.2 and unless otherwise agreed in writing by DIA, ongoing physical construction of the CRA Infrastructure Improvements and CDD Infrastructure Improvements shall commence by the required commencement dates as described in Section 3.14 and shall be carried on diligently without Abandonment.

7.2 **Manner of Construction of CRA Infrastructure Improvements.** The CRA Infrastructure Improvements shall be constructed in a good and workmanlike manner, in substantial accordance with the Plans and Specifications and in compliance with all state, federal and local laws, and in accordance with the Performance Schedule.

7.3 **Plans and Specifications for CRA Infrastructure Improvements.** Prior to commencing construction of the CRA Infrastructure Improvements, CDD will deliver to the DIA complete Plans and Specifications for the CRA Infrastructure Improvements, as a basis for construction bid documents. The Plans and Specifications (i) will comply with all applicable City/DIA/state/federal standards, and with the provisions of this Agreement, (ii) shall be reviewed by the DIA within thirty (30) days of submission in form acceptable to the DIA (such 30 day period shall not commence until the CDD has provided the DIA with all documents requested by the DIA in accordance with its standard development approval procedures and practices), and (iii) shall be subject to the DIA's approval. Any portion of the Plans and Specifications pertaining to the relocation of JEA utilities (sanitary sewer, water and electric) shall be reviewed and approved by JEA. CDD shall use the approved Plans and Specifications to solicit proposals for the construction of such CRA Infrastructure Improvements.

7.4 **Pre-Construction Surveys.** On or before the CRA Infrastructure Improvements Commencement Date, CDD shall deliver to the DIA or JEA, as applicable, surveys (meeting Florida minimum technical standards) and legal descriptions, which will cover such Improvements as well as the location of utility and drainage easements and utility sites. The form and content of the surveys and legal descriptions shall be reasonably satisfactory to DIA or JEA, as applicable, which shall indicate their approval in writing after approving of such form and content in accordance with their respective standard practices.

7.5 **CDD Responsibilities; Location and Ownership of Improvements.** The CRA Infrastructure Improvements will be constructed by the CDD only on the City Parcels. All of the CRA Infrastructure Improvements will be the property of the City, except for the utilities which JEA will own.

7.6 **CDD Responsibilities.** Pursuant to the Ordinance, the City has waived the City's purchasing code as to the CDD and its designated General Contractors, to the extent necessary to authorize the construction of CRA Infrastructure Improvements in accordance with this Agreement and subject to the CDD's compliance with Section 190.033, Florida Statutes. CDD shall be responsible for overseeing the design, engineering, permitting and construction of the CRA Infrastructure Improvements under the terms and conditions of this Agreement.

7.7 **Award of Construction Contract; Prosecution of the Work; Inspection of the Work; Change Orders.**

a) After the DIA has received and approved the Plans and Specifications (including without limitation construction shop drawings) for the CRA Infrastructure Improvements, and written confirmation acceptable to the DIA that all required permits are being processed and will be issued within a time frame acceptable to the DIA, CDD or the applicable General Contractor may issue a solicitation for bids for construction of such CRA Infrastructure Improvements in accordance with the Plans and Specifications. CDD shall enter into Construction Contract or Contracts for the CRA Infrastructure Improvements. The CDD shall comply with the public bidding requirements of Section 190.033 and other provisions of Florida law regulating procurement by community development districts. Prior to the actual bid award to any bidder other than the lowest bidder, the DIA shall have the right to review and approve the applicable General Contractor's bid analysis and award procedures used to make such proposed award to confirm compliance with the provisions of this section. CDD reserves the right to reject all bids. Nothing herein shall be deemed to (1) confer any rights on third parties, including any bidders, prospective bidders, contractors or subcontractors, or (2) impose any obligations or liability on the DIA. Notwithstanding anything to the contrary herein, subject to the Ordinance described in Section 7.6 above, the bidding and contract award procedure to be implemented by applicable General Contractor in place of the DIA as described above, must comply with the procurement requirements of Florida law and otherwise generally in accordance with the City Ordinance Code for public construction projects.

b) After awarding the Construction Contract for the CRA Infrastructure Improvements, CDD shall in a timely manner notify the applicable General Contractor to proceed with the Work of constructing such CRA Infrastructure Improvements.

No notice to proceed shall be given until, and the parties' obligations hereunder shall be conditioned upon, satisfaction of the following conditions:

(i) The DIA shall have received evidence reasonably satisfactory to it that the CRA Infrastructure Improvements Costs will not exceed the amount set forth in the Budget, and that such CRA Infrastructure Improvements will be completed by the Completion Dates; provided however, that based on CDD's agreement herein to pay for all amounts in excess of the amount set forth in the Budget, the Department of Public Works may waive this condition in its discretion if the amount in the Budget is exceeded and CDD reconfirms in writing to the DIA its agreement to pay for all such excess amounts, and further provided however, that such reconfirmed agreement shall not in any way be considered a condition to the CDD's obligation hereunder to pay for all amounts in excess of the Maximum Public Infrastructure Disbursement Amount;

(ii) The DIA shall have received such assurances as may reasonably be required that all necessary permits and other governmental requirements for construction of the CRA Infrastructure Improvements have been received and satisfied or can be received and satisfied in due course;

(iii) The parties have complied with the Pre-Construction Meeting requirements of Section 3.16.

(iv) The parties shall revise the line items of the Budget to be consistent with the bids, but if the Budget exceeds the Maximum Public Infrastructure Disbursement Amount, CDD shall pay the excess without reimbursement by the DIA.

c) CDD, the Design Professionals and General Contractors shall perform construction contract management, including obtaining of required testing, inspecting the Work and rendering periodic reports to the DIA on the progress of the CRA Infrastructure Improvements in compliance with procedures reasonably satisfactory to the DIA. The DIA shall be entitled to review and approve the applicable General Contractor's (or construction manager's) draw requests (to be submitted in a DIA approved format).

d) As a point of clarification, under this Section 7.7, (i) the CDD may use any solicitation method authorized by Section 190.033, Florida Statutes, or other applicable law to procure the CRA Infrastructure Improvements or other work; and (ii) the CDD may fund any infrastructure, any Cost Overruns, and any other amounts due, as well as provide for any guarantees under the Redevelopment. Agreement, by any lawful means, including but not limited to the levy of special assessments and/or funding or other agreements

7.8 **Utility Relocation.** CDD and the DIA shall coordinate with JEA in the performance of the CRA Infrastructure Improvements involving the relocation of JEA utilities (sanitary sewer, water and electric). In the event JEA requires that such Work comprising part of the CRA Infrastructure Improvements be performed by the JEA or its contractors, any amounts budgeted in the Budget for such Work shall be paid to the JEA pursuant to an agreement that is reasonably acceptable to JEA, the DIA and CDD.

7.9 **Completion of the CRA/CDD Infrastructure Improvements.** Subject to the terms of this Agreement, CDD shall Complete Construction of the CRA Infrastructure Improvements and CDD Infrastructure Improvements by no later than the Completion Dates.

7.9.1 For purposes of this Agreement, completion of the CRA Infrastructure Improvements and CDD Infrastructure Improvements shall be deemed to have occurred only when the following conditions (the “**CRA and CDD Infrastructure Improvements Completion Conditions**”) shall have been satisfied as to the CRA and CDD Infrastructure Improvements:

a) CDD shall furnish to DIA such permits and/or certificates (including a certificate of substantial completion from the Design Professional) as shall be required to establish to DIA’s satisfaction that the CRA and CDD Infrastructure Improvements have been properly completed and are not subject to any violations or uncorrected conditions noted or filed in any municipal department, and that such improvements are ready for immediate use;

b) Upon Completion of all of the CRA Infrastructure Improvements and CDD Infrastructure Improvements, respectively, CDD shall submit to DIA a proper contractor’s final affidavit and releases of liens from each contractor, subcontractor and supplier, or other proof satisfactory to DIA, confirming that payment has been made for all materials supplied and labor furnished in connection with such CRA Infrastructure Improvements and CDD Infrastructure Improvements through the date of Work reflected in the final Disbursement Request;

c) The CRA Infrastructure Improvements and CDD Infrastructure Improvements, respectively, shall have been finally completed in all material respects in substantial accordance with the Plans and Specifications, as verified by a final inspection report satisfactory to DIA from Construction Inspector, certifying that the CRA Infrastructure Improvements have been constructed in a good and workmanlike manner and are in satisfactory condition and are ready for immediate use; and

d) The City shall have issued the Substantial Completion Letter as to each of the CRA Infrastructure Improvements and CDD Infrastructure Improvements, respectively, stating that the CRA Infrastructure Improvements and CDD Infrastructure Improvements are substantially complete and may be used for their intended purpose.

e) The Completion of any portion of the Improvements is subject to CDD’s one year warranty on all Completed Improvements as described herein.

7.10 **Change Orders.** No material amendment shall be made to the Plans and Specifications, the Design Professional’s Contract or to any Construction Contract, nor shall any material change orders be made thereunder, without the prior written consent of the CEO of the DIA and the City’s Director of Public Works. The CDD shall notify the DIA in writing of any requested changed condition/change order, which shall describe the changed scope of work, all related costs and any necessary delay in the Completion Date (“**CDD Change Order Request**”).

Within seven (7) business days after receipt of a CDD Change Order Request, the DIA will determine if the CDD Change Order Request is justified and will respond to the CDD in writing as to whether or not the DIA determines that the CDD Change Order Request is justified and that the DIA is willing to fund the added scope of work, related costs and permitted delay in the Completion Date set forth therein. If the CEO of the DIA does not believe the CDD Change Order Request is justified, the CEO of the DIA will have an additional 10 business days to evaluate and respond to the CDD in writing. If the CDD Change Order Request has been agreed upon by CDD and the DIA, the formal Change Order, describing the agreed scope of work, approved costs and applicable extension of the Completion Dates, will be executed by both parties within 10 business days (“**Approved Change Order**”). The parties acknowledge that the Work that is the subject of the CDD Change Order Request will not proceed during the DIA change order response period, but other Work that will not affect or be affected by the Work that is the subject of the CDD Change Order Request will not be stopped during the DIA change order response period. Notwithstanding anything herein, the increased costs resulting from any and all Approved Change Orders during construction of the CRA Infrastructure Improvements which are in excess of the Maximum Disbursement Amount shall be borne by CDD and not reimbursed by the DIA.

7.11 **General Contractors and Subcontractors.**

a) The DIA shall have the right to pre-approve CDD’s contract with the General Contractors and it must be in a form reasonably satisfactory to the DIA. The DIA may require that such contract shall specifically provide that (i) the DIA is a third-party beneficiary thereof, (ii) any default notices shall be provided simultaneously to the DIA and the CDD, and (iii) in the event of any default by CDD thereunder, the General Contractors agree that the DIA may at its option accede to the rights and obligations of the CDD under the contract for purposes of insuring the completion of the CRA Infrastructure Improvements; provided however that CDD shall not be released from its obligations under such contract, and the DIA shall not be obligated to take any action with respect to such contract, or be subject to any liability thereunder, irrespective of any default thereunder by any party.

b) CDD agrees that it will not engage or permit the General Contractors to engage or continue to employ any contractor, subcontractor or materialman who may be reasonably objectionable to DIA. If requested by DIA, CDD shall deliver to DIA a fully executed copy of each of the agreements between CDD and such contractors and between the General Contractors and their subcontractors, each of which shall be in form and substance reasonably satisfactory to DIA. DIA’s approval of a construction contract is specifically conditioned upon the following: (i) the total contract price thereof does not exceed the fair and reasonable cost of the Work to be performed thereunder, and (ii) the contractor or subcontractor is of recognized standing in the trade, and is otherwise reasonably acceptable to DIA.

7.12 **Liens and Lien Waivers.** CDD shall take all action necessary to have any mechanic’s and materialmen’s liens, judgment liens or other liens or encumbrances filed against the City Parcels released or transferred to bond within ten business (10) days of the date CDD receives notice of the filing of such liens or encumbrances. If any such lien or encumbrance is filed against the City Parcels, DIA shall not be required to make any Disbursement amount relating to the work covered in the recorded claim of lien, until it is transferred to the Payment

and Performance Bond, otherwise bonded over or removed and a copy of the recorded release or transfer thereof is received by DIA and the DIA's Office of General Counsel or a title insurer chosen by the DIA and paid for by CDD, confirms that the lien has been removed. CDD shall be responsible for assuring compliance in all respects whatsoever with the applicable mechanic's and materialmen's lien laws.

7.13 **As-Built and Other Surveys.** CDD shall deliver to DIA, each in compliance with DIA's survey requirements, (a) an as-built survey within thirty (30) days after the Completion of the CRA Infrastructure Improvements, and (b) any additional surveys reasonably requested by DIA or the Construction Inspector, within thirty (30) days' after such request, but not more frequently than once per any consecutive 12 month period, except following a continuing Event of Default. Any change in the state of facts shown in any such updated survey shall be subject to approval by DIA and Construction Inspector.

7.14 **Soil, Concrete and Other Tests.** Upon request by DIA, CDD shall, as provided in the Budget, cause to be made such soil, compaction, concrete and other tests as are reasonably required to conform with Plans and Specifications, which tests shall be performed by testing companies reasonably acceptable to DIA.

7.15 **Compliance with Laws and Restrictions.** All construction of the CRA Infrastructure Improvements shall be performed in accordance with all applicable statutes, ordinances, codes, regulations and restrictions. The CRA Infrastructure Improvements shall be constructed entirely on the City Parcels or City rights of way. All contractors, subcontractors, mechanics or laborers and other persons providing labor or material in construction of the CRA Infrastructure Improvements shall have or be covered by worker's compensation insurance, if required by applicable law.

7.16 **Ownership of Construction Documents.** As security for the obligations of CDD under this Agreement, CDD hereby grants, transfers and assigns to DIA all of CDD's right, title, interest (free of any security interests of third parties) and benefits in or under the Construction Documents, including any copyrights thereto. CDD represents and warrants that it has permission and authority to convey ownership of the Construction Documents as set forth herein.

7.17 **Advertising.** Subject to any design guidelines and laws applicable to the City Parcels and Project Parcel, DIA shall have the right at its expense to erect one or more signs on the City Parcels and/or CDD Property advertising its funding of the costs of the CRA Infrastructure Improvements.

7.18 **No Liens on City Parcels.** CDD shall not create or permit to exist any mortgage, lien, security interest or other encumbrance on the City Parcels upon which the CRA Infrastructure Improvements are to be constructed. The creation or existence of any such lien would be unlawful and constitute an Event of Default under this Agreement if not released or bonded off by CDD in accordance with this Agreement.

7.19 **Authority of DIA to Monitor Compliance.** During all periods of design and construction, CDD shall permit City's Director of Public Works or his or her respective

designated personnel, to monitor compliance by CDD with the provisions of this Agreement and the Project Documents. During the period of construction and with prior notice to CDD, representatives of DIA shall have the right of access to CDD's records and employees, as they relate to the CRA Infrastructure Improvements, during normal business hours, provided, however, that CDD shall have the right to have a representative of CDD present during any such inspection. Additionally, DIA and its designees, including but not limited to the City Council auditors, shall have the right, at DIA's sole cost and expense, to periodically audit CDD's books and records with regard to the expenditure of the Disbursement proceeds and the progress of the construction of the CRA Infrastructure Improvements, in accordance with the City's normal audit procedures.

7.20 **Discrimination.** CDD shall not discriminate against any person, or group of persons on account of race, color, creed, sex, age, religion, national origin, marital status, handicap, having children or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of all or any part of the CRA Infrastructure Improvements nor shall CDD or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with the reference to the selection, location number, use of occupancy of tenants, lessees, subtenants, sublessees or vendees thereof.

7.21 **Indemnification.**

The CDD and Master Developer shall, jointly and severally, indemnify the City, DIA and their respective employees, agents, representatives, successors, assigns, contractors and subcontractors (collectively "**DIA Parties**") against and from all liabilities, damages, losses, costs, and expenses of whatsoever kind or nature, including, but not limited to, reasonable attorney's fees, reasonable expert witness fees and court costs (all of which are collectively referred to as "**Damages**"), arising out of or in connection with any negligent act or omission or willful misconduct of any of the CDD, the Master Developer or any of their respective employees, contractors, agents or representatives (collectively, the "**CDD Parties**") in connection with the CDD Parties' construction of the CRA Infrastructure Improvements, which Damages are not paid or reimbursed by or through the Payment and Performance Bond or Insurance as required under this Agreement. This indemnification shall survive the expiration or termination of this Agreement. The term "**DIA**" as used in this Section shall include the DIA, the City, and all officers, board members, DIA Board members, City Council members, employees, representatives, agents, successors and assigns of DIA or the City.

For ten dollars (\$10.00) acknowledged to be included and paid for in the Direct Costs and other good and valuable consideration, the CDD agrees to indemnify and hold harmless the DIA the City of Jacksonville and their respective members, officials, officers, employees and agents, in accordance with the provisions of this Paragraph 7.21.

7.22 **Insurance.** Without limiting its liability under this Agreement, the CDD shall procure or cause to be procured and maintained, at its expense in accordance with the Budget, during the life of this Agreement, insurance of the types and in the minimum amounts stated on **Exhibit G** attached hereto:

7.23 **Materials and Workmanship.** All workmanship, equipment, materials and articles incorporated in the Work are to be new and in accordance with the DIA's Standards, Specification and Details to be provided by the DIA. CDD shall furnish the DIA Inspector certified copies of test results made of the materials or articles which are to be incorporated in the Work for approval. When so directed, samples of materials shall be submitted for approval. Machinery, equipment, materials and articles installed or used without such approval shall be at the risk of subsequent rejection, removal and replacement at the CDD's expense. If not otherwise provided, material or Work called for in this Agreement shall be furnished and performed in accordance with the manufacturer's instructions and established practice and standards recognized by architects, engineers and the trade

7.24 **Warranty and Guarantee of Work.**

a) The CDD warrants to the DIA that all Work will be of good quality, and substantially in compliance with the Project Documents and in accordance with the provisions of Section 7.23. All Work not in conformance to the requirements of this Agreement, including substitutions not properly approved and authorized, may be considered defective. If required by the Construction Inspector, the CDD shall provide satisfactory evidence as to the quality, type and kind of equipment and materials furnished. This warranty is not limited by, nor limits any other warranty-related provision in the Project Documents.

b) If, within one year of Substantial Completion of the Work, or within such longer period of time prescribed by law or by the terms of any special warranty provision of these Project Documents, any of the Work is found to be defective or not in conformance with the Project Documents, the CDD shall correct it promptly after notice of such defect or nonconformance. Any corrective Work performed during the warranty period shall also be warranted for a period of one year (but only as to the portion of the Work at issue) from the date of the correction being completed. This obligation shall survive termination, expiration or completion of the Agreement. The DIA shall give notice to the CDD promptly after discovery of the condition.

c) The CDD shall bear the cost of correcting or removing all defective or nonconforming Work covered by the foregoing warranty period, including the cost for correcting any damage caused to equipment, materials or other Work by such defect or the correcting thereof.

d) A warranty inspection will be held approximately eleven (11) months after substantial completion of the Work. The CDD shall have a representative attend this warranty inspection. Any defective or nonconforming Work identified or previously identified to the CDD, shall be corrected promptly.

e) The CDD shall correct any defective or nonconforming Work to the reasonable satisfaction of the DIA, and any of the Work, equipment or materials damaged as a result of such condition or the correcting of such condition, within thirty (30) calendar days of notice of such condition. Should the CDD fail to timely correct defective or non-conforming Work under warranty, the DIA, or a third party contractor on behalf of the DIA, may correct such Work itself and the CDD shall reimburse the DIA for the costs of such corrective Work promptly and no

later than 30 days after receipt of an invoice from the DIA pertaining to such corrective Work undertaken by the DIA. If CDD fails to correct the non-conforming or defective Work, CDD will be in default hereunder.

f) The Performance Bond required herein shall be maintained during the one year warranty period described herein and for any additional time required to complete correction of defective or nonconforming Work, including any extension of the warranty period that may be required as a condition of the DIA's acceptance of defective or nonconforming Work.

g) Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which the CDD may have under the Project Documents. The establishment of the time period of one year after the date of Substantial Completion, or such longer period of time as may be prescribed by law or by the items of any warranty required by the Project Documents, relates only to the specific obligation of the CDD to correct the Work and has no relationship to the time within which its obligation to comply with the Project Documents may be sought to be enforced, nor the time within which proceedings may be commenced to establish the CDD's liability with respect to its obligations other than specifically to correct the Work.

h) Notwithstanding the foregoing, CDD shall be entitled to require the General Contractors to provide the above warranties to the DIA and in that event the CDD shall assign the Construction Contract containing such warranties to the DIA; provided however that the DIA shall not be required to assume any CDD obligations under such contract unless the DIA chooses to do so upon any default by CDD under the Construction Contract.

7.25 **Contract Bonds.**

a) The CDD shall cause the General Contractors to furnish Performance and Payment Bonds complying with the requirements set forth in **Exhibit G** in addition to the requirements in this Section 7.25 (and the terms and conditions of **Exhibit G** shall control in case of a conflict between **Exhibit G** and this Section 7.25) as security for its faithful performance under the Project Documents. The Bonds shall be in an amount at least equal to the amount of the Direct Costs for the construction of the applicable portion of the CRA Infrastructure Improvements, and shall name the DIA and City as an additional beneficiary. The Bonds shall be in a form acceptable to the DIA (including without limitation naming the DIA as an additional beneficiary), and with a surety that is acceptable to the DIA's Division of Insurance and Risk Management. The cost thereof shall be included in the Budget.

b) The Performance and Payment Bonds for CRA Infrastructure Improvements shall be delivered prior to Commencement of Construction of the CRA Infrastructure Improvements.

c) If any surety upon any bond furnished in connection with the Project Documents becomes unacceptable to the DIA in its reasonable discretion, or if any such surety fails to furnish reports as to its financial condition from time to time as requested by the DIA, the CDD shall, at its own expense, promptly furnish such additional security as may be required from time to time to protect the interests of the DIA and of persons supplying labor or materials in the prosecution of the Work contemplated by this Agreement.

7.26 **Jacksonville Small and Emerging Businesses (JSEB) Program.**

CDD, in further recognition of and consideration for the public funds provided to assist CDD pursuant to this Agreement, hereby acknowledges the importance of affording to small and emerging vendors and contractors the full and reasonable opportunity to provide materials and services (“**Opportunity**”). Therefore, CDD hereby agrees as follows:

a) CDD, either directly or indirectly through its General Contractors, shall obtain from City’s Procurement Division the list of certified Jacksonville Small and Emerging Businesses (“**JSEB**”), and shall, in accordance with Municipal Ordinance Code (“**Code**”) Sections 126.601 et seq., either (i) enter into contracts (directly or through subcontracts) with DIA certified JSEBs to provide materials or services for the Project in an aggregate amount of twenty (20%) of the total Direct Cost of the construction of CRA Infrastructure Improvements, as determined in accordance with Code Section 126.611, of the applicable portion of DIA’s maximum contribution to the CRA Infrastructure Improvements (“**JSEB Goal**”); or (ii) demonstrate “Good Faith Efforts” were made to achieve the JSEB Goal, all in accordance with and as further described in Code Sections 126.601 et seq.

b) CDD shall submit JSEB report(s) regarding CDD’s actual use of City certified JSEBs on the CRA Infrastructure Improvements. The JSEB report(s) shall be submitted on a quarterly basis until Completion of Construction of the CRA Infrastructure Improvements. The form of the report to be used for the purposes of this Section is attached hereto as **Exhibit H** (the “**JSEB Reporting Form**”).

**ARTICLE 8
ASSIGNMENT OR CONVEYANCE;
RESTRICTIONS ON ENCUMBRANCE**

8.1 **Assignment; Limitation on Conveyance.** The CDD agrees that, until Completion of Construction of the CRA Infrastructure Improvements, it shall not, without the prior written consent of the DIA, assign, transfer or convey this Agreement or the Project Documents or any provision hereof or thereof except to any entity controlled by, under common control or controlling CDD (meaning that the day to day management of the assignee is directed by the same persons that directs the day to day management of CDD, either directly or indirectly). Any such sale, purported assignment or conveyance in violation of this section is null and void and shall constitute an Event of Default hereunder. Any authorized assignment hereunder shall be pursuant to an assignment and assumption agreement in form and content acceptable to the CEO of the DIA in his reasonable discretion.

**ARTICLE 9
EVENTS OF DEFAULT AND REMEDIES**

9.1 **Event of Default.** Each of the following shall constitute an event of default (each, an “**Event of Default**”) hereunder:

a) A breach by any party of any term, covenant, condition, obligation or agreement under this Agreement, and the continuance of such breach for a period of thirty (30) days after written notice thereof shall have been given to such party, provided, however, that

CDD's failure to observe the time frames set forth in Section 3.14 (other than the Commencement and Completion Dates set forth in Section 3.14(d) and (e) above) shall not constitute a default hereunder; and, provided, further, that if such breach is not reasonably susceptible to cure within thirty (30) days, then the time to cure such breach shall be extended to ninety (90) days so long as the defaulting party is diligently and in good faith pursuing such cure, and further provided, however, that such notice and cure periods shall not apply to specific defaults described elsewhere in this Agreement.

b) Any representation or warranty made by any party in this Agreement shall prove to be false, incorrect or misleading in any material respect as of the Effective Date, which is not cured as provided in Section 9.1(a).

c) The termination by CDD of the Construction Contract (not arising from a default by a General Contractor), or the material default by CDD under the Construction Contract; provided, however, in the event the Construction Contract is terminated due to a default by a General Contractor or CDD, CDD shall have up to ninety (90) days in which to enter into a replacement Construction Contract, on such terms and with such other General Contractor as shall be acceptable to DIA.

d) Failure to complete the CRA Infrastructure Improvements in accordance with the Plans and Specifications in the judgment of Construction Inspector on or before the Completion Date (subject to any extensions provided in this Agreement) or, except as otherwise expressly permitted in Section 7.10, material changes in the Plans and Specifications with respect to the CRA Infrastructure Improvements are made without securing the prior express written consent of DIA as required;

e) Any Abandonment which is not cured by CDD within thirty (30) days of receipt of written notice from the DIA.

f) The entry of a decree or order by a court having jurisdiction in the premises adjudging the CDD or the Master Developer bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of such party under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a receiver, liquidator, custodian, assignee, or sequestrator (or other similar official) of such party or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days.

g) The institution by the CDD or the Master Developer of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under the United States Bankruptcy Code or any other similar applicable federal or state law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, custodian, assignee, trustee or sequestrator (or other similar official) of such party of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due.

h) A default by the CDD or the Master Developer under the Redevelopment Agreement or any agreement attached thereto, continuing beyond any applicable notice and cure period.

i) A default by CDD of the Interlocal Agreement dated of even date herewith or any agreement attached thereto, with DIA and the City, beyond any applicable notice and cure period.

9.2 **Remedies.** Upon or at any time after the occurrence of an Event of Default by CDD, subject to the notice and cure requirements set forth in Section 9.1, if applicable, the DIA may refuse to make further Disbursements while such Event of Default remains outstanding and uncured and pursue any remedies available to the DIA at law or in equity.

9.2.1 In the event CDD's action giving rise to an Event of Default relates directly to the failure of CDD to use the entirety of the Disbursements in accordance with Section 3.2 of this Agreement, the DIA shall have the right to declare immediately due and payable the amount of any Disbursement which was not so used, and the DIA may exercise any right, power or remedy permitted by law or as set forth in any of the Project Documents.

9.2.2 In the event the CDD's action giving rise to an Event of Default pertains to any failure by CDD to Complete Construction of the CRA Infrastructure Improvements within the time periods required herein, the DIA's remedy shall be as set forth in Section 6.2 of the Redevelopment Agreement. Notwithstanding anything in this Agreement to the contrary, the sole remedy of the DIA as to any Event of Default by CDD under Section 3.14(d) above shall be to terminate this Agreement and the DIA's obligation to pay any Direct Costs to CDD hereunder, the parties agreeing that the CDD shall not have any -liability under this Agreement unless and until CDD Commences Construction of the CRA Infrastructure Improvements.

a) In the event of any delay as set forth in Section 10.1.1 or Section 10.1.2, then in such event the DIA shall meet with the CDD to consider alternative resolutions and shall use reasonable efforts and cooperate with CDD to reach a mutually acceptable amendment to this Agreement.

b) In the event that the Event of Default and failure of CDD to cure is caused by CDD's acts or omissions, then the DIA may take over the Work and use an alternative general contractor or development manager selected in its sole discretion provided however such general contractor or development manager shall complete the CRA Infrastructure Improvements in accordance with the terms and conditions of this Agreement and all Exhibits hereto.

9.2.3 Notwithstanding anything herein, upon any breach by the DIA hereunder, the CDD's maximum damages hereunder (including prejudgment interest) shall be limited to the undisbursed Direct Costs required for the completion of the construction of the CRA Infrastructure Improvements. Any such damages amount will be used by CDD only for the construction of the CRA Infrastructure Improvements (or as a reimbursement to CDD for amounts previously expended by CDD) in accordance with the costs in the Budget and pursuant to the Plans and Specifications, and shall be disbursed monthly in partial amounts by the DIA.

ARTICLE 10 GENERAL PROVISIONS

10.1 **Non-Liability**. No member, official or employee of the DIA or City shall be personally liable to CDD or to any person with whom CDD shall have entered into any contract, or to any other person in the event of any default or breach of the DIA, or for any amount which may become due to CDD or any other person under the terms of this Agreement.

No director, officer or employee of CDD shall be personally liable to the DIA or to any person with whom the DIA shall have entered into any contract, or to any other person in the event of any default or breach of the CDD, or for any amount which may become due to the DIA or any other person under the terms of this Agreement.

10.1.1 **Force Majeure**. No party to this Agreement shall be deemed to be in default hereunder where such a default is based on a delay in performance as a result of war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualty, acts of God, acts of public enemies, epidemic, quarantine restrictions, freight embargo, shortage of labor or materials, interruption of utilities service, lack of transportation, severe weather and other acts or failures beyond the control or without the control of any party (collectively, a “**Force Majeure Event**”); provided, however, that the extension of time granted for any delay caused by any of the foregoing shall not exceed the actual period of such delay.

10.1.2 **Regulatory Delays**. The CEO of the DIA may extend all dates contemplated hereunder for up to twelve (12) months in his or her sole discretion for good cause shown by the CDD. In addition, the timeframes for any item or milestone contemplated by Section 3.14 hereof shall be extended to address any delays arising from or relating to governmental action on permits and other delays attendant to governmental review/approval (in each instance not caused by the CDD) processes (collectively, “**Regulatory Delays**”). Except as may otherwise be expressly permitted in this Agreement and subject to extension for force majeure and for Regulatory Delays, in no event will the Completion Date set forth in Section 3.14(e) above be extended for more than one year beyond the timeframe set forth in such Section 3.14(e) without the prior approval of the DIA Board. Nothing herein shall limit the discretion of the DIA Board to grant (and to authorize the CEO of the DIA to grant) further extensions on all timeframes set forth herein.

10.2 **Notices**. All notices to be given hereunder shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, or delivered by a courier service utilizing return receipts, to the party at the following addresses (or to such other or further addresses as the parties may designate by like notice similarly sent) and such notice shall be deemed given and received for all purposes under this Agreement three (3) business days after the date same are deposited in the United States mail, if sent by registered or certified mail, or the date actually received if sent by personal delivery or courier service, except that notice of a change in address shall be effective only upon receipt.

(a) the DIA

Downtown Investment Authority
117 West Duval Street, Suite 310
Jacksonville, FL 32202
Attn: Chief Executive Officer

With a copy to:

City of Jacksonville
Office of General Counsel
117 West Duval Street, Suite 480
Jacksonville, FL 32202
Attn: Corporation Secretary

(b) The CDD

The District Community Development District
c/o DPF Management & Consulting, LLC
250 International Parkway, Suite 280
Lake Mary, Florida 32746

(c) The Master Developer

Elements Development of Jacksonville
c/o PHCC LLC
2121 North Pearl Street, Suite 600
Dallas, Texas 75201
Attn: John Dinan and Michel Benitez

10.3 **Time is of the Essence.** Time is of the essence in the performance by any party of its obligations hereunder.

10.4 **Entire Agreement.** This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior negotiations and agreements between them with respect to all or any of the matters contained herein.

10.5 **Amendment.** No amendment or modification of this Agreement shall be effective or binding upon any party hereto unless such amendment or modification is in writing, signed by an authorized officer of the party claimed to be bound and delivered to the other party.

10.6 **Waivers.** All waivers, amendments or modifications of this Agreement must be in writing and signed by all parties. Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not constitute a waiver of any other default or of any such rights or remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties hereto are cumulative,

and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, or any other rights or remedies for the same default or any other default by the other party.

10.7 **Severability.** The invalidity, illegality or inability to enforce any one or more of the provisions of this Agreement shall not affect any other provisions of this Agreement, but this Agreement will be construed as if such invalid illegal or unenforceable provision had never been contained herein.

10.8 **Independent Contractor.** In the performance of this Agreement, CDD will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer or association of the DIA. CDD and its employees or agents or contractors shall be solely responsible for the means method, technique, sequences and procedures utilized by CDD in the performance of this Agreement.

10.9 **Exemption of DIA.** Neither this Agreement nor the obligations imposed upon the DIA hereunder shall be or constitute an indebtedness of the DIA or City within the meaning of any constitutional, statutory or charter provisions requiring the DIA or City to levy ad valorem taxes nor a lien upon any properties of the DIA.

10.10 **Parties to Agreement.** This is an agreement among DIA, CDD and the Master Developer. The execution and delivery hereof shall not be deemed to confer any rights or privileges on any person not a party hereto. This Agreement shall be binding upon CDD, Master Developer and their respective successors and assigns, and shall inure to the benefit of the DIA, and its successors and assigns; provided however, CDD and Master Developer shall not assign, transfer or encumber its rights or obligations under this Agreement or any of the Project Documents, except in accordance with the terms and conditions of Section 8.1 above.

10.11 **Venue; Applicable Law; Attorneys' Fees.** All legal actions arising out of or connected with this Agreement must be instituted in the Circuit Court of Duval County, Florida, or in the U.S. District Court for the Middle District of Florida, Jacksonville Division. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement. Each party shall be responsible for its own attorneys' fees and costs in connection with any action to enforce the terms of this Agreement and/or the other Project Documents.

10.12 **Contract Administration.** The City's Director of Public Works or his or her designee shall act as the designated representative of DIA to coordinate communications between DIA and CDD regarding the administration of this Agreement and to otherwise coordinate and facilitate the performance of the obligations of DIA under this Agreement.

10.13 **Further Authorizations.** The DIA's CEO, or his designee, are authorized to execute any and all contracts and documents and otherwise take all necessary or appropriate actions in connection with this Agreement and the other Project Documents, and to negotiate and execute all necessary and appropriate changes and amendments and supplements to this Agreement and the other Project Documents and other contracts and documents in furtherance of the Project, without further DIA Board or City Council action, provided any such changes and amendments are limited to "technical amendments" and do not change the total financial

commitments or the performance schedule, and further provided that all such amendments and changes shall be subject to legal review by the Office of the General Counsel and by all other appropriate official action required by law. The term “technical amendments” as used herein includes, without limitation, changes in legal descriptions and surveys, description of infrastructure improvements and/or road projects, ingress and egress and utility easements and rights of way, design standards, vehicle access and site plans, to the extent the same have no material financial impact, and to the extent that the Office of General Counsel concurs that no further DIA Board or City Council action would be required to effect such technical amendment.

10.14 **Civil Rights**. CDD agrees to comply with all of the terms and requirements of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1968, as amended, and the antidiscrimination provisions of Chapter 126, Part 4, of the City Ordinance Code, and further agrees that in its operation under this Agreement it will not discriminate against anyone on the basis of race, color, age, disability, sex or national origin.

10.15 **Further Assurances**. CDD will, on request of the DIA, (a) promptly correct any defect, error or omission in this Agreement or any of the Project Documents; (b) execute, acknowledge, deliver, procure, record or file such further instruments and do such further acts deemed necessary, desirable or proper by the DIA to carry out the purposes of the Project Documents and to identify and subject to the liens of the Project Documents any property intended to be covered thereby, including any renewals, additions, substitutions replacements, or appurtenances to the subject property; (c) execute, acknowledge, deliver, procure, file or record any documents or instruments deemed necessary, desirable or proper by the DIA to protect the liens or the security interest under the Project Documents against the rights or interests of third persons; and (d) provide such certificates, documents, reports, information, affidavits and other instruments and do such further acts deemed necessary, desirable or proper by the DIA to carry out the purposes of the Project Documents.

10.16 **Exhibits**. In the event of a conflict between any provisions of this Agreement and any exhibit attached to or referenced in this Agreement, the provisions of this Agreement shall govern unless otherwise explicitly stated herein.

10.17 **Construction**. All parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. CDD further acknowledges that it has had ample time to review this Agreement and related documents with counsel of its choice. Any doubtful or ambiguous provisions contained herein shall not be construed against the party who drafted this Agreement. Captions and headings in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

10.18 **Counterparts**. This Agreement may be executed in counterparts, which when later combined shall constitute one and the same document as if originally executed together. Scanned or faxed signatures shall suffice as original signatures, and the parties may exchange executed counterparts by fax or email.

10.19 **Term**. This Agreement shall terminate upon the completion of the CRA Infrastructure Improvements and acceptance by the DIA under this Agreement, the payment by

the DIA of all amounts due under this Agreement, and the expiration or termination of CDD's warranty obligations as to the CRA Infrastructure Improvements.

[Signatures begin on next page]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement, to be effective on the Effective Date.

DOWNTOWN INVESTMENT AUTHORITY

FORM APPROVED:

By: _____
Lori N. Boyer, CEO

Office of the General Counsel

IN COMPLIANCE WITH the Ordinance Code of the City of Jacksonville, I do certify that there is or will be an unexpended, unencumbered and unimpounded balance in the appropriation in respect of fiscal year 2020/21 sufficient to cover the foregoing Agreement in accordance with the terms and conditions thereof and that provision has been made for the payment of the monies provided therein to be paid.

Director of Finance

[Signatures continue on next page]

GC-#1571174-v7-Amended_and_Restated_Elements_Development_CRA_Improvements_Costs_Disbursement_Agreement.doc

**DISTRICT COMMUNITY DEVELOPMENT
DISTRICT**

By: _____
Name: _____
Its: _____

Master Developer joins in this Agreement to evidence its joint and several obligation to cover cost overruns for the CRA Infrastructure Improvements pursuant to Section 3.7.

**ELEMENTS DEVELOPMENT OF
JACKSONVILLE, LLC**, a Florida limited
liability company

By: **PHCC LLC**, a Delaware limited liability
company, d/b/a Preston Hollow Community
Capital, its Manager

By: _____
Name: John Dinan
Its: General Counsel and Secretary

LIST OF EXHIBITS

Exhibit A	Project Parcel
Exhibit B	CDD Infrastructure Improvements, Budget and Timeline
Exhibit C	City Parcels
Exhibit D	CRA Infrastructure Improvements - Scope of Work, Budget and Schedule
Exhibit E	Evidence of Ability to Pay Cost Overruns on CRA Infrastructure Improvements
Exhibit F	Form of Disbursement Request
Exhibit G	Insurance and Bonds
Exhibit H	JSEB Reporting Form
Exhibit I	General Contractors

Exhibit A

Project Parcel

Parcel 1

ALL OF LOTS 7 THROUGH 10, WATER LOTS SECOND SERIES, REEDS FOURTH SUBDIVISION OF SOUTH JACKSONVILLE, AS SHOWN ON THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 46 OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, A PART OF KANSAS STREET, A 60 FOOT RIGHT OF WAY, CLOSED BY ORDINANCE BB-246 AND A PART OF SECTIONS 44 AND 45, THE ISAAC HENDRICKS GRANT, AND A PART OF SECTION 60, THE F. BAGLEY AND I. HENDRICKS GRANT, ALL LYING IN TOWNSHIP 2 SOUTH, RANGE 26 EAST, DUVAL COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF COMMENCEMENT, COMMENCE AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT OF WAY LINE OF REED AVENUE, A 60 FOOT RIGHT OF WAY AS PRESENTLY ESTABLISHED AND THE EASTERLY RIGHT OF WAY LINE OF BROADCAST PLACE, A 60 FOOT RIGHT OF WAY AS PRESENTLY ESTABLISHED; THENCE NORTH 02 DEGREES 27 MINUTES 30 SECONDS EAST, 240.42 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING, NORTH 02 DEGREES 27 MINUTES 30 SECONDS EAST, CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE, THE NORTHERLY PROLONGATION THEREOF, AND ALONG THE WESTERLY LINE OF SAID LOT 7, WATER LOTS SECOND SERIES, REEDS FOURTH SUBDIVISION OF SOUTH JACKSONVILLE; A DISTANCE OF 822.36 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 7; THENCE NORTH 27 DEGREES 38 MINUTES 14 SECONDS EAST, DEPARTING SAID WESTERLY LINE AND ALONG THE EASTERLY LINE AND NORTHEASTERLY PROJECTION OF THE EASTERLY LINE OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 5103, PAGE 759 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, A DISTANCE OF 283.34 FEET TO A POINT ON A LINE BEING THE BOUNDARY SEPARATING THE LANDS OF PRIVATE OWNERSHIP FROM THE ADJACENT STATE OWNED SOVEREIGNTY LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 9008, PAGE 1216 AND OFFICIAL RECORDS BOOK 12686, PAGE 910 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA; THENCE EASTERLY ALONG LAST SAID LINE THE FOLLOWING 14 COURSES: COURSE 1, THENCE NORTH 72 DEGREES 33 MINUTES 56 SECONDS EAST, 61.48 FEET; COURSE 2, THENCE SOUTH 73 DEGREES 04 MINUTES 04 SECONDS EAST, 220.55 FEET TO A POINT ON THE FACE OF AN EXISTING SEAWALL; COURSE 3, THENCE NORTH 27 DEGREES 29 MINUTES 56 SECONDS EAST ALONG SAID EXISTING SEAWALL, 25.35 FEET; COURSE 4, THENCE SOUTH 62 DEGREES 16 MINUTES 12 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 154.29 FEET; COURSE 5, THENCE SOUTH 17 DEGREES 34 MINUTES 47 SECONDS EAST DEPARTING SAID EXISTING SEAWALL, 23.74 FEET; COURSE 6, THENCE SOUTH 39 DEGREES 24 MINUTES 04 SECONDS EAST, 32.94 FEET; COURSE 7, THENCE SOUTH 50 DEGREES 13 MINUTES 49 SECONDS EAST, 74.57 FEET TO A POINT ON THE FACE OF AN EXISTING

SEAWALL; COURSE 8, THENCE SOUTH 62 DEGREES 32 MINUTES 42 SECONDS EAST ALONG SAID EXISTING SEAWALL, 100.76 FEET; COURSE 9, THENCE NORTH 71 DEGREES 02 MINUTES 59 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 31.40 FEET; COURSE 10, THENCE SOUTH 62 DEGREES 38 MINUTES 03 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 447.96 FEET; COURSE 11, THENCE SOUTH 62 DEGREES 16 MINUTES 36 SECONDS EAST CONTINUING ALONG SAID EXISTING SEAWALL, 156.94 FEET; COURSE 12, THENCE SOUTH 78 DEGREES 43 MINUTES 28 SECONDS EAST DEPARTING SAID EXISTING SEAWALL, 60.20 FEET; COURSE 13, THENCE SOUTH 56 DEGREES 36 MINUTES 20 SECONDS EAST, 348.39 FEET; COURSE 14, THENCE SOUTH 26 DEGREES 50 MINUTES 05 SECONDS EAST, 107.15 FEET TO THE POINT OF TERMINATION OF SAID LINE DESCRIBED IN OFFICIAL RECORDS BOOK 9008, PAGE 1216 AND OFFICIAL RECORDS BOOK 12686, PAGE 910 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA; THENCE SOUTH 72 DEGREES 27 MINUTES 52 SECONDS WEST, 53.09 FEET TO A POINT ON THE WATERS OF THE ST. JOHNS RIVER; THENCE SOUTH 23 DEGREES 45 MINUTES 12 SECONDS WEST DEPARTING SAID WATERS OF THE ST. JOHNS RIVER, 356.01 FEET; THENCE SOUTH 86 DEGREES 36 MINUTES 07 SECONDS WEST, 885.56 FEET TO THE NORTHWEST CORNER OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 14316, PAGE 1471 OF THE CURRENT PUBLIC RECORDS OF SAID COUNTY; THENCE NORTH 61 DEGREES 14 MINUTES 42 SECONDS WEST, 189.34 FEET; THENCE NORTH 85 DEGREES 43 MINUTES 46 SECONDS WEST, 481.49 FEET TO SAID EASTERLY RIGHT OF WAY LINE OF BROADCAST PLACE AND THE POINT OF BEGINNING. BEING THE SAME LANDS CONVEYED BY JEA TO MASTER DEVELOPER PURSUANT TO THE SPECIAL WARRANTY DEED DATED JULY 12, 2018 AND RECORDED IN OFFICIAL RECORDS BOOK 18455, PAGE 205 OF THE PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA

Parcel 2

THE NORTH ½ OF IOWA STREET CLOSED, VACATED AND ABANDONED BY ORDINANCE NO. FF-265 LYING SOUTHERLY, ADJACENT AND CONTIGUOUS TO LOTS 1 AND 15, BLOCK 5, REEDS SUBDIVISION, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 1, PAGE 46 OF THE PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA

Parcel 3

LOTS 1 THROUGH 3 AND LOTS 13 THROUGH 15, A PORTION OF LOTS 4 AND 12, A PORTION OF AN ALLEY, ALL LYING IN BLOCK 5 AND A PORTION OF COLORADO AVENUE (FORMERLY WISCONSIN AVENUE) AS SHOWN ON THE PLAT OF REEDS FOURTH SUBDIVISION OF SOUTH JACKSONVILLE AS RECORDED IN PLAT BOOK 1, PAGE 46 OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 15, BLOCK 5 OF SAID REEDS FOURTH SUBDIVISION, SAID POINT BEING THE POINT OF INTERSECTION OF THE FORMER NORTHERLY RIGHT OF WAY LINE OF IOWA STREET (A 60 FOOT RIGHT OF WAY CLOSED BY ORDINANCE FF-265) AND THE EASTERLY RIGHT OF WAY LINE OF MONTANA AVENUE (FORMERLY ATLANTIC AVENUE) (A 30' RIGHT OF WAY AS SHOWN ON THE PLAT OF SAID REEDS FOURTH SUBDIVISION); THENCE SOUTH 87 DEGREES 33 MINUTES 46 SECONDS EAST, DEPARTING SAID EASTERLY RIGHT OF WAY LINE AND ALONG SAID FORMER NORTHERLY RIGHT OF WAY LINE AND THE EASTERLY PROJECTION THEREOF, A DISTANCE OF 269.59 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COLORADO AVENUE (FORMERLY WISCONSIN AVENUE) (A 60 FOOT RIGHT OF WAY CLOSED BY ORDINANCE FF-265); THENCE NORTH 02 DEGREES 27 MINUTES 30 SECONDS EAST, ALONG LAST SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 188.95 FEET; THENCE NORTH 86 DEGREES 44 MINUTES 19 SECONDS WEST, DEPARTING LAST SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 236.96 FEET TO A POINT OF CURVATURE OF A CURVE BEING CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 39.27 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 48 DEGREES 15 MINUTES 41 SECONDS WEST, 35.36 FEET TO A POINT OF TANGENCY; THENCE SOUTH 03 DEGREES 15 MINUTES 41 SECONDS WEST, A DISTANCE OF 9.40 FEET; THENCE NORTH 86 DEGREES 44 MINUTES 19 SECONDS WEST, A DISTANCE OF 7.28 FEET TO SAID EASTERLY RIGHT OF WAY LINE OF MONTANA AVENUE; THENCE SOUTH 02 DEGREES 25 MINUTES 07 SECONDS WEST, ALONG LAST SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 158.44 FEET TO THE POINT OF BEGINNING.

Exhibit B

CDD Infrastructure Improvements, Scope, Budget and Schedule

The preliminary schedule of values (Engineer's Estimate of Probable Costs for Phase 1 consisting of 5 pages and Phase 2 consisting of 15 pages follows). In addition to the construction costs on such schedules, the CDD Infrastructure Improvements include all work product/design costs for the CRA and CDD infrastructure and an escalation cost of 4.5%.

The CDD shall pay for the design, construction, and conveyance to the City of those items of infrastructure (the "CDD Infrastructure") which aid in the development or provide services or benefits to what will be development parcels within the Project Parcel. The estimated budget for CDD Infrastructure Improvement costs (the "CDD Infrastructure Budget") is \$34,480,132, together with all work product/design costs for the CRA and CDD infrastructure and an escalation cost of 4.5%. The CDD shall be responsible for all costs and any overruns attendant to the construction of the CDD Infrastructure.

The CDD Infrastructure Improvements shall include the following, together with and as further detailed on Exhibit K to the Redevelopment Agreement:

- The public utilities necessary to serve both the project and the public space/public roads
- Stormwater management facilities necessary to serve both the CDD and CRA Infrastructure Improvements, inclusive of the public spaces and public roads
- An extension of Prudential Drive with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking
- An extension of Broadcast Place with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking
- A new Back Bay Drive with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking
- A new Health Walk Way with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking.
- New pedestrian-only promenades
- New school board parking
- New marina/riverfront parking
- New public use parking

Exhibit C
City Parcels

Those lands (excluding #4 below) as described in that certain Special Warranty Deed dated December 30, 2020, and recorded in Official Records Book 19523 page 1444, in the Official Public Records of Duval County, Florida. The City Parcels shall include the minimum acreages and areas as described below.

The City Parcels shall include the minimum acreages and areas as described below.]

1. Three riverfront parks **totaling a minimum of 3.5 acres** to be transferred to the City unencumbered at the time of closing.

1.1 Central Riverfront Park- a large riverfront tract with unobstructed waterfront views and access to the Riverwalk, designed to accommodate a variety of fitness activities and equipment as well as information on wellness, medical research and medical facilities in the City and an iconic marker identifying the node, with a minimum continuous front footage along the river of 475', a minimum depth of 140 feet not including the Riverwalk (a minimum depth of 165 feet inclusive of the Riverwalk)
Minimum acreage of 2.25 inclusive of the Riverwalk)

1.2 Northeastern Riverfront Park – a linear waterfront park adjacent to the Riverwalk. Minimum front footage along the river of 330', a minimum average depth of 75' and no less than 50' at its narrowest point. **Minimum 1 acre inclusive of the Riverwalk**

1.3 Northwestern Riverfront Linear Park- a linear waterfront park adjacent to and inclusive of the Riverwalk with a minimum front footage of 260 feet, a minimum depth of 50 feet inclusive of the Riverwalk. **Minimum .25 acres**

2. One marshfront park between the southern roadway and southern property boundary with no less than 150' frontage on the marsh and no less than 50' in depth to be transferred to the City at the time of closing. **Minimum .25 acres**

3. A minimum 25' wide Riverwalk parcel transferred to the City along the entire riverfront within which the Riverwalk extension will be constructed

4. A minimum 25' wide marsh easement over JEA land within which the marsh loop boardwalk trail will be constructed and will be conveyed to the City.

5. A minimum 25' wide multi-use path parcel to be transferred to the City along the southern property boundary, and adjacent to the relocated Broadcast Place to connect the trail from the

terminus of the marsh boardwalk over JEA land through the development parcel back to the Riverfront,

6. To the extent any portions of the completed constructed bulkhead encroaches on to land owned by Master Developer or CDD (the "Encroachment Parcels"), said Encroachment Parcels shall be conveyed or dedicated to the City by special warranty deed, corrective warranty deed, perpetual easement or dedication by plat, with such method of conveyance as approved by the DIA, and upon conveyance or dedication shall be deemed part of the City Parcels. Master Developer or CDD as applicable shall grant a perpetual access and maintenance agreement to the City providing access to the City to perform bulkhead maintenance, repair and replacement from the northern edge of the bulkhead.

Exhibit D

CRA Infrastructure Improvements, Scope of Work, Budget and Schedule

- 1 In addition to the main list of improvements, scope and budget show:
 - 1.1 the minimum of 100 parking spaces and show \$0.00 paid by DIA with a note that CDD is to pay all cost for such improvements; and
 - 1.2 all Parking Lot Improvements required by the DCSB Agreement but show \$0.00 paid by DIA with a note that the CDD is to pay for costs for such improvements.

The Master Developer has transferred unencumbered title via either (at the City's sole option): (i) special warranty deed or the equivalent thereof; or (ii) perpetual easement, to the land for the parks and public open spaces, including the Riverwalk, (including any submerged lands under the Riverwalk) bulkhead and riverfront park, and the overland trail. The Master Developer will transfer unencumbered title via either (at the City's sole option): (i) special warranty deed or the equivalent thereof; or (ii) perpetual easement, the easement interest in the boardwalk portion of the trail, and parking for a minimum of 100 public parking spaces constructed by the CDD (at CDD's sole cost and expense and not as part of the CRA Infrastructure Improvements budget); provided, however, that at Developer's option, Developer may satisfy its 100 public parking space obligation by providing an exclusive easement over Parcel 3 as identified on **Exhibit A** attached hereto, the Prudential Drive expansion, traffic circle, Broadcast Place north of the traffic circle and Riverplace Drive (collectively, the "Public Space").

The CRA Infrastructure Improvements shall include the following, as further detailed on Exhibit L attached hereto:

- approximately 1,900 feet of new riverfront bulkhead.
- A top of bank extension of the Southbank Riverwalk for a total of approximately 1,900 linear feet, to a minimum total width of twenty (20) feet as follows: sixteen (16) feet of unobstructed new pathway and a minimum of four (4) feet of perimeter consisting of landscaping, furniture (e.g. benches), lighting, signage and trash receptacles. The extension shall be constructed with materials and furnishings (i.e., lighting, benches, shade structures, railing) matching the existing Southbank Riverwalk.
- approximately 1,255 linear feet of New Boardwalk as follows: a minimum twelve (12) foot wide boardwalk through marsh to connect the extension of the Southbank Riverwalk to an overland trail segment along the southern boundary of the development. The boardwalk shall include platforms to accommodate furnishings (e.g. benches) as well as lighting. Approximately 1,650 linear feet of new overland trail as follows; a minimum twelve (12) foot wide overland trail to connect Boardwalk to southwest corner of development.
- The parks shall have approximately 820 linear feet of river frontage (length), and an average depth of 112 feet. Riverfront park shall include amenities (e.g., fitness equipment to enhance wellness theme), as well as Riverfront Activation Node elements. The Northeast park will include a destination playground as well as adult fitness opportunities and a yoga lawn. The Parks will be health themed and include interactive

wellness art and covered digital kiosks capable of displaying changing video content about Jacksonville's extraordinary medical facilities, research and Jacksonville's status as a medical tourism destination as well as wellness initiatives such as Blue Zones.

- A New Water Taxi stop, new transient boat docking facilities and new beach kayak launch.
- An extension of Prudential Drive with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking.
- An extension of Broadcast Place with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking.
- Riverside Drive with enhanced sidewalks, enhanced landscaping, bike lanes, and on-street parking.
- An iconic lighted sculpture by Marc Fornes approximately 40 feet plus in height to be located in Central Park.
- A pavilion building that will include a small performance stage, restrooms and storage for park equipment and supplies.

Exhibit E

Evidence of Ability to Pay if Actual Cost to Complete Construction of the CRA Infrastructure Improvements Exceeds the Aggregate Undisbursed Balance of the Maximum Public Infrastructure Disbursement Amount

In the event the CDD Board does not provide resolutions duly adopted by the CDD Board acknowledging its obligations to provide for cost overruns and imposing a special assessment to pay such excess, then pursuant to Section 3.7.1, once DIA sends written notice to the CDD that it has determined that the actual cost to complete construction of the CRA Infrastructure Improvements exceeds the aggregate undisbursed balance of the Maximum Public Infrastructure Disbursement Amount (“Shortfall”), CDD and Master Developer has sixty (60) days to submit to the DIA evidence satisfactory to the DIA (which satisfaction shall not be unreasonably withheld) that CDD and Master Developer have all of the equity capital and firm loan commitments (“equity capital and financing commitments”) for funding the Shortfall.

Evidence satisfactory to the DIA shall include, but shall not necessarily be limited to: accurate copies of all equity or loan commitments, if any, letters of credit and/or cash escrows, if applicable, and such other evidence demonstrating sufficient funds are actually available to CDD and Master Developer between the amount of any interim loan commitment, if any, and either letters of credit or other forms of cash in hand committed to the Work as shall be sufficient to fully defray the Shortfall together with all of customary hard and soft construction costs all as shown on the Budget projections to be prepared and furnished by CDD to the DIA and approved by the CDD’s lenders, if any. The DIA shall approve or disapprove the equity capital and financing commitments in its sole discretion, provided, however, that the foregoing detailing of various conventional forms of financing, i.e., interim loans and permanent loans, shall not be construed as a requirement by the DIA that the equity capital and financing commitments shall be of the conventional type or that interim construction loans are required and consequently the DIA recognizes that all or a portion of the financing necessary for the Shortfall may be in the form of nonconventional financing such as, but not necessarily limited to, equity partners and/or joint venture partners, it being the intent and understanding of the parties that the equity capital and financing commitments will be approved by the DIA if the totality of the evidence submitted to the DIA in fact reasonably demonstrates that there are sufficient funds actually available to the CDD and Master Developer to cover the Shortfall.

The CDD and Master Developer further agrees to use its best efforts to provide to the DIA one or more assignments of commitments and agreements among the CDD and Master Developer and interim and permanent lenders or participants (a so-called “buy-sell” agreement) which will reasonably assure to the DIA the ability to complete construction of all of the contemplated Work and with access to all of the loan funds to be provided by any interim and permanent lenders in the event of the uncured default of the CDD in its obligation to complete construction of the Work in accordance with this Agreement, the Project Documents and other applicable documents, it being expressly further agreed that once a closing shall occur under the terms of this Agreement, the CDD and Master Developer shall be required to, and do guaranty, the completion of all of such Work fully paid for and free of liens and encumbrances and subject to the obligation of the DIA to pay the Maximum Public Infrastructure Disbursement Amount. Approval of the equity capital and financing commitments by the DIA shall be taken to mean

and include the right of the DIA to approve any of such assignments and “buy-sell” agreements, provided, however, if such agreements with interim and permanent lenders or participants cannot be obtained by CDD or Master Developer, then Master Developer agrees to enter into assignments and agreements for and with the DIA necessary to assure to the DIA the ability to complete construction of all contemplated Work and with access to the above mentioned funds and any construction contract rights in the event of CDD’s uncured default under this Agreement, provided that all of these agreements shall be subject to and not violative of the rights of any of the lenders or participants.

Throughout the entire period of construction, the DIA will be entitled to receive, at reasonable intervals, from Master Developer, progress reports and advice as to the status of construction and payment of the costs of construction and other evidence reasonably satisfactory to the DIA that the above described equity capital and financing commitments are, in fact, available to complete construction of all Work.

Exhibit F

Form of Disbursement Request

CITY OF JACKSONVILLE, FLORIDA
APPLICATION FOR PAYMENT NO. _____

PROJECT _____ **BID NO.** _____ **CONTRACT NO.** _____

For Work accomplished through the date of _____.

A. Contract and Change Orders

1. Contract Amount \$ _____
2. Executed Change Orders + \$ _____
3. Total Contract (1) + (2) _____
\$ _____

B. Work Accomplished

4. Work performed on Contract Amount (1) \$ _____
5. Work performed on Change Orders (2) + \$ _____
6. Materials stored + \$ _____
7. Total Completed & Stored (4) + (5) + (6) \$ _____
8. Retainage 10% of Item (7), - \$ _____
9. Less Previous
 Payments Made (or) Invoiced - \$ _____
10. Payment Amount Due this Application (7) — (8) — (10) \$ _____

(*) This application for payment shall be supported with the Contractor's pay request and supporting documentation.

[Master Developer certification and signatures on following page]

MASTER DEVELOPER'S CERTIFICATION

The undersigned MASTER DEVELOPER certifies that: (1) all items and amounts shown above are correct; (2) all Work performed and materials supplied fully comply with the terms and conditions of the Contract Documents; (3) all previous progress payments received from the CITY on account of Work done under the Contract referred to above have been applied to discharge in full all obligations of MASTER DEVELOPER incurred in connection with Work covered by prior Applications for Payment; (4) title to all materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to CITY at time of payment free and clear of all liens, claims, security interests and encumbrances; and (5) if applicable, the MASTER DEVELOPER has complied with all provisions of Part 6 of the Purchasing Code including the payment of a pro-rata share to Jacksonville Small Emerging Business (JSEB) of all payments previously received by the MASTER DEVELOPER.

Dated _____, 20__

Master Developer Signature
By: _____
Name Printed: _____

Notary Public

Date	Approvals	
_____	_____	Construction Inspector
_____	_____	Project Manager
_____	_____	City Engineer

Exhibit G

Insurance and Bond Requirements

Without limiting its liability under this Agreement, the CDD or its General Contractors (for this Exhibit G, individually and collectively the “Contractor”) shall at all times during the term of this Agreement procure prior to commencement of work and maintain at its sole expense during the life of this Agreement (and Contractor shall require its, subcontractors, laborers, materialmen and suppliers to provide, as applicable if not provided by the Contractor), insurance of the types and limits not less than amounts stated below:

Insurance Coverages

Schedule	Limits
Worker's Compensation	Florida Statutory Coverage
Employer's Liability	\$1,000,000 Each Accident
	\$1,000,000 Disease Policy Limit
	\$1,000,000 Each Employee/Disease

This insurance shall cover the DIA, the City and CDD (and, to the extent they are not otherwise insured, its Contractors and subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers’ Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers’ Compensation Act, where appropriate, coverage is to be included for the Federal Employers’ Liability Act, USL&H and Jones, and any other applicable federal or state law.

Commercial General Liability	\$2,000,000	General Aggregate
	\$2,000,000	Products & Comp. Ops. Agg.
	\$1,000,000	Personal/Advertising Injury
	\$1,000,000	Each Occurrence
	\$50,000	Fire Damage
	\$5,000	Medical Expenses

The policy shall be endorsed to provide a separate aggregate limit of liability applicable to the Work via a form no more restrictive than the most recent version of ISO Form CG 2503

Contractor shall continue to maintain products/completed operations coverage for a period of ten (10) years after the final completion of the project. The amount of products/completed operations coverage maintained during the ten year period shall be not less than the combined limits of Products/ Completed Operations coverage required to be maintained by Contractor in the combination of the Commercial General Liability coverage and Umbrella Liability Coverage during the performance of the Work.

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those reasonably required by the City's Office of Insurance and Risk Management.

Automobile Liability \$1,000,000 Combined Single Limit (Coverage for all automobiles, owned, hired or non-owned used in performance of the Agreement)

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

Design Professional Liability \$15,000,000 per Claim
\$15,000,000 Aggregate

Any entity hired to perform professional services as a part of this Agreement shall maintain professional liability coverage on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Agreement and with a ten (10) year reporting option beyond the annual expiration date of the policy.

Builders Risk %100 Completed Value of the Project

Such insurance shall be on a form acceptable to the City's Office of Insurance and Risk Management. The Builder's Risk policy shall include the SPECIAL FORM/ALL RISK COVERAGES. The Builder's Risk and/or Installation policy shall not be subject to a coinsurance clause. A maximum \$10,000 deductible for other than windstorm and hail. For windstorm and hail coverage, the maximum deductible applicable shall be 2% of the completed value of the project. Named insured's shall be: Master Developer, Contractor, the City, and respective members, officials, officers, employees and agents, the Engineer, and the Program Management Firms(s) (when program management services are provided). The City of Jacksonville, its members, officials, officers, employees and agents are to be named as a loss payee.

Pollution Liability \$5,000,000 per Loss
\$5,000,000 Annual Aggregate

Any entity hired to perform services as part of this Agreement for environmental or pollution related concerns shall maintain Contractor's Pollution Liability coverage. Such Coverage will include bodily injury, sickness, and disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to destruction of tangible property including resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense including costs charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; coverage for losses caused by pollution conditions that arises from the operations of the contractor including transportation.

Pollution Legal Liability

\$5,000,000 per Loss
\$5,000,000 Aggregate

Any entity hired to perform services as a part of this Agreement that require disposal of any hazardous material off the job site shall maintain Pollution Legal Liability with coverage for bodily injury and property damage for losses that arise from the facility that is accepting the waste under this Agreement.

Watercraft Liability

\$1,000,000 Per Occurrence

(to the extent that watercraft is utilized in the services of this Agreement)

Umbrella Liability

\$15,000,000 Each Occurrence/ Aggregate.

The Umbrella Liability policy shall be in excess of the above limits without any gap. The Umbrella coverage will follow-form the underlying coverages and provides on an Occurrence basis all coverages listed above.

In the event that any part of the work to be performed hereunder shall require the CDD or its Contractor or Subcontractors to enter, cross or work upon or beneath the property, tracks, or right-of-way of a railroad or railroads, the Master Developer shall, before commencing any such work, and at its expense, procure and carry liability or protective insurance coverage in such form and amounts as each railroad shall require.

The original of such policy shall be delivered to the railroad involved, with copies to DIA and the City, and their respective members, officials, officers, employee and agents, Engineer, and Program Management Firm(s) (when program management services are provided).

The Contractor shall not be permitted to enter upon or perform any work on the City Parcels until such insurance has been furnished to the satisfaction of the railroad. The insurance herein specified is in addition to any other insurance which may be required by the City, and shall be kept in effect at all times while work is being performed on or about the property, tracks, or right-of-way of the railroad.

Additional Insurance Provisions

- A. Additional Insured: All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the DIA, City of Jacksonville and their respective members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.
- B. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of DIA and the City of Jacksonville and their respective, officials, officers employees and agents.
- C. Contractor's Insurance Primary. The insurance provided by the Contractor shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-

insurance maintained by DIA, the City or any DIA or City members, officials, officers, employees and agents.

- D. Deductible or Self-Insured Retention Provisions. All deductibles and self-insured retentions associated with coverages required for compliance with this Agreement shall remain the sole and exclusive responsibility of the named insured Contractor. Under no circumstances will DIA or the City of Jacksonville and their members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Agreement.
- E. CDD's Insurance Additional Remedy. Compliance with the insurance requirements of this Agreement shall not limit the liability of the Contractor, its subcontractors, employees or agents to the City or others. Any remedy provided to DIA, City or DIA's or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Agreement or otherwise.
- F. Waiver/Estoppel. Neither approval by DIA or City nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide insurance as required under this Agreement.
- G. Certificates of Insurance. Contractor shall provide the DIA and City Certificates of Insurance that shows the corresponding DIA Agreement Number in the Description, if known, Additional Insureds as provided above and waivers of subrogation. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.
- H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- I. Notice. The Contractor shall provide an endorsement issued by the insurer to provide the DIA and City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, the Contractor shall provide a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of the Contractor under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the DIA or City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.

- L. Special Provisions: Prior to executing this Agreement, Contractor shall present this Agreement and this Exhibit F to its Insurance Agent affirming: 1) That the Agent has personally reviewed the insurance requirements of the Project Documents, and(2) That the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of Contractor.

Bonds and Other Performance Security. CDD shall not perform or commence any construction services for the CRA Infrastructure Improvements until the following performance bond and labor and material payment bond or other performance security have been delivered to DIA and City: Bonds - In accordance with the provisions of Section 255.05, Florida Statutes, Design-Builder shall provide to DIA and City on forms furnished by the City, a 100% Performance Bond and a 100% Labor and Material Payment Bond for each Public Infrastructure Improvement performed under this Agreement, each in an amount not less than an amount at least equal to the amount of the Direct Costs for the construction of the CRA Infrastructure Improvements no qualification or modifications to the Bond forms are permitted.

To be acceptable as Surety for Performance Bonds and Labor and Material Payment Bonds, a Surety Company shall comply with the following provisions:

1. The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida.
2. The Surety Company shall have a currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.
3. The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.
4. The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code during the life of this agreement.
5. If the Contract Award Amount exceeds \$500,000, the Surety Company shall also comply with the following provisions:
 - a. The Surety Company shall have at least the following minimum ratings in the latest issue of A.M. Best's Key Rating Guide.

CONTRACT AMOUNT	RATING	RATING
\$ 500,000 TO \$1,000,000	A-	CLASS IV
\$1,000,000 TO \$2,500,000	A-	CLASS V
\$2,500,000 TO \$5,000,000	A-	CLASS VI
\$5,000,000 TO \$10,000,000	A-	CLASS VII
\$10,000,000 TO \$25,000,000	A-	CLASS VIII
\$25,000,000 TO \$50,000,000	A-	CLASS IX
\$50,000,000 TO \$75,000,000	A-	CLASS X

b. The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten (10) percent of its surplus to policyholders, provided:

1) Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Insurance to conduct business in this state have been met.

2) In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.

Insurance Requirements for General Contractors Consisting exclusively of Artist and Playground Equipment Installers

Without limiting its liability under this Agreement, General Contractors whose services are limited to: (i) providing sculpture and pavilion artwork; (ii) provision and installation of playground equipment; (iii) boardwalk construction, shall at all times during the term of their agreement for construction services with the CDD and/or Master Developer maintain, at its sole expense, insurance of the types and limits not less than amounts stated below:

Type of Insurance	Limits
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000 Each Accident \$1,000,000 Disease – Each Employee \$1,000,000 Disease – Policy Limit
Commercial General Liability <ul style="list-style-type: none"> ✓ Contractual Liability ✓ Completed Operations/Product Liability ✓ Personal & Advertising Injury ✓ Written on a per occurrence basis ✓ Severability of Interests ✓ Additional Insured including completed operations 	\$2,000,000 General Aggregate \$2,000,000 Products/Comp/Ops Aggregate \$1,000,000 Personal and Advertising Injury \$1,000,000 Each Occurrence

endorsement	
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Additional Insurance Provisions

1. Additional Insured: All insurance except Worker's Compensation and Professional Liability shall be endorsed to name the CDD, City, and DIA and their respective members, officials, officers, employees, and agents as Additional Insured.
2. Waiver of Subrogation. All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the CDD, City, and DIA and their respective members, officials, officers, employees, and agents.

Exhibit I

Authorized General Contractors

1. J.B. Coxwell Contracting, Inc. (horizontal);
2. Shoreline Foundation, Inc. (bulkhead and waterfront improvements);
3. General Contractor to be named for Streetscape and Parks;
4. Kompan, Inc. for Playground N.E. Park;
5. General Contractor to be named for Sculpture and Pavilion Artwork; and
6. General Contractor to be named for Vertical Construction for Pavilion.