

**Redevelopment Agreement**

**among**

**The City of Jacksonville,**

**The Downtown Investment Authority,**

**and**

**Johnson Commons LLC**

## REDEVELOPMENT AGREEMENT

This **REDEVELOPMENT AGREEMENT** (this “Agreement”) is made this \_\_\_ day of \_\_\_\_\_, 2021 (the “Effective Date”), between the **CITY OF JACKSONVILLE**, a municipal corporation and a political subdivision of the State of Florida (the “City”), the **DOWNTOWN INVESTMENT AUTHORITY**, a community redevelopment agency on behalf of the City (the “DIA”) and **JOHNSON COMMONS LLC**, a Florida limited liability company (the “Developer”).

### Article 1. PRELIMINARY STATEMENTS

#### 1.1 The Project.

Pursuant to the DIA Resolution 2021-03-02 the DIA issued a Notice of Disposition and agreed that absent an alternate bid, the DIA approved the terms of a proposal submitted by the Developer to the DIA to purchase from the City that certain real property located in the LaVilla area of downtown Jacksonville and located within the Northbank Community Redevelopment Area, as further described on **Exhibit A** attached hereto (the “Project Parcel”) and to construct thereon: a minimum of ninety-one (91) individual townhome units (collectively, the “Townhomes” and each, a “Townhome”); a stand-alone building fronting Lee Street and Forsyth Street which shall include a minimum of ten thousand (10,000) square feet of ground level retail space and which may include an additional multi-family residential component (the “Retail or Mixed Use Building”); a new public right-of-way to serve the Project adjacent to both the Lift Ev’ry Voice and Sing Park, which park is located on Lots 1 and 6 of Block 1, LaVilla Division C (the “Park”) and the Project Parcel; the repair of portions of LaVilla Center Drive (f/k/a Johnson Street as renamed pursuant to Ordinance 2019-889); the improvement of sidewalks and installation of street trees on all sides of the Project Parcel; certain signage improvements to that portion of the LaVilla Heritage Trail that abuts the Project along Lee Street, a segment of the Emerald Trail, all as more fully set forth in the Agreement (the “Trail”); the donation to the City by Developer of One Hundred Fifty Thousand Dollars (\$150,000.00) to be used by the City for development of the Park; and certain horizontal improvements related to the foregoing, (collectively and as further described on **Exhibit B** attached hereto, the “Improvements”). The Project is expected to cause private Capital Investment (as hereinafter defined) in the approximate amount of Sixteen Million Dollars (\$16,000,000.00) by or on behalf of the Developer. In consideration of Developer’s acquisition and redevelopment of the Project (as hereinafter defined), the DIA has recommended and the City agrees to provide, upon satisfaction of the conditions to the Closing contained in this Agreement, conveyance of the Project Parcel to Developer by delivery of the Deed. Upon the sale of each Townhome, the City shall be entitled to fifty percent (50%) of the Net Revenues (as hereinafter defined) in excess of Two Hundred Fifty Thousand Two Hundred Fifty Dollars (\$250,250.00), which shall be due and payable to the City at the closing of each such unit.

## **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 2019-09-04 (“Resolution”) and the City Council has authorized execution of this Agreement pursuant to City Ordinance 2021-\_\_-E (the “Ordinance”).

## **1.3 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 development and growth in Downtown Jacksonville;
  - (iv) help preserve local historic landmarks;
  - (v) promote and encourage private Capital Investment of approximately Sixteen Million Dollars (\$16,000,000.00).
  
- (b) The DIA has determined that the Project is consistent with the following North Bank Downtown Plan Redevelopment Goals:
  - (i) Redevelopment Goal No. 1. Reinforce Downtown as the City’s unique epicenter for business, history, culture, education and entertainment.
  - (ii) Redevelopment Goal No. 2. Increase rental and owner-occupied housing downtown, targeting key demographic groups seeking a more urban lifestyle.
  - (iii) Redevelopment Goal No. 4. Improve walkability/bikeability and connectivity to adjacent neighborhoods and the St. Johns River while creating highly walkable nodes.
  - (iv) Redevelopment Goal No. 7. Use planning and economic development policies to promote design for healthy living.
  - (v) Plan Umbrella 7 Housing – creating a critical mass of housing Downtown of all forms.

- (c) The DIA has determined that the Project is consistent with both the LaVilla Strategy, a district plan commissioned by DIA, and the Emerald Trail plan adopted by Jacksonville City Council.

**1.4 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 8.1.

**1.5 Coordination by City.**

The City hereby designates the Chief Executive Officer (“CEO”) of the DIA or his or her designee to be the Project Coordinator who will, on behalf of the DIA and City, coordinate with the Developer 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 to coordinate all Project related activities with the designated Project Coordinator.

**1.6 Maximum Indebtedness.**

The maximum indebtedness of the City for all fees, grants, reimbursable items or other costs pursuant to this Agreement shall not exceed the sum of Zero Dollars (\$0.00).

**1.7 Availability of Funds.**

Notwithstanding anything to the contrary herein, the City’s and DIA’s financial obligations under this Agreement, if any, are subject to and contingent upon the availability of lawfully appropriated funds for the Project and this Agreement.

**NOW THEREFORE**, in consideration of the mutual undertakings and agreements herein of City, DIA, and Developer, and for One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged, City, 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 Capital Investment.**

Money invested by a developer 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.

## **2.2 City Council.**

The body politic, as the same shall be from time to time constituted, charged with the duty of governing the City.

## **2.3 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 the Developer (i) 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 (or applicable phase thereof) may begin and proceed to completion without foreseeable interruption, (ii) has demonstrated it has the financial commitments and resources to complete the construction of the Project, and (iii) 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 the Project (or applicable phase thereof) on an ongoing basis without any Impermissible Delays.

## **2.4 DDRB.**

The City of Jacksonville's Downtown Development Review Board.

## **2.5 Downtown Investment Authority.**

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

## **2.6 Impermissible Delay.**

The term "Impermissible Delay means, subject to the provisions of Section 12.2, failure of Developer to proceed with reasonable diligence with the construction of the applicable Improvements within the timeframe for completion contemplated in this Agreement, or after commencement of the applicable Improvements, abandonment of or cessation of work on any portion of the Improvements at any time prior to the Completion of such improvements for a period of more than forty (40) consecutive business days, except in cases of a Force Majeure Event as described in Section 12.2. Notwithstanding the foregoing, any delay or cessation of any of the Improvements as to which Developer has been unable to secure the necessary permits and approvals after diligent efforts shall not be an Impermissible Delay, as long as Developer continues its diligent efforts to obtain such permits and approvals.

**2.7 Improvements.**

The Improvements as defined in Section 1.1 above.

**2.8 Net Revenues.**

The gross sales price for a Townhome as set forth in the purchase and sale agreement and closing statement attendant thereto, less the actual third-party brokerage commissions (not affiliated with Developer) incurred and paid by the Developer for the sale of such Townhome.

**2.9 Park.**

The Park as defined in Section 1.1 above.

**2.10 Performance Schedule.**

The Performance Schedule, as defined in Article 4 hereof.

**2.11 Phase One Improvements.**

All of the Improvements to be constructed except for the Retail or Mixed Use Building.

**2.12 Phase Two Improvements.**

All of the Improvements to be constructed other than the Phase One Improvements.

**2.13 Project.**

The Improvements located or to be located on the Project Parcel and surrounding areas, and the obligations of the Developer under this Agreement, as more specifically described herein.

**2.14 Project Parcel.**

That certain parcel of real property as described in Section 1.1 above and as further described on **Exhibit A.**

**2.15 Substantial Completion.**

“Substantially Completed”, “Substantial Completion” or “Completion” means that all permits have been finalized, a certificate of substantial completion has been issued by the contractor and verified by the architect of record, and the applicable Improvements are available for use in accordance with their intended purpose; subject to commercially reasonable punch list items, completion of tenant improvements and similar items.

**2.16 Trail.**

The Trail as defined in Section 1.1 above.

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

**Article 3.**  
**APPROVAL OF AGREEMENT**

**3.1 Approval of Agreement.**

By the execution hereof, the parties certify as follows:

(a) Developer warrants, represents, and covenants with City and DIA 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; and

(iv) the Developer and each entity composing the Developer is, to the extent required by applicable law, duly authorized to transact business in the State of Florida; and

(v) the Developer, its business operations, and each person or entity with a direct or indirect ownership interest in the Developer are in material compliance with all federal, state and local laws, to the extent applicable to the Project and which could have a material adverse effect on the Project and the Developer's ability to complete the Project in accordance with this Agreement.

(b) The DIA certifies to Developer that the execution and delivery hereof has been approved at a duly convened meeting of the DIA and the same is binding upon the DIA and enforceable against it in accordance with its terms.

(c) The City certifies to Developer that the execution and delivery hereof is binding upon the City to the extent provided herein and enforceable against the City in accordance with the terms hereof.

**Article 4.**  
**PERFORMANCE SCHEDULE**

**4.2 Project Performance Schedule.**

The City, the DIA and the Developer have jointly established the following dates for the Developer's obligations under this Agreement (collectively, the "Performance Schedule"):

(a) Closing Date. Developer shall close on the Project Parcel on the Closing Date (as hereinafter defined).

(b) Governmental Approvals. Developer shall apply for all necessary licenses, permits and governmental approvals for the Phase One Improvements within the earlier of thirty (30) days after the Closing Date or seventy-five (75) days after the Effective Date.

(c) Commencement of Construction of Phase One Improvements. Developer shall Commence Construction of the Phase One Improvements within forty-five (45) days after Developer receives final permits for the Phase One Improvements, but in no event later than eight (8) months after the Closing Date (the "Phase One Construction Commencement Date").

(d) Vertical Construction. Developer shall commence the construction of the vertical components of the Phase One Improvements on or before the date which is twelve (12) months after the Closing Date.

(e) Substantial Completion of the Phase One Improvements. Developer shall Substantially Complete the Phase One Improvements on or before the date which is fifteen (15) months after the Phase One Construction Commencement Date (the "Phase One Completion Date").

(f) Commencement of Construction of Phase Two Improvements. Developer shall Commence Construction of the Phase Two Improvements on or before the date which is sixty (60) months after the Effective Date (the "Phase Two Construction Commencement Date").

(g) Substantial Completion of the Project. Developer shall Substantially Complete the Project on or before December 31, 2027 (the "Project Completion Date").

The City, DIA and the Developer have approved this Performance Schedule. By the execution hereof, and subject to the terms of this Agreement, the Developer hereby agrees to undertake and complete the construction and development of the Project in accordance with this Agreement and the Performance Schedule, and to comply with all of the Developer's obligations set forth herein. The CEO of the DIA may extend the Performance Schedule for up to six (6) months in her sole discretion for good cause shown by Developer. For purposes of clarity, the grant of a three (3) month extension to the Commencement of Construction date pursuant to this Section shall include a three (3) month extension to the Substantial Completion Date, which cumulatively shall be deemed one (1), three (3) month extension. Except as may otherwise be expressly permitted in this Agreement and subject to extension for any Force Majeure Event, in no event will the Performance Schedule be modified without the prior approval of the DIA Board.



**Article 5.**  
**PURCHASE AND SALE OF PROJECT PARCEL BY DEVELOPER**

**5.1 Property Conveyed.**

Subject to the terms and conditions of this Agreement and the Permitted Exceptions (as hereafter defined), the City hereby agrees to sell and convey to Developer at Closing, and Developer hereby agrees to purchase from the City, the Project Parcel for the sum of One Dollar (\$1.00) (the "Purchase Price"), pursuant to the terms and conditions of this Article 5. The Developer's obligations herein to construct the Project and Improvements are the material consideration for the purchase of the Project Parcel by Developer.

**5.2 Conditions to Closing.**

(a) Title Commitment and Survey. Within fifteen (15) days after the Effective Date, Developer shall at its own expense obtain a survey of the Project Parcel (also showing the metes and bounds description of Parcel Two) (the "Survey") and a commitment for title insurance (the "Title Commitment") for an Owner's Policy of Title Insurance for the Project Parcel, and provide copies of each to the City. The Developer shall have five (5) days thereafter (the "Approval Period") within which to review the Title Commitment and Survey and to object to any exception to title shown on the Title Commitment or any matter shown on the Survey. If Developer fails to object to any such title exception or Survey matter by written notice to City within the Approval Period, Developer shall be deemed to have approved the Title Commitment and the Survey. If Developer objects to any such exception or Survey matter by written notice to City during the Approval Period, City shall have the right to cure or attempt to cure Developer's objection to such exception or Survey matter within thirty (30) days after Developer's notice of objection, or, if sooner, by the Closing Date, as hereinafter defined; provided however that the City 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; further provided that the City will use reasonable efforts to do so without incurring any out of pocket costs. In the event City is unable to or elects not to cure any one or more of Developer's objections, City shall notify Developer in writing of such election (the "Election Notice"), and Developer may at its option terminate this Agreement by notifying City in writing within ten (10) 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 Developer fails to terminate the Agreement within ten (10) days after receiving the Election Notice, Developer shall be deemed to have waived such objection and the sale of the Project Parcel 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 the Title Commitment that Developer approves or is deemed to approve pursuant to this Section 5.2.

(b) Condition of Project Parcel. The Project Parcel shall be conveyed to Developer in its "as-is" condition, with all faults. It shall be the sole responsibility of the Developer, at Developer's expense, to investigate and determine the soil conditions of the Project Parcel and their suitability for the improvements to be constructed by the Developer. If the condition of the Project Parcel is not, in the opinion of the Developer, suitable for such

improvements, then it is the sole responsibility of Developer to take all actions and do all things required to render the Project Parcel suitable, or to terminate the Agreement prior to the Acceptance Date (as hereinafter defined). DIA shall make the Project Parcel available for inspection by Developer, Developer's employees, agents and contractors, during regular business hours and upon twenty-four (24) hours' notice. Developer may, at Developer's sole risk and expense, undertake a complete physical inspection of the Project Parcel as Developer deems appropriate, including but not limited to soil tests and environmental audits; provided, however, that any such inspection does not cause any permanent damage to the Project Parcel. In addition, Developer shall have the right to review, and DIA shall make available to Developer all reports, studies, projections, or other materials relating to the ownership, use, operation, management, maintenance or physical and environmental condition of the Project Parcel to the extent in DIA's or City's possession or control. Developer's right to inspect the Project Parcel shall include the right to conduct such investigations, tests, surveys, interviews and other analyses as Developer determines is necessary, including, without limitation, entry into or upon every portion of the Project Parcel. All such inspections, investigations and examinations shall be undertaken at Developer's sole cost and expense. Developer will coordinate all on-site inspections with the DIA so that the DIA shall have the option of having one of DIA's representatives present at any and all such on-site inspections. After completing any such inspections, Developer shall restore and repair any damage caused by Developer's inspections to substantially the same condition that existed immediately prior to such inspection, and Developer hereby agrees to indemnify and hold DIA and City harmless from any and all claims made or causes of action brought against DIA, City or the Project Parcel resulting from the activities of Developer or any of Developer's agents or servants in conducting any of such inspections on the Project Parcel. Notwithstanding the foregoing, Developer's indemnity shall not cover any loss, claim or damage to the Project Parcel or to any person directly related (i) to any conditions or environmental issues which existed prior to Developer's inspection or to the existence of any hazardous materials or substances which is discovered during Developer's inspection or (ii) resulting from City's or DIA's negligent acts or omissions. The terms of this Section shall survive the Closing or the termination of this Agreement, as applicable. Furthermore, Developer agrees to maintain and 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 City and DIA and affiliates identified by City and DIA as additional insured parties and shall be in form reasonably acceptable to City and DIA, and shall not be modified or terminated without thirty (30) days' prior written notice to City and DIA. Developer shall deliver to City and DIA, prior to entry upon the Project Parcel, evidence reasonably satisfactory to City and DIA that the insurance required hereunder is in full force and effect.

(c) DIA Pre-closing Obligations.

(i) Release and Relocation of Easements. The DIA and the City shall use reasonable efforts to assist Developer in causing the release or relocation of any existing access, utility or other easements encumbering the Project Parcel as may be required for the development of the Improvements. The DIA 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 Developer and the DIA and City shall consult together in identifying and implementing any such easement release or relocation requirements prior to the Acceptance Date (as hereinafter defined). In the event the Developer is not reasonably satisfied, prior to the Acceptance Date, that all such easements encumbering any portion of the Project Parcel will be relocated or released as may be required for the development of the Improvements or other improvements contemplated by the Developer on the Project Parcel and authorized by this Agreement, the Developer may terminate this Agreement and declare the same to be null and void. The City's and DIA's assistance as set forth in this paragraph shall be at no cost to City and DIA. Upon such termination, the parties' respective rights and obligations hereunder shall terminate, except as otherwise set forth herein. Developer may extend the Closing for a period of six (6) months to permit DIA additional time to obtain the release or relocation of such existing easements.

(ii) Development Rights. DIA agrees to present to its Board a Resolution for its consideration authorizing an allocation of development rights as necessary for the Project.

(iii) Stormwater Credits. DIA agrees to present to its Board a Resolution for its consideration approving the sale to Developer (at Developer's expense) of stormwater credits as necessary for the Project.

(d) Termination. In addition to the specific termination rights contained herein, Developer may, prior to Closing, terminate this Agreement at any time prior to the date which is thirty (30) days after the Effective Date, at which time Developer shall be deemed to have accepted the physical and environmental condition of the Project Parcel. The date upon which Developer is deemed to have accepted the Project Parcel or such earlier date as the Developer gives written notice to DIA of its acceptance of the Project Parcel shall be the "Acceptance Date". 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. Developer shall, within ten (10) days of such termination, deliver to City and DIA, without representation or warranty of any kind, copies of all documents received from City or DIA, including without limitation all feasibility studies, engineering reports, surveys and all other information obtained or generated by Developer in connection with the Project Parcel.

(e) No Representations or Warranties by City or DIA; Acceptance of Project Parcel "As Is".

Disclaimer. DEVELOPER ACKNOWLEDGES AND AGREES THAT CITY AND DIA HAVE NOT MADE, DO NOT MAKE AND SPECIFICALLY NEGATE AND DISCLAIM ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROJECT PARCEL (INCLUDING WITHOUT

LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) ANY INCOME TO BE DERIVED FROM THE PROJECT PARCEL, (C) THE SUITABILITY OF THE PROJECT PARCEL FOR ANY AND ALL ACTIVITIES AND USES WHICH DEVELOPER MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROJECT PARCEL OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROJECT PARCEL, (F) GOVERNMENTAL RIGHTS OF POLICE POWER OR EMINENT DOMAIN, (G) DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS: (1) NOT KNOWN TO DEVELOPER AND NOT SHOWN BY THE PUBLIC RECORDS BUT KNOWN TO CITY OR DIA AND NOT DISCLOSED IN WRITING BY CITY AND DIA TO THE DEVELOPER PRIOR TO THE CLOSING, (2) RESULTING IN NO LOSS OR DAMAGE TO DEVELOPER OR (3) ATTACHING OR CREATED SUBSEQUENT TO THE DATE OF THE CLOSING, (H) VISIBLE AND APPARENT EASEMENTS AND ALL UNDERGROUND EASEMENTS, THE EXISTENCE OF WHICH MAY ARISE BY UNRECORDED GRANT OR BY USE, (I) ALL MATTERS THAT WOULD BE DISCLOSED BY A CURRENT SURVEY OF THE PROJECT PARCEL, (J) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROJECT PARCEL, (K) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROJECT PARCEL, OR (L) ANY OTHER MATTER WITH RESPECT TO THE PROJECT PARCEL, AND SPECIFICALLY, THAT CITY OR DIA HAVE NOT MADE, DO NOT MAKE AND SPECIFICALLY DISCLAIM ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE, ZONING OR DEVELOPMENT OF REGIONAL IMPACT LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROJECT PARCEL OF HAZARDOUS MATERIALS (AS HEREINAFTER DEFINED). DEVELOPER FURTHER ACKNOWLEDGES THAT DEVELOPER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROJECT PARCEL AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY CITY OR DIA. AT THE CLOSING DEVELOPER AGREES TO ACCEPT THE PROJECT PARCEL AND WAIVE ALL OBJECTIONS OR CLAIMS AGAINST CITY AND DIA (INCLUDING, BUT NOT LIMITED TO, ANY RIGHT OR CLAIM OF CONTRIBUTION) ARISING FROM OR RELATED TO THE PROJECT PARCEL OR TO ANY HAZARDOUS MATERIALS ON THE PROJECT PARCEL. DEVELOPER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROJECT PARCEL WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT CITY AND DIA HAVE NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKE NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. CITY AND DIA ARE NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROJECT PARCEL, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, OFFICER, EMPLOYEE, AGENT, SERVANT OR OTHER PERSON. DEVELOPER FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROJECT PARCEL AS PROVIDED FOR HEREIN IS MADE IN

AN “AS IS” CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE HAS BEEN ADJUSTED BY PRIOR NEGOTIATION TO REFLECT THAT ALL OF THE PROJECT PARCEL IS SOLD BY CITY AND PURCHASED BY DEVELOPER SUBJECT TO THE FOREGOING. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING, TERMINATION OR EXPIRATION OF THIS AGREEMENT.

(f) Hazardous Materials. For purposes of this Agreement, “Hazardous Materials” shall mean any substance which is or contains (i) any “hazardous substance” as now or hereafter defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq.) (“CERCLA”) or any regulations promulgated under or pursuant to CERCLA; (ii) any “hazardous waste” as now or hereafter defined in the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.) (“RCRA”) or regulations promulgated under or pursuant to RCRA; (iii) any substance regulated by the Toxic Substances Control Act (15 U.S.C. §2601 et seq.); (iv) gasoline, diesel fuel, or other petroleum hydrocarbons; (v) asbestos and asbestos containing materials, in any form, whether friable or non-friable; (vi) polychlorinated biphenyls; (vii) radon gas; and (viii) any additional substances or materials which are now or hereafter classified or considered to hazardous or toxic under the common law. Hazardous Materials shall include, without limitation, any substance, the presence of which on the Project Parcel, (A) requires reporting, investigation or remediation under Environmental Requirements; (B) causes or threatens to cause a nuisance on the Project Parcel or adjacent property or poses or threatens to pose a hazard to the health or safety of persons on the Project Parcel or adjacent property; or (C) which, if it emanated or migrated from the Project Parcel, could constitute a trespass.

(g) Environmental Requirements. For purposes of this Agreement, the term “Environmental Requirements” shall mean all laws, ordinances, statutes, codes, rules, regulations, agreements, judgments, orders and decrees, now or hereafter enacted, promulgated or amended, of the United States, the State of Florida, the City of Jacksonville, or any other political subdivisions in which the Project Parcel is located and any other governmental entity, political subdivision, agency or instrumentality exercising jurisdiction over the owner of the Project Parcel, the Project Parcel or the use of the Project Parcel relating to pollution, the protection or regulation of human health, natural resources, or the environment, or the emission, discharge, release or threatened release of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or waste or Hazardous Materials into the environment (including, without limitation, ambient air, surface water, ground water or land or soil).

(h) Environmental Risks. Developer acknowledges that there are, or may be, certain environmental issues and/or risks with respect to the Project Parcel.

(i) Indemnity. Developer hereby expressly acknowledges that from and after the Closing, Developer shall be responsible for the proper maintenance and handling of any and all Hazardous Materials, if any, located in or on the Project Parcel or in the Improvements in accordance with all Environmental Requirements, including but not limited to the regulations at 40 C.F.R. Section 61 as authorized under the Clean Air Act 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. Furthermore, from and after Closing, Developer shall

indemnify and hold DIA, the City, its members, officials, officers, employees and agents harmless from and against any and all claims, costs, damages or other liability, including attorney's fees, incurred by DIA, the City, its members, officials, officers, employees and agents as a result of Developer's failure to comply with the requirements of this Section in connection with Developer's proper maintenance and handling of any and all Hazardous Materials, if any, located in or on the Project Parcel.

(j) Release. Developer, on behalf of itself and its heirs, successors and assigns hereby waives, releases, acquits and forever discharges City and DIA, and their respective members, officials, officers, directors, employees, agents, attorneys, representatives, and any other persons acting on behalf of City or DIA and the successors and assigns of any of the preceding, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Developer or any of its heirs, successors or assigns now has or which may arise in the future on account of or in any way related to or in connection with any past, present, or future physical characteristic or condition of the Project Parcel or the Improvements, including, without limitation, any Hazardous Materials in, at, on, under or related to the Project Parcel or the Improvements, or any violation or potential violation of any Environmental Requirement applicable thereto. Notwithstanding anything to the contrary set forth herein, this release shall survive the Closing, and the termination or expiration of this Agreement.

### **5.3 Closing**

(a) Closing. The closing (the "Closing") shall be held at the offices of DIA's counsel via mail-away closing commencing at 10:00 a.m. and concluding no later than 3:00 p.m. on or before the date that is fifteen (15) days after the Acceptance Date (the "Closing Date"), provided that, the DIA may delay, in its sole discretion, the Closing Date until such time as the Developer has delivered evidence of financing for the Townhomes satisfactory to the DIA and the DDRB has given final approval to the Townhomes, unless the parties mutually agree upon another time or date. Notwithstanding anything to the contrary set forth in this Agreement, if the Closing has not occurred prior to November 30, 2021, the DIA may terminate this Agreement in its sole discretion.

(b) Possession. Exclusive possession of the Project Parcel shall be delivered to Developer at the Closing and it shall be a condition to Developer's obligation to Close that the physical and environmental condition shall not have changed after the Acceptance Date.

(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 Project Parcel, if any, for the month in which the Closing occurs, and all taxes, if any, and other assessments with respect to the Project Parcel for the year in which the Closing occurs, shall be prorated as of the date of Closing. Developer shall be responsible for all property taxes and other assessments related to the Project

Parcel on and after the Closing Date without adjustment for any changes in assessed values or taxes after the Closing Date.

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

(d) Closing Costs. Except as otherwise expressly provided herein, DIA shall pay, on the Closing Date, DIA's attorney's fees. Developer shall pay, on the Closing Date, the premium for an owner's title policy, all recording costs, any documentary stamps on the deed, intangible tax on any mortgage, any and all other costs related to any loan obtained by Developer in connection with the Project Parcel or Improvements thereon, the cost of any inspections, the cost of surveys, Developer's attorney's fees, and all other closing costs except for the above-described closing costs to be paid by DIA.

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

(i) Deed. Quit Claim Deed with Right of Reverter (the "Deed") executed by City quit-claiming the Project Parcel to Developer in the form attached hereto as Exhibit C.

(ii) Evidence of Authority. Copy 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 and other documents to be executed by City at the Closing and the power and authority of City to quit-claim the Project Parcel to Developer in accordance with this Agreement.

(iii) Foreign Person. An affidavit of City certifying that City 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.

(iv) 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.

(v) Closing Statement. A closing statement setting forth the allocation of closing costs.

(vi) Other Documentation. Such other documents as may be reasonable and necessary in the opinion of the Developer or its counsel and DIA or its counsel to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions of this Agreement.

(f) Developer's Obligations at the Closing. At the Closing, Developer shall deliver to DIA the following:

(i) Purchase Price. The Purchase Price by wire transfer of immediately available U.S. funds.

(ii) Completion Guaranties. Completion Guaranties duly executed by the principals of the Developer jointly and severally and unconditionally guaranteeing (i) the Substantial Completion of the Phase One Improvements in accordance with this Agreement by the Phase One Completion Date, and (ii) the Substantial Completion of the Project by the Project Completion Date, in form and substance acceptable to the DIA. The DIA may consent to the acceptance of a payment and performance bond ensuring completion of the Project naming the City and the DIA as obliges in lieu of such Completion Guaranties.

(iii) Evidence of Authority. Such corporate resolutions, consents and authorizations as DIA may reasonably deem necessary to evidence authorization of Developer for the purchase of the Project Parcel, the execution and delivery of any documents required in connection with Closing and the taking of all action to be taken by the Developer in connection with Closing.

(iv) Other Documentation. Such other documents as may be reasonable and necessary in the opinion of the DIA or its counsel to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions of this Agreement.

## **Article 6.**

### **PROJECT COVENANTS OF DEVELOPER**

#### **6.1 Developer Covenants Regarding the Project.**

The Developer hereby represents, covenants and agrees for itself, its successors and assigns that, as part of the Project:

(a) At the Closing, Developer shall make a donation to the City in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) in immediately available U.S. funds, which the City shall utilize toward the development of or improvements to the Park, such development or improvements to be determined by the City in its sole discretion;

(b) All right-of-ways adjacent to and in the vicinity of the Project Parcel will remain open, and Developer shall improve LaVilla Center Drive, a sixty-foot (60') right of way between RE# 074845 0000 and RE# 074828 0100 and a fifty-five foot (55') right of way between RE# 074860 0100 and RE# 074830 0100, as set forth in **Exhibit B** attached hereto;

(c) Developer shall construct a new right-of-way (the "New ROW") to City standards to be dedicated to the City running in a north-south direction between the Park and the Project Parcel, inclusive of on-street parking, as set forth on **Exhibit B** attached hereto; no portion of the New ROW, inclusive of parking, may encroach into the Park, and the paved street shall be located as close to the development side of the New ROW as possible, while accommodating the required sidewalk and landscaping;



(d) Developer shall improve all sidewalks adjacent to the Project and all sides of the Project Parcel shall be improved to current City design standards, including the addition of street trees along all sides of each block, consistent with City design standards.

(e) Townhome units adjacent to the New ROW will face the Park, and Townhome units adjacent to the Trail will face the Trail;

(f) Developer shall improve the signage for the Trail adjacent to the Project Parcel to current Trail design standards of the City; and

(g) At the Closing, Developer shall escrow with the City the sum of Fifty Thousand Dollars (\$50,000.00) (the “Escrowed Funds”) to be used by the City to pay the liquidated damages set forth in Section 10.3 below. Within thirty (30) days after the Phase Two Construction Commencement Date, the City will refund to Developer the balance of the remaining Escrowed Funds, if any.

## **Article 7. THE DEVELOPMENT**

### **7.1 Scope of Development.**

The Developer shall construct and develop or cause to be constructed and developed, in substantial compliance with the times set forth in the Performance Schedule (subject in all cases to authorized extensions of the applicable Performance Schedules contemplated by this Agreement), the Improvements, which the Developer is obligated to construct and develop under the Performance Schedule and this Agreement.

### **7.2 Cost of Development.**

Except as otherwise set forth in this Agreement, the Developer shall pay any and all costs of constructing and developing the Improvements, which shall be at no cost to the DIA or the City.

### **7.3 Approval by Other Governmental Agencies.**

All of the parties’ respective rights and obligations under this Agreement are subject to and conditioned upon approval of the Project and all Project documents by such other governmental agencies, whether state, local or federal, as have jurisdiction and may be required or entitled to approve them. Notwithstanding any provision of this Agreement to the contrary, neither the City nor the DIA guarantee approval of this Agreement or any aspect of the Project by any government authorities and agencies that are independent of the City.

### **7.4 Authority of DIA to Monitor Compliance.**

During all periods of design and construction, the CEO of the DIA and the City’s Director of Planning and Development shall have the authority to monitor compliance by the Developer with the provisions of this Agreement. Insofar as practicable, the DIA shall coordinate such monitoring and supervising activity with those undertaken by the City so as to

minimize duplicate activity. To that end, during the period of construction and with prior notice to the Developer, representatives of the DIA and the City shall have the right of access to the Project Parcel and to every structure on the Project Parcel during normal construction hours.

#### **7.5 Timing of Completion.**

The Improvements shall be completed substantially in accordance with the terms of this Agreement and the Performance Schedule subject to extension of such timelines pursuant to the terms of this Agreement.

#### **7.6 Construction and Operation Management.**

Except as otherwise expressly provided herein, and with the exception of Improvements to be made to the Park and Trail (which shall be subject to DIA review, approval and coordination), the Developer shall have discretion and control, free from interference, interruption or disturbance, in all matters relating to the management, development, redevelopment, construction and operation of the Project (as their respective obligations are set forth in this Agreement), provided that the same shall, in any event, conform to and comply with the terms and conditions of this Agreement, and all applicable state and local laws, ordinances and regulations (including, without limitation, applicable zoning, subdivision, building and fire codes). The Developer's discretion, control and authority with respect thereto shall include, without limitation, the following matters:

- (a) the construction and design of the Project, subject to the express terms and conditions of this Agreement;
- (b) the selection, approval, hiring and discharge of engineers, architects, contractors, subcontractors, professionals and other third parties (collectively the "Vendors") on such terms and conditions as the Developer deems appropriate;
- (c) the negotiation and execution of contracts, agreements, easements and other documents with third parties, in form and substance satisfactory to Developer; and
- (d) the preparation of such budgets, cost estimates, financial projections, statements, information, and reports as the Developer deems appropriate.

### **Article 8. JSEB PROGRAM**

#### **8.1 Jacksonville Small and Emerging Businesses (JSEB) Program.**

The Developer, in further recognition of and consideration for the public funds provided to assist the Developer pursuant to this Agreement, hereby acknowledge the importance of affording to small and emerging vendors and contractors the full and reasonable opportunity to provide materials and services. Therefore, the Developer hereby agree as follows:

The Developer shall obtain from the City's Procurement Division the list of certified Jacksonville Small and Emerging Businesses ("JSEB"), and shall exercise good faith, in

accordance with Municipal Ordinance Code Sections 126.608 et seq., to enter into contracts with City certified JSEBs to provide materials or services in an aggregate amount of not less than \$716,000, which amount represents 20% of the City's and DIA's maximum contribution to the Project with respect to the development activities or operations of the Project over the term of this Agreement.

The Developer shall submit JSEB report(s) regarding their respective actual use of City certified JSEBs on the Project, (i) upon Substantial Completion of the Phase One Improvements, and (ii) upon Substantial Completion of the Project. The form of the report to be used for the purposes of this section is attached hereto as **Exhibit D** (the "JSEB Reporting Form").

## **Article 9. REPORTING**

### **9.1 Reporting.**

On a quarterly basis, the Developer 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. Samples of the general forms of these reports are attached hereto as **Exhibit E** (the "Annual Survey"); however, the specific data requested may vary from the forms attached. In addition, Developer shall submit monthly construction reports in form and content reasonably acceptable to the DIA regarding the status of construction of the Project.

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

Within thirty (30) days following a request of the DIA or the City, the Developer (as applicable) shall provide the DIA or the City with additional information as reasonably requested by the DIA or the City.

## **Article 10. DEFAULTS AND REMEDIES**

### **10.1 General.**

An "Event of Default" under this Agreement 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 DIA relating to the Project; or (iv) any default beyond the applicable cure periods under any and all financing agreements between or among the Developer, the City, or DIA relating to any portion of the Project (collectively, the "Project Documents"), and the failure to cure any such breach within the cure periods set forth below.

If any such Event of Default occurs under this Agreement, the City may at any time or from time to time proceed to protect and enforce all rights available to the City and 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. No occurrence shall constitute an Event of Default until the City has given the Developer 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, but in no event longer than one hundred twenty (120) days. No notice or opportunity to cure is required with respect to a Performance Schedule default. Notwithstanding the foregoing, the Developer shall immediately and automatically be in default with respect to the Project, and the City 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 Developer of any of the Developer's property be appointed; or should any petition for the adjudication of bankruptcy, reorganization, composition, arrangement or similar relief as to the Developer, pursuant to the Federal Bankruptcy Act or any other law relating to insolvency or relief for debtors, be filed by Developer; or should the Developer be adjudicated as bankrupt or insolvent; or should the Developer be liquidated or dissolved; or should an involuntary petition seeking to adjudicate the Developer as a bankrupt or to reorganize the Developer be filed against the Developer and remain undismissed for a period of ninety (90) days after the filing date thereof.

### **10.2 Breach by City or DIA.**

No occurrence shall constitute an Event of Default by the City or the DIA until the Developer has given the City and the DIA 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, 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 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 1.6 for any and all City and DIA obligations at issue.

### **10.3 Specific Defaults.**

Additionally, for any of the specific Events of Default described in this Section 10.3 below, the parties agree that the City's and DIA's damages recoverable from the Developer shall include, but not be limited to, the following:

(a) subject to any extensions provided pursuant to the terms of this Agreement, in the event the Developer does not Substantially Complete the Phase One Improvements by the Phase One Completion Date, the City would suffer damages which are not readily ascertainable on the Effective Date and the Developer shall pay to the City liquidated damages in the amount of One Hundred Dollars (\$100.00) per day for each day of delay beyond the Phase One Completion Date, and City may, without further action or notice, pay such amounts from the Escrowed Funds; the parties agree that the One Hundred Dollars (\$100.00) per day charge is a reasonable estimate of the actual damages that would be incurred by the City as a result of the Developer's failure to Substantially Complete the Phase One Improvements by the Phase One Completion Date and is not a penalty;

(b) subject to any extensions provided pursuant to the terms of this Agreement, in the event the Developer does not Substantially Complete the Phase Two Improvements by the Project Completion Date, the City would suffer damages which are not readily ascertainable on the Effective Date and the Developer shall pay to the City liquidated damages in the amount of One Hundred Dollars (\$100.00) per day for each day of delay beyond the Project Completion Date (such fee to be in addition to the fee that is set forth in subparagraph (a) above), and City may, without further action or notice, pay such amounts from the Escrowed Funds; the parties agree that the One Hundred Dollars (\$100.00) per day charge is a reasonable estimate of the actual damages that would be incurred by the City as a result of the Developer's failure to Substantially Complete the Phase Two Improvements by the Project Completion Date and is not a penalty;

(c) subject to any extensions provided pursuant to the terms of this Agreement, in the event the Developer fails to Commence Construction of the Phase One Improvements by the Phase One Construction Commencement Date, the Project Parcel shall revert back to the City in its entirety in accordance with the process set forth in Section 10.4 below and in the Deed.

(d) subject to any extensions provided pursuant to the terms of this Agreement, in the event the Developer fails to Commence Construction of the Phase Two Improvements by the date that sixty (60) months after the Effective Date, the land for the Phase Two Improvements of the Project Parcel as described on **Exhibit A-1** attached hereto ("Parcel Two") shall revert back to the City in accordance with the process set forth in Section 10.4 below and in the Deed.

#### **10.4 Reverter Process.**

Notwithstanding the fact the Reverter (as defined in the Deed) shall be immediately effective upon the recording of the Notice (as defined in the Deed), Developer shall, at its sole cost and expense and within thirty (30) days of the recording of the Notice, deliver a Quit Claim Deed conveying the Project Parcel (or Parcel Two of the Project Parcel, as applicable), to the City and cause to be issued in the City's favor an owner's policy of title insurance for the fair market value of Project Parcel (or Parcel Two of the Project Parcel, as applicable), without exception for any matters arising during Developer's ownership of the same, and execute and deliver all documents in connection with the same. The Reverter shall be at no cost to the City or the DIA. Without limiting the foregoing and for avoidance of doubt, Developer expressly agrees

to pay the premium for such owner's title policy, all related recording costs, any documentary stamps on the deed, the cost of surveys (or updated thereto), Developer's attorney's fees, and all other closing costs.

**Article 11.**  
**ANTI-SPECULATION AND ASSIGNMENT PROVISIONS**

**11.1 Purpose.**

The Developer represents and agrees that its undertakings pursuant to this Agreement are for the purpose of developing the Project Parcel pursuant to this Agreement and not for speculation in land holding. The Developer further recognizes, in view of the importance of the development of the Project Parcel to the general health and welfare of the City, that the qualifications, financial strength and identity of the principal shareholders and executive officers of the Developer are of particular concern to the City and the DIA.

**11.2 Assignment; Limitation on Conveyance.**

Developer agrees that, with respect to the Project, until the (a) Substantial Completion of the Project, it shall not, without the prior written consent of the DIA (which consent shall not be unreasonably withheld), assign, transfer or convey (i) the Project or any portion thereof, (ii) the Project Parcel or any portion thereof, (iii) this Agreement or any provision hereof as it relates to the Project, or (iv) a controlling interest in the Developer. If any such prohibited assignment, transfer or conveyance is made, the City at its option may: (i) require the Developer to pay to the City the appraised value of the Project Parcel as of the Effective Date of this Agreement, or (ii) repurchase the Project Parcel at its then appraised value, less the appraised value of the Project Parcel as of the Effective Date of this Agreement. Notwithstanding the foregoing, Developer may assign, transfer or convey items (i)-(iv) above to an entity which is directly or indirectly controlling, controlled by, or under common control with Developer without the prior written consent of the City and DIA; provided, however, that no such assignment, transfer or conveyance shall release Developer from any liability or obligation hereunder, and provided any assignee of such assignment enters into an assignment and assumption agreement in form and content as acceptable to the DIA in its reasonable discretion. In addition, (a) interests in the Developer may be assigned, transferred or conveyed to tax credit investors without limitation, (b) Developer may collaterally assign its rights and obligations pursuant to this Agreement to any lender providing financing for the Project and any foreclosure or similar action and subsequent assignment by such lender or its assignees shall constitute a permitted assignment pursuant to this Agreement. In connection with any such collateral assignment and transfers by the lender contemplated herein, DIA and City agree to execute a consent reasonably acceptable to such lender, and such lender or assignee shall enter into an assignment and assumption agreement in form and content as reasonably acceptable to City and DIA. Notwithstanding the foregoing, the Developer may sell Townhomes to end users prior to Substantial Completion of the Project without the prior consent of the DIA or the City.

If any Event of Default under the terms of the Agreement shall occur, then and in any such event, the City shall, give written notice of such default(s) ("Notice of Default") to Lender at its address as noticed to City pursuant to Section 12.3 hereof, specifying the event of default

and the methods of cure, or declaring that an event of default is incurable. During the period of 120 days commencing upon the date the Notice of Default was given to Lender, Lender may cure any event of default. If the Lender reasonably undertakes to cure any event of default during the applicable cure period and diligently pursues such cure, the City shall grant such further reasonable time as is necessary to complete such cure.

**Article 12.  
GENERAL PROVISIONS**

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

No member, official, officer, employee or agent of the DIA or the City 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 or entity, in the event of any default or breach by the DIA or the City, or for any amount which may become due to the Developer or any other person or entity under the terms of this Agreement.

**12.2 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.

**12.3 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.

The DIA and City:     Downtown Investment Authority  
                                  117 W. Duval Street, Suite 310  
                                  Jacksonville, Florida 32202  
                                  Attn: Chief Executive Officer

With a copy to:        City of Jacksonville  
                                  Office of General Counsel  
                                  117 W. Duval Street, Suite 480  
                                  Jacksonville, Florida 32202

Attn: Corporation Secretary

The Developer: Johnson Commons LLC  
1819 Goodwin Street  
Jacksonville, Florida 32204  
Attn: George Leone  
Email: gleone@cornerlotdevelopment.com

With a copy to: Driver, McAfee, Hawthorne & Diebenow, PLLC  
1 Independent Drive, Suite 1200  
Jacksonville, Florida 32202  
Attn: Cyndy Trimmer  
Email: ctrimmer@drivermcafee.com

**12.4 Time.**

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

**12.5 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.

**12.6 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 DIA and 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, Performance Schedule (for up to six months) and design standards, as long as such modifications do not involve any increased financial obligation or liability to the City or the DIA.

**12.7 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.



## **12.8 Indemnification.**

Developer shall indemnify, hold harmless and defend the City of Jacksonville, DIA and their respective members, officials, officers, employees and agents from and against, without limitation, any loss, claim, suit, action, damage, injury, liability, fine, penalty, cost, and expense of whatsoever kind or nature (including without limitation court, investigation and defense costs and reasonable expert and attorneys' fees and costs) related to any suits and actions of any kind brought against the City, DIA and their respective members, officials, officers, employees and agents or other damages or losses incurred or sustained, or claimed to have been incurred or sustained, by any person or persons arising out of or in connection with: (i) any breach of any representation or warranty of Developer, contained or provided in connection with this Agreement; (ii) any breach or violation of any covenant or other obligation or duty of Developer under this Agreement or under applicable law; (iii) any negligent act, error or omission, or intentionally wrongful conduct on the part of Developer or those under its control that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to Developer's performance under this Agreement or relating to the Project, except to the extent cause by the negligence of the City or DIA. Nothing contained in this paragraph shall be construed as a waiver, expansion or alteration of the City's sovereign immunity beyond the limitations stated in Section 768.28, Florida Statutes.

This indemnification shall survive the expiration or termination (for any reason) of this Agreement and remain in full force and effect. The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by any insurance provided pursuant to this Agreement or otherwise. The terms "City" and "DIA" as used in this Section 12.8 shall include all officers, board members, City Council members, employees, representatives, agents, successors and assigns of the City and the DIA, as applicable.

## **12.9 Insurance.**

The Developer agrees to furnish the DIA copies of any insurance policies that the Developer carries covering the Project and such policies shall name the DIA and the City as additional insureds thereunder as their interests may appear.

Anything to the contrary notwithstanding, the liability of the Developer under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage. Neither approval nor failure to disapprove insurance furnished by the Developer shall relieve the Developer or their respective subcontractors from responsibility to provide insurance as required by this Agreement.

## **12.10 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.

### **12.11 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.

### **12.12 Non-Discrimination Provisions.**

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, 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 non-discrimination provisions of this Agreement; *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. The Developer agree 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 12.12 shall be incorporated into and become a part of the subcontract.

### **12.13 Contingent Fees Prohibited.**

In conformity with Section 126.306, *Ordinance Code*, Developer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Developer, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Developer, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, the City and DIA shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

### **12.14 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*.

**12.15 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.

**12.16 Public Entity Crimes Notice.**

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 in excess of Thirty Five Thousand Dollars (\$35,000.00) with any public entity for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List.

**12.17 Survival.**

Any obligations and duties that by their nature extend beyond the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement and remain in effect. Without limiting the foregoing, all obligations for the payment of fees or other sums accruing up to the expiration or termination of this Agreement and all provisions relating to the City's right to conduct an audit shall survive the expiration or termination of this Agreement.

**12.18 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.

**12.19 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.

**12.20 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. Delivery of an executed counterpart via electronic transmission shall have the same effect as delivery of an original ink counterpart.

**12.21 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 their respective 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.

**12.22 Retention of Records/Audit**

The Developer agrees:

(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 City under this Agreement.

(b) To retain, with respect to the 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 City under this Agreement with respect to the 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.

(c) Upon demand, at no additional cost to the City, 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, 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, including but not limited to the City Council Auditors, full access to and the right to examine any of the Developer'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.
- (g) To include the aforementioned audit, inspections, investigations and record keeping requirements in all subcontracts and assignments of this Agreement.
- (h) To permit persons duly authorized by the City, including but not limited to the City Council Auditors, to inspect and copy any records, papers, documents, facilities, goods and services of the Developer which are relevant to this Agreement, and to interview any employees and subcontractor employees of the Developer to assure the City of the satisfactory performance of the terms and conditions of this Agreement. Following such review, the City will deliver to the Developer a written report of its findings and request for development by the Developer of a corrective action plan where appropriate. The Developer hereby agrees 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 invoice.
- (j) Should the annual reconciliation or any audit reveal that the Developer owe the City or DIA additional monies, and the Developer 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, the City may terminate this Agreement, solely at its option, by written notice to the Developer.

**12.23 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 any portion of the Project Parcel.

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

This is an agreement solely between the DIA, the City and Developer. The execution and delivery hereof shall not be deemed to confer any rights or privileges on any person not a party hereto. Subject to the limitations contained in Section 11.2, this Agreement shall be binding upon and benefit Developer, and Developer's successors and assigns, and shall be binding upon and benefit of the City and DIA, and their successors and assigns. However, Developer except as contemplated in Section 11.2, shall not assign, transfer or encumber its rights or obligations hereunder or under any document executed in connection herewith without the prior written consent of the City and the DIA, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Developer may assign, transfer or encumber its rights or obligations hereunder or under any document executed in connection herewith to an entity in which the principals of Developer have a controlling interest without the prior written consent of City and the DIA; provided, however, that no such assignment, transfer or conveyance shall release Developer from any liability or obligation hereunder.

**12.25 Venue; Applicable Law.**

The rights, obligations and remedies of the parties specified under this Agreement shall be interpreted and governed in all respects by the laws of the State of Florida. All legal actions arising out of or connected with this Agreement must be instituted in the Circuit Court of Duval County, Florida. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement.

**12.26 Civil Rights.**

The Developer agree 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.

**12.27 Further Assurances.**

Each party to this Agreement will, on request of any other party,

- (a) promptly correct any defect, error or omission herein;
- (b) execute, acknowledge, deliver, procure, record or file such further instruments and do such further acts reasonably deemed necessary, desirable or proper by the such requesting party to carry out the purposes of this Agreement and to identify and subject to the liens of this Agreement any property intended to be covered thereby, including any renewals, additions, substitutions replacements, or appurtenances to the subject property;
- (c) provide such certificates, documents, reports, information, affidavits and other instruments and do such further acts reasonably deemed necessary, desirable or proper by the requesting party to carry out the purposes of this Agreement.

**12.28 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.

**12.29 Construction.**

All parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Developer 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 the Agreement. Captions and headings in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

**12.30 Further Authorizations.**

The parties acknowledge and agree that the Mayor of the City, or his designee, and the City's Corporation Secretary and the Chief Executive Officer of DIA, or their respective designees, are hereby authorized to execute any and all other contracts and documents and otherwise take all necessary action in connection with this Agreement.

**12.31 Estoppel Certificate.**

Within ten (10) days after request therefor from either Developer, or from the City or DIA to the Developer, the Developer, City and DIA, as applicable, agree to execute and deliver to the applicable parties, or to such other addressee or addressees as a Developer or City or DIA may designate (and any such addressee may rely thereon), a statement in writing certifying (if true) that this Agreement as it relates to the Project is in full force and effect and unmodified or describing any modifications; that the Developer (or City or DIA, as applicable) has performed all of its obligations under this Agreement arising prior to the date of the certificate, and making such other true representations as may be reasonably requested by Developer or City or DIA, as applicable.

**[Remainder of page left blank intentionally; signatures on following page]**

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

ATTEST:

CITY OF JACKSONVILLE

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

By: \_\_\_\_\_  
Lenny Curry, Mayor

WITNESS:

DOWNTOWN INVESTMENT AUTHORITY

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

By \_\_\_\_\_  
Lori N. Boyer, CEO

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

In accordance with Section 24.103(e), of the *Ordinance Code* of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; *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 check request[s], as specified in said Contract.

\_\_\_\_\_  
Director of Finance

FORM APPROVED:

\_\_\_\_\_  
Office of the General Counsel



**DEVELOPER**

WITNESS:

**JOHNSON COMMONS LLC**, a Florida limited liability company

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

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_

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

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

## LIST OF EXHIBITS

Exhibit A	Description of the Project Parcel
Exhibit A-1	Description of Parcel Two of the Project Parcel
Exhibit B	Description of Improvements
Exhibit C	Form of Quitclaim Deed with Right of Reverter
Exhibit D	JSEB Reporting Form
Exhibit E	Annual Survey

**EXHIBIT A**

**Description of Project Parcel**

PARCEL A

LOTS 1 - 6, BLOCK 1, LAVILLA DIVISION D, ACCORDING TO THE PLAT THEREOF AS RECORDED IN DEED BOOK B, SPMW, PAGE 344, OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF HOUSTON STREET (A 60' PUBLIC RIGHT-OF-WAY AS NOW ESTABLISHED) WITH THE WEST RIGHT-OF-WAY LINE OF JOHNSON STREET (A 60' PUBLIC RIGHT-OF-WAY AS NOW ESTABLISHED) AND BEING THE SOUTHEAST CORNER OF LOT 6. THENCE NORTH 75°17'17" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 315.17 FEET TO THE SOUTHWEST CORNER OF LOT 4. THENCE NORTH 14°54'45" EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF STUART STREET (A 60' PUBLIC RIGHT-OF-WAY AS NOW ESTABLISHED), A DISTANCE OF 210.00 FEET TO THE NORTHWEST CORNER OF LOT 3. THENCE SOUTH 75°16'38" EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF ADAMS STREET WEST (A 60' PUBLIC RIGHT-OF-WAY AS NOW ESTABLISHED), A DISTANCE OF 315.09 FEET TO THE NORTHEAST CORNER OF LOT 1. THENCE SOUTH 14°53'26" WEST ALONG THE WESTERLY RIGHT -OF-WAY LINE OF JOHNSON STREET, A DISTANCE OF 209.94 FEET TO THE POINT OF BEGINNING.

PARCEL B

LOTS 3, 4 AND PART OF LOTS 2, & 5, BLOCK 1, LAVILLA DIVISION C, ACCORDING TO THE PLAT THEREOF AS RECORDED IN DEED BOOK W, PAGES 566 AND 567, OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF HOUSTON STREET (A 60' PUBLIC RIGHT-OF-WAY AS NOW ESTABLISHED) WITH THE EAST RIGHT-OF-WAY LINE OF JOHNSON STREET (A 60' PUBLIC RIGHT-OF-WAY AS NOW ESTABLISHED) AND BEING THE SOUTHWEST CORNER OF LOT 4. THENCE NORTH 14°53'26" EAST ALONG SAID EASTERLY RIGHT -OF -WAY LINE, A DISTANCE OF 209.93 FEET TO THE NORTHWEST CORNER OF LOT 3. THENCE SOUTH 75°18'11" EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF ADAMS STREET WEST (A 60' PUBLIC RIGHT-OF-WAY AS NOW ESTABLISHED), A DISTANCE OF 141.18 FEET. THENCE SOUTH 14°41'49" WEST, A DISTANCE OF 209.96 FEET TO A POINT ON SAID NORTHERLY RIGHT-OF-WAY LINE. THENCE NORTH 75°17'17" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 141.88 FEET TO THE POINT OF BEGINNING.

PARCEL C

LOTS 2 & 3 AND A PART OF LOTS 1 & 6, BLOCK 2, LAVILLA DIVISION C, ACCORDING TO THE PLAT THEREOF AS RECORDED IN DEED BOOK W, PAGES 566 AND 567, AND PART OF LOT 1 AND ALL OF LOTS 2, 3, 4, 5, & 6, SCOTT'S SUBDIVISION OF LOTS 4 AND 5, BLOCK 2, DIVISION C. LAVILLA, ACCORDING TO PLAT THEREOF RECORDED IN DEED BOOK AH, PAGE 722, ALL OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF HOUSTON STREET (A 60' PUBLIC RIGHT-OF-WAY AS NOW ESTABLISHED) WITH THE EAST RIGHT-OF-WAY LINE OF JOHNSON STREET (A 60' PUBLIC RIGHT-OF-WAY AS NOW ESTABLISHED) AND BEING THE NORTHWEST CORNER OF LOT 3. THENCE SOUTH  $75^{\circ}17'17''$  EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 249.92 FEET. THENCE SOUTH  $14^{\circ}06'23''$  WEST, A DISTANCE OF 210.01 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF FORSYTH STREET WEST (A 60' PUBLIC RIGHT-OF-WAY AS NOW ESTABLISHED). THENCE NORTH  $75^{\circ}17'17''$  WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 252.79 FEET TO THE SOUTHWEST CORNER OF LOT 1. THENCE NORTH  $14^{\circ}53'26''$  EAST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF JOHNSON STREET, A DISTANCE OF 210.00 FEET TO THE POINT OF BEGINNING.



## EXHIBIT B

### Description of Improvements

The Project will consist of (i) the construction of a minimum of ninety-one (91) Townhomes, and (ii) the construction of a stand-alone building fronting Lee Street and Forsyth Street which shall include a minimum of ten thousand (10,000) square feet of ground level retail space and which may include an additional multi-family residential component (the “Retail or Mixed Use Building”). The Townhomes shall all be constructed as a part of the Phase One Improvements. The Retail or Mixed Use Building shall be developed and constructed as a part of the Phase Two Improvements and shall face the Trail. All Townhomes shall be offered as individual for sale product. The Townhome units will be three (3) stories (approximately 1,400 square feet average) with one (1) car garages (subject to minor changes during design). All Townhomes will be frame construction, approximate eighteen foot (18') widths with gable roofs and patios to emulate the feel of a second story porch. Peaked or gable roofs will differentiate Townhome units in a nod to shotgun style on all Townhome product. Townhome units adjacent to the new street will face the Park.

In addition to the Townhomes and the Retail or Mixed Use Building, the Improvements include, without limitation, the construction by Developer of the following:

1. that portion of a new public right-of-way to serve the Project (the “New ROW”). The New ROW will be located between Adams Street and Houston Street and will run in a north-south direction adjacent to the Park and within the Project Parcel. The paved street shall be located as close to the development side of the New ROW as possible, while accommodating the required sidewalk and landscaping. A portion of the future right-of-way is being retained and developed by the City. The New ROW will be built to City standards and will be dedicated to the City; provided, however, that the parties acknowledge and agree that the New ROW will consist of a sixteen foot (16') wide travel lane plus an adjacent eight and one-half foot (8 ½') wide parallel parking area running parallel to and on the eastern side of such travel lane.
2. the repair of portions of LaVilla Center Drive, a sixty-foot (60') right of way between RE# 074845 0000 and RE# 074828 0100 and a fifty-five foot (55') right of way between RE# 074860 0100 and RE# 074830 0100, to make LaVilla Center Drive a usable right of way. For purposes of clarity, Developer shall only be required to repair LaVilla Center Drive as necessary to repair pot holes, install new curbs, and repair damage caused during construction. Developer shall not be required, for example, to resurface the entire right of way.
3. all sidewalks adjacent to the Project and on all sides of the Project Parcel shall be improved to current City design standards, including the addition of street trees along all sides of each block, consistent with City design standards.
4. the donation to the City by Developer of One Hundred Fifty Thousand Dollars (\$150,000.00) to be used by the City for enhancements to the Park.



**EXHIBIT C**

Form of Quitclaim Deed

Prepared by and return to:

John Sawyer, Esq.  
City of Jacksonville  
Office of General Counsel  
117 West Duval Street Suite 480  
Jacksonville, FL 32202

**Parcel Identification Nos.: 074845-0000, 074828-0100, 074830-0100**

**QUIT-CLAIM DEED WITH RIGHT OF REVERTER**

**This Quit-Claim Deed with Right of Reverter** (“Deed”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2021, between the **CITY OF JACKSONVILLE**, a municipal corporation, whose business address is c/o Office of General Counsel Government Operations Department, 117 West Duval Street Suite 480, Jacksonville, FL 32202 (“Grantor”), and **JOHNSON COMMONS LLC**, a Florida limited liability company, whose address is 3030 Hartley Road, Suite 310, Jacksonville, Florida 32257 (“Grantee”).

**WITNESSETH:**

Grantor, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, receipt of which is hereby acknowledged, does hereby remise, release and quit-claim unto Grantee, its successors and assigns, all the right, title, interest, claim and demand which the Grantor has in and to the following described land, situate, lying and being in the County of Duval, State of Florida, described on Exhibit A attached hereto and incorporated herein by this reference (the “Property”).

**TO HAVE AND HOLD** the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or in equity, to the only proper use, benefit and behoof of Grantee, its successors and assigns forever.

BY ACCEPTANCE OF THIS QUITCLAIM DEED, GRANTEE ACKNOWLEDGES THAT GRANTOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL



AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (F) GOVERNMENTAL RIGHTS OF POLICE POWER OR EMINENT DOMAIN, (G) DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS: (1) NOT KNOWN TO GRANTOR AND NOT SHOWN BY THE PUBLIC RECORDS BUT KNOWN TO GRANTEE AND NOT DISCLOSED IN WRITING BY THE GRANTEE TO THE GRANTOR PRIOR TO THE DATE HEREOF, (2) RESULTING IN NO LOSS OR DAMAGE TO GRANTEE, OR (3) ATTACHING OR CREATED SUBSEQUENT TO THE DATE HEREOF, (H) VISIBLE AND APPARENT EASEMENTS AND ALL UNDERGROUND EASEMENTS, THE EXISTENCE OF WHICH MAY ARISE BY UNRECORDED GRANT OR BY USE, (I) ALL MATTERS THAT WOULD BE DISCLOSED BY A CURRENT SURVEY OF THE PROPERTY, (J) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (K) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, OR (L) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT GRANTOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS MATERIALS AS DEFINED IN THE AGREEMENT PURSUANT TO WHICH THIS QUITCLAIM DEED IS DELIVERED. GRANTEE FURTHER ACKNOWLEDGES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE CONVEYANCE OF THE PROPERTY IS MADE ON AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS.

#### **RIGHT OF REVERTER**

A. Grantor and Grantee are parties to that certain Redevelopment Agreement (the "Agreement", which Agreement is available to the public via a public records request made to the Grantor), dated \_\_\_\_\_, 2021 (the "Effective Date"). All capitalized terms used but not defined in this Right of Reverter shall have the meanings ascribed to them in the Agreement. The Agreement requires Grantee to construct on the Property certain Improvements, including the Phase One Improvements and the Phase Two Improvements, described generally as ninety-one (91) townhome units, a stand alone retail building and related horizontal improvements. The Agreement requires Grantee, among other things, to Commence Construction of the Phase One Improvements within forty-five (45) days after receiving final permits for the Phase One Improvements, but in no event later than eight (8) months after the Closing Date (the "Phase One Construction Commencement Date") and Commence Construction of the Phase Two Improvements on or before the date which is sixty (60) months after the Effective Date (the "Phase Two Construction Commencement Date"). If the Grantee fails to Commence Construction of the Phase One Improvements by the Phase One Construction Commencement Date, then fee simple title to the Property shall, upon Grantor's execution and recording in the Duval County Public Records of the Notice of Reversion of Title in the form attached hereto as **Exhibit B** ("Notice"), revert to Grantor as provided therein (the "Reverter"). If the Grantee fails to Commence Construction of the Phase Two Improvements by the Phase Two Construction Commencement Date, then fee simple title to the land for the Phase Two Improvements of the Property as described on **Exhibit A** ("Parcel Two") shall, upon Grantor's execution and recording in the Duval County Public Records of the Notice, revert to as provided in the Reverter.

B. At the time of such reversion of title to Grantor, the title to the property reverting to the Grantor shall be free and clear of all mortgages, liens, including potential mechanics liens or other liens outstanding, encumbrances and other title matters, except for those in existence immediately prior to the conveyance of the Property to Grantee, and all such encumbrances, liens and other title matters shall be discharged or removed by Grantee.

C. Upon such failure by Grantee to timely Commence Construction of either the Phase One Improvements or the Phase Two Improvements (subject to any extensions provided pursuant to the terms of the Agreement), Grantor shall be entitled to execute and record the Notice in the Duval County Public Records, and such Notice shall evidence the reversion to Grantor of fee simple title to the entirety of the Property or Parcel Two of the Property, as applicable, without the requirement of any additional notice or act by Grantor or Grantee.

D. In the event the Grantee timely Commences Construction of the Phase One Improvements and timely Commences Construction of the Phase Two Improvements in accordance with the terms and conditions of the Agreement, then Grantor shall execute a recordable release of this Reverter, and the Reverter shall automatically and forever terminate and the Grantor shall be obligated to deliver to the Grantee a quitclaim deed in recordable form further evidencing the termination of the Reverter (the "Termination").

**TO HAVE AND HOLD** the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or in equity, to the only proper use, benefit and behoof of Grantee, its successors and assigns forever.

**IN WITNESS WHEREOF**, Grantor has caused this instrument to be executed in its name on the day and year first above written.

Signed, sealed and delivered  
in the presence of:

CITY OF JACKSONVILLE,  
FLORIDA

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

By: \_\_\_\_\_  
Lenny Curry, Mayor

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

Attest: \_\_\_\_\_  
James B. McCain, Jr.  
Corporation Secretary

[Seal]

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by Lenny Curry, as Mayor, and James B. McCain, Jr., as Corporation Secretary, of the City of

Jacksonville, Florida, a municipal corporation and a political subdivision of the State of Florida. They are ( ) personally known to me or ( ) have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
My commission expires:

FORM APPROVED:

\_\_\_\_\_  
Office of the General Counsel

**Exhibit A to Quitclaim Deed**

**Property**

*[Legal Description to be inserted after confirmation by title commitment and survey.]*

**Project Parcel:**

**Parcel Two of the Project Parcel:**

## Exhibit B to Quitclaim Deed

### Notice of Reversion of Title

Prepared by and Return to:  
John Sawyer, Esq.  
City of Jacksonville  
Office of General Counsel  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202

### NOTICE OF REVERSION OF TITLE

**This Notice of Reversion of Title** (“Notice”) is made this \_\_ day of \_\_\_\_\_, 20\_\_, by the **CITY OF JACKSONVILLE**, a municipal corporation, whose address is c/o Office of General Counsel, 117 West Duval Street, Suite 480, Jacksonville, Florida 32202 (the “City”), and pertains to the reversion to the City of fee simple title to property previously conveyed by the City to **JOHNSON COMMONS LLC**, a Florida limited liability company (the “Developer”).

### RECITALS:

A. The City previously conveyed to the Developer the property (the “Property”) described in the Quitclaim Deed dated \_\_\_\_\_, recorded at Book \_\_\_\_\_, Page \_\_\_\_, of the current public records of Duval County, Florida (the “Deed”), a copy of which is attached as **Exhibit A** and incorporated herein by reference.

B. The Deed provides for the reversion to the City of fee simple title to [the Property][Parcel Two of the Property], if the Developer fails to timely commence construction of the [Phase One Improvements][Phase Two Improvements] in accordance with the terms of the Agreement as defined in the Deed. The Deed also provides that in the event of such failure by the Developer to timely commence construction of the [Phase One Improvements][Phase Two Improvements] as set forth in the Agreement, the City may execute this Notice and record it in the Duval County Public Records to evidence the reversion to the City of fee simple title to [the Property][Parcel Two of the Property].

**NOW THEREFORE**, the City states as follows:

1. The above Recitals are true and correct.
2. The Developer has failed to timely commence construction of the [Phase One Improvements][Phase Two Improvements] in accordance with the terms of the Agreement as defined in the Deed, and therefore the City is entitled to execute this Notice and record it in the Duval County Public Records to evidence the reversion to the City of fee simple title to [the Property][Parcel Two of the Property] without the requirement of any further act or notice by the City or Developer.

3. Under terms of the Deed, fee simple title to [the Property][Parcel Two of the Property] has reverted to the City.

**IN WITNESS WHEREOF**, the City has executed this Notice of Reversion of Title on the day and year first above written.

**CITY OF JACKSONVILLE**, a Florida municipal corporation

Attest: \_\_\_\_\_  
Name:  
Corporation Secretary

By: \_\_\_\_\_  
Lenny Curry  
Mayor

(CORPORATION SEAL)

Form approved:

\_\_\_\_\_  
Assistant General Counsel

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ and \_\_\_\_\_, the Mayor and Corporation Secretary, respectively, of the City of Jacksonville, a Florida municipal corporation, on behalf of the corporation, who are personally known to me.

\_\_\_\_\_  
Print Name:  
NOTARY PUBLIC, State of Florida at Large  
My Commission Expires:

**Exhibit A to Notice of Reversion of Title  
Quitclaim Deed**

## EXHIBIT D

### JSEB Reporting Form

Business:

Goal: \$

Contact: \_\_\_\_\_

Date: \_\_\_\_\_

Date Contract Awarded	Contractor Name	Ethnicity (1)	Scope of Work (2)	Contract Amount	Amount Paid to Date	% of Work Completed to Date
		(1) AA – African American	(2) Examples: Masonry			
		HANA – Hispanic, Asian, Native American	Painting			
		WBE – Women	Site Clearing			
		C - Caucasian	Electrical			





**EXHIBIT E**

Annual Survey

Send completed form to  
 City of Jacksonville  
 Downtown Investment Authority  
 117 West Duval Street, Suite 310  
 Jacksonville, FL 32202  
 Email: JCrescimbeni@coj.net

Please complete the form below as it relates to the project for which you received City or State assistance. Should you have any questions, please call John Crescimbeni, (904) 255-5306.

Company name: \_\_\_\_\_

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

Primary Contact Name: \_\_\_\_\_

Primary Contact Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Reporting Date: \_\_\_\_\_

**As of 12/31/\_\_\_ :**

**I. CAPITAL INVESTMENT INFORMATION**

Project Land Costs	[3] \$
Project Structure Costs	[4] \$
Project Equipment Costs	[5] \$
Other Costs	[6] \$
Total Project Costs (sum [3] through [6])	\$

**II. ASSESSED PROPERTY VALUE**

Assessed Value of Property on 2020 Duval County Property Tax Bill:	
Real Property	[7] \$
Personal Property	[8] \$
Total of [7] & [8]	\$
Amount of Taxes Paid: \$	Date Taxes Paid:

