

Redevelopment Agreement

between

The Downtown Investment Authority

and

Laura Trio, LLC

REDEVELOPMENT AGREEMENT

This **REDEVELOPMENT AGREEMENT** (this “Agreement”) is made this ___ day of _____, 2021 (the “Effective Date”), between the **DOWNTOWN INVESTMENT AUTHORITY**, a community redevelopment agency on behalf of the City of Jacksonville (the “DIA”) and **LAURA TRIO, LLC**, a Delaware limited liability company (the “Developer”).

Article 1. PRELIMINARY STATEMENTS

1.1 The Project.

The Developer currently owns three (3) historic buildings generally known as the Laura St. Trio and individually known as the Florida National Bank Building, located at 51 W. Forsyth Street, the Bisbee Building, located at 47 W. Forsyth Street, and the Florida Life Insurance Building, located at 117 N. Laura Street, all in Jacksonville, Florida (collectively, the “Historic Buildings”). Further, the Developer owns two vacant parcels of land along W. Adams Street adjacent to the Historic Buildings, having R.E. numbers of 073687-0000 and 073688-0000 (collectively with the Historic Buildings, the “Project Parcel”). The Developer has proposed to make certain improvements to renovate and rehabilitate the Historic Buildings and to further construct two additional structures comprised of a new, seven-story hotel building and the Circulation Core Improvements (defined below), on the Project Parcel (as defined below, the “Improvements”) (together with the Developer’s obligations under this Agreement, the “Project”). The Project shall include a minimum of one hundred forty (140) hotel rooms (including eighty-six (86) in the Historic Buildings), a minimum of twenty-one thousand (21,000) square feet of restaurant/lounge space open to the general public (which may include outdoor/rooftop space within the Project Parcel, and a minimum of eight thousand (8,000) square feet of retail space open to the general public. The Project is expected to represent an estimated Total Development Cost of Sixty-Six Million Nine Hundred Eighty-Two Thousand Four Hundred Thirty-Four and No/100 Dollars (\$66,982,434.00) by or on behalf of the Developer.

1.2 Authority.

The DIA Board has authorized execution of this Agreement pursuant to DIA Resolution 2021-03-01 (the “Resolution”) and City Council has approved this Agreement pursuant to Ordinance 2021-453-E (the “Ordinance”).

1.3 Coordination by DIA.

The DIA hereby designates the Chief Executive Officer of the DIA (the “CEO”) to be the initial Project Coordinator who will, on behalf of the DIA, 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. The CEO may designate another representative to serve as Project Coordinator and will provide notice thereof to Developer in accordance with the notice provisions hereof. It shall be the responsibility of the Developer to coordinate all Project related activities and all matters under this Agreement with the designated Project Coordinator, unless otherwise stated herein.

1.4 **Maximum Indebtedness.**

The maximum indebtedness of the DIA for all loans, fees, reimbursable items or other costs pursuant to this Agreement shall not exceed the sum of TWENTY-SIX MILLION SIX HUNDRED SEVENTY-FOUR THOUSAND THREE HUNDRED AND NO/100 DOLLARS (\$26,674,300.00).

1.5 **Availability of Funds.**

The City's and DIA's obligations under this Agreement are contingent and expressly conditioned upon available and lawfully appropriated funds to the Project and this Agreement.

**Article 2.
DEFINITIONS**

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

2.1 **Bisbee Building.**

That certain building located generally at 47 W. Forsyth Street, Jacksonville, Florida, to which the Bisbee Building Improvements will be made by Developer.

2.2 **Bisbee Building Improvements.**

The structural and exterior and interior historic and other improvements to the Bisbee Building described on **Exhibit B** attached hereto.

2.3 **CCR Loan.**

A DPRP Loan consistent with the DPRP Guidelines, underwritten to provide funding support up to seventy-five percent (75%) of eligible costs associated with improving the mechanical systems, providing ADA compliance, environmental remediation, to address life safety issues, or other code related expenditures related to redevelopment of the Property as may be determined eligible by DIA. A CCR Loan does not have an interest payment requirement and the forgivable term for the principal amount is five (5) years when used in conjunction with an HPRR Loan, and otherwise is forgivable over ten (10) years when not used in conjunction with an HPRR Loan.

2.4 **CEO.**

The Chief Executive Officer of the DIA.

2.5 **Circulation Core Improvements.**

A new, eleven-story access structure to provide access between and among each floor of the Historic Buildings and the Laura St. Addition Improvements as further described on **Exhibit C** attached hereto.

2.6 **City.**

The City of Jacksonville, Florida, a municipal corporation and a political subdivision of the State of Florida.

2.7 **COA.**

Certificate of Appropriateness issued by the JHPC or Historic Preservation Section.

2.8 **Commencement of Construction.**

The terms "Commence" or "Commenced" or "Commencing" Construction as used herein when referencing the Improvements or any portion thereof means the date when Developer submits documentation in form and substance acceptable to the DIA that it (i) has completed all pre-construction engineering and design; (ii) has obtained all federal, state or local permits and approvals as required for the Completion of the Improvements or otherwise as necessary for construction of the Improvements, (iii) has entered into binding contracts with the contractor(s) who will construct the Improvements; (iv) has obtained financial commitments and resources necessary for Completion of the Project, and (iii) has begun physical, material renovation and construction of the Improvements (e.g., environmental remediation, structural repairs, selective demolition activities, or such other evidence of commencement of construction as may be approved by the DIA in its reasonable discretion) on an ongoing basis.

2.9 **DDRB.**

The City of Jacksonville's Downtown Development Review Board.

2.10 **Deferred Principal Loan.**

A DPRP Loan consistent with the DPRP Guidelines which is required in cases where developer equity is less than twenty-five percent (25%) of Total Development Cost determined in underwriting the capital needs of the Project. A Deferred Principal Loan requires principal to be repaid at the earlier of the sale or refinance of the property, or at the tenth (10th) anniversary of funding under terms defined further herein. A Deferred Principal Loan also requires interest payments to be made annually at the rate of the Federal Reserve Ten-Year Treasury Note as of the date of closing multiplied by the average monthly balance outstanding in each year, or as otherwise may be approved under terms defined further herein.

2.11 **DIA Board.**

The community redevelopment area board, and the governing body of the DIA created by ordinance to manage Downtown economic development, as the same shall be from time to time constituted, charged with the duty of governing the DIA CRA and such other duties as set forth in Chapter 55, *Ordinance Code*.

2.12 **Direct Costs.**

The term “Direct Costs” shall mean the direct design, engineering, permitting, landscaping and construction costs incurred by Developer in connection with the construction of the Improvements or applicable portion thereof as applicable, including, without limitation, soft and hard costs associated with the design, engineering, permitting and construction testing, all pertaining only to the Improvements and as itemized in the budget for such Improvements and incurred after the Effective Date of this Agreement.

2.13 **DPRP Guidelines.**

The Downtown Preservation and Revitalization Program (the “DPRP”) Guidelines as authorized by Ordinance 2020-527-E and incorporated herein by reference as if fully set forth herein.

2.14 **DPRP Loan.**

One or more loans authorized by this Agreement and funded as authorized by and pursuant to the DPRP Guidelines, which may include: (i) Historic Preservation Restoration and Rehabilitation Forgivable Loans (each, an “HPRR Loan”); (ii) Code Compliance Renovations Forgivable Loans (each, a “CCR Loan”); and (iii) a Downtown Preservation and Revitalization Program Deferred Principal Loan (each, a “Deferred Principal Loan”) from the City to the Developer with respect to the Historic Buildings in accordance with the terms and conditions set forth in this Agreement and the DPRP Guidelines.

2.15 **DPRP Loan Request.**

An application by the Developer to the DIA requesting a DPRP Loan pursuant to the terms of this Agreement for the Historic Buildings, specifying with particularity the scope of work proposed for the Historic Buildings, the estimated Total Development Costs for the Historic Buildings, and the requested DPRP Loan amount, and otherwise in form and substance consistent with this Agreement and the DPRP Guidelines.

2.16 **Florida Life Insurance Building.**

That certain building located generally at 117 N. Laura Street, Jacksonville, Florida, to which the Florida Life Insurance Building Improvements will be made by Developer.

2.17 **Florida Life Insurance Building Improvements.**

The structural and exterior and interior historic and other improvements to the Florida Life Insurance Building described on **Exhibit D** attached hereto.

2.18 **Florida National Bank Building.**

That certain building located generally at 51 W. Forsyth Street, Jacksonville, Florida, to which the Florida National Bank Building Improvements will be made by Developer.

2.19 **Florida National Bank Building Improvements.**

The structural and exterior and interior historic and other improvements to the Florida National Bank Building described on **Exhibit E** attached hereto.

2.20 **Historic Buildings.**

Collectively, the Bisbee Building, the Florida Life Insurance Building, and the Florida National Bank Building that will be redeveloped with the Improvements in accordance with this Agreement.

2.21 **Historic Preservation Section.**

The Historic Preservation Section of the City of Jacksonville Planning and Development Department.

2.22 **HPRR Loan.**

A DPRP Loan that satisfies the DPRP Guidelines, underwritten to provide funding support up to:

- (a) seventy-five percent (75%) of eligible costs for the restoration or rehabilitation of the building exterior;
- (b) seventy-five percent (75%) of eligible costs for the restoration of historic features on the building interior;
- (c) thirty percent (30%) of eligible costs for the rehabilitation of the building interior; and
- (d) twenty percent (20%) of eligible costs for general requirements and overhead of the general contractor.

To be eligible for funding, all work must be reviewed and approved by the Planning and Development Department for consistency with the United States Secretary of Interior Standards and applicable design guidelines during application processing and for verification upon completion and request for funding under terms defined further herein.

2.23 **Impermissible Delay.**

The term “**Impermissible Delay**” means, subject to the provisions of Section 11.2, 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 force majeure as described in Section 11.2.

2.24 **Improvements.**

Collectively, the Bisbee Building Improvements, Florida Life Insurance Building Improvements, Florida National Bank Building Improvements, Laura St. Addition Improvements, and the Circulation Core Improvements.

2.25 **JHPC.**

The City of Jacksonville Historic Preservation Commission.

2.26 **Laura St. Addition Improvements.**

A new, seven-story mixed-use hotel building as further described on **Exhibit F** attached hereto.

2.27 **Minimum Developer Equity Contribution.**

A minimum of Six Million Eight Hundred Thousand and No/100 Dollars (\$6,800,000.00) that shall be contributed by or on behalf of the Developer to the Total Development Costs of the Project, which are not loan proceeds to the Developer and cannot otherwise be considered as debt, and exclusive of any deferred Developer fees.

2.28 **Ordinance Code.**

The Ordinance Code of the City of Jacksonville.

2.29 **Project Parcel.**

Collectively, that certain real property and improvements thereon as described on **Exhibit A** attached hereto.

2.30 **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, if any, and the applicable Improvements are available for use in accordance with their intended purpose; and a temporary certificate of occupancy has been issued subject only to commercially reasonable punch list items, completion of tenant improvements and similar items.

2.31 **Total Development Costs.**

“Total Development Costs” or “TDC” is the cost of the Project Improvements defined as: the costs approved in underwriting for the acquisition of eligible buildings and associated land; the construction costs as negotiated with a qualified general contractor; and additional soft costs typically eligible for capitalization in development activity of the type set forth in this Agreement. TDC may also include, as applicable, the market value of real property owned by Developer and

utilized as part of the Project Parcel, taking into consideration any related debt, at the time of approval by the DIA Board, which related debt shall not have been increased since that time, and shall be exclusive of any developer fees or other costs. TDC specifically excludes any developer fees, operating reserves, and furniture, fixtures, and equipment unless required to comply with approved Permits, COAs, the Conditions, and any Historic Preservation Section interpretations.

2.32 **Verified Direct Costs.**

The term “Verified Direct Costs” means the Direct Costs actually incurred by Developer for work in place as part of the Improvements, as certified by Developer’s design professional and approved by the DIA in its reasonable discretion.

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

Article 3.
APPROVALS; PERFORMANCE SCHEDULES

3.1 **Performance Schedule.**

The Developer and the DIA have jointly established the following dates for the performance of each party’s respective obligations with respect to the construction of the Improvements (herein called the “Performance Schedule”):

(a) The Developer shall execute simultaneously: (x) this Agreement within thirty (30) days of delivery of final contract to Developer following City Council approval and Ordinance effective date; and (y) the Agreement for Settlement of Fines Imposed by the Municipal Code Enforcement Board attached hereto as **Exhibit J** (“Agreement for Settlement of Fines”).

(b) The Developer shall receive conditional approval to commence construction on the Part 2 application from the National Park Service (“NPS”) within one year from the application filing dated as of January 14, 2021.

(c) The Developer shall apply for final approval from DDRB within sixty (60) days of the date of receiving Part 2 conditional approval to commence construction from NPS.

(d) The Developer shall close on the Forgivable Loan (defined in Article 6 below) within fifteen (15) days after final approval for the Improvements from DDRB.

(e) The Developer shall apply for a building permit from the City as necessary for the Commencement of vertical construction of the Improvements (“Building Permit”) within sixty (60) days following final approval for the Improvements from DDRB.

(f) The Developer shall Commence Construction of the Improvements within ninety (90) days of receipt of the Building Permit. Developer shall provide written notice to City within five (5) days of the actual Commencement of Construction date (the “Commencement Date”) and provide supporting documentation to that effect. The Developer shall have satisfied or otherwise have removed from the Project Parcel prior to the Commencement Date the Mortgage lien

currently placed on the Project Parcel and recorded at Official Records Book 18397, Page 1006, of the current public records of Duval County, Florida.

(g) The Improvements shall be Substantially Completed within thirty-six (36) months from the Commencement Date, in accordance with the terms and conditions of this Agreement.

The Developer hereby agrees to undertake and complete the Project in accordance with this Agreement and the Performance Schedule, and to comply with all of its obligations set forth herein. The CEO shall have the authority to extend the Performance Schedule for up to six (6) months for good cause shown by the Developer, in the CEO's sole discretion. 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.

3.2 Approval of Agreement.

By the execution hereof, the parties certify as follows:

- (a) The Developer certifies that:
 - (i) the execution and delivery hereof has been approved by all parties whose approval is required under the terms of the governing documents creating the particular Developer entity;
 - (ii) this Agreement does not violate any of the terms or conditions of such governing documents and the Agreement is binding upon the Developer and enforceable against it in accordance with its terms;
 - (iii) the person or persons executing this Agreement on behalf of the Developer are duly authorized and fully empowered to execute the same for and on behalf of the Developer;
 - (iv) the Developer and each entity composing the Developer is duly authorized to transact business in the State of Florida and has received all necessary permits and authorizations required by appropriate governmental agencies as a condition to doing business in the State of Florida; and
 - (v) the Developer, its business operations, and each person or entity composing the Developer are in compliance with all federal, state, and local laws.
- (b) The DIA certifies that the execution and delivery hereof is binding upon the DIA to the extent provided herein and enforceable against it in accordance with its terms.

Article 4.
DOWNTOWN HISTORIC PRESERVATION AND REVITALIZATION PROGRAM

4.1 Downtown Preservation and Revitalization Program Loans.

Pursuant to Section 55.303, *Ordinance Code*, the DIA is authorized to award applicants DPRP Loans, subject to City Council approval. Developer has applied with the Historic Preservation Section of the Planning and Development Department (the “Historic Preservation Section”) and the DIA for DPRP Loans as set forth in this Agreement and has been approved for the DPRP Loans listed below subject to the conditions as set forth in this Agreement. The DPRP Loans are subject to the scope of work set forth in the COA and any conditions contained therein (the “COA Conditions” and together with any other conditions imposed by the DIA, DDRB and/or other City departments, the “Conditions”).

4.2 Total Development Costs.

In order to be eligible for the maximum amount of the DPRP Loans, the Developer must provide evidence and documentation prior to the applicable DPRP Loan closing sufficient to demonstrate a minimum Total Development Cost in the Project of at least SIXTY-SIX MILLION NINE HUNDRED EIGHTY-TWO THOUSAND FOUR HUNDRED THIRTY-FOUR AND NO/100 (\$66,982,434.00) (the “Minimum Total Development Cost”) as determined by the DIA in its reasonable discretion. In the event the Minimum Total Development Costs for the Improvements falls below the Minimum Total Development Cost threshold by ten percent (10%) or less, the maximum amount of the applicable DPRP Loans shall be reduced in accordance with the DPRP Guidelines. In the event the actual Total Development Cost of the Improvements as determined by the DIA is more than twenty-five percent (25%) below the Minimum Total Development Cost threshold, the Developer shall be ineligible for the applicable DPRP Loans. In the event the Total Development Cost of the Improvements fall below the Minimum Total Development Cost threshold by more than ten percent (10%) but less than twenty-five percent (25%), DIA staff shall perform an underwriting analysis and present to the DIA Board a request for approval to reduced the DRPR Loans consistent with the DPRP Guidelines. The DIA Board shall have the authority, without further action by City Council, to approve reduced DRPR Loan amounts provided the reduction in Total Development Cost for the respective improvements does not exceed twenty-five percent (25%). For purposes of clarity, general construction costs for the Historic Buildings, as a subset of Total Development Costs, shall generally be consistent with **Exhibit I** attached hereto as determined by the DIA in its reasonable discretion.

4.3 Construction of Improvements.

After the Developer obtains all applicable approvals with respect to the Project, the Developer shall construct the Improvements in accordance with the terms of this Agreement and applicable COA, the Conditions, and the scope of work as set forth herein for the Improvements. The Developer will pay all costs of the Project and Improvements. The Developer shall comply with all applicable requirements of this Agreement and the DPRP Guidelines.

4.4 Conditions to Disbursement of DPRP Loans.

In addition to the conditions precedent set forth in Section 1.5, above, the DIA's obligation to disburse any portion of a DPRP Loans to the Developer with respect to the Improvements is conditioned upon the prior occurrence of each the following conditions precedent with respect to each Loan, and otherwise in accordance with the terms of this Agreement:

(a) The Historic Buildings must have been designated as a local historic landmark by the City Council of Jacksonville and must have received approval for Part 2 of the National Park Service Historic Designation;

(b) The Developer shall submit to the DIA a completed written disbursement request (the "Disbursement Request") with respect to the Improvements, in accordance with the terms and conditions set forth in this Agreement, on the Disbursement Request Form attached hereto as **Exhibit H**. In the Disbursement Request, the Developer shall certify and describe in detail reasonably acceptable to the DIA (a) the cost of the labor that has been performed and the materials that have been incorporated into the Historic Buildings, and (b) the amount actually paid by the Developer for such labor and materials. The Developer shall attach to the Disbursement Request such invoices, receipts, cancelled checks (or evidence that payment has cleared the Developer's banking account), and other documents required by the DIA evidencing that the costs and expenses were actually incurred and paid for by the Developer and were expended on and pertain to the Project;

(c) All property taxes on the Project Parcel must be current and no municipal liens shall be outstanding;

(d) The Historic Buildings shall be in compliance with all applicable state and local laws, ordinances and regulations and the Developer must be utilizing the Historic Buildings in accordance with the DPRP Guidelines and this Agreement;

(e) No default with respect to the Developer's obligations under this Agreement or an event which, with the giving of notice or the passage of time, or both, would constitute a default with respect to Developer's obligations under this Agreement, has occurred or is continuing;

(f) The Developer shall furnish to the DIA with respect to the Historic Buildings, in accordance with the terms and conditions set forth in this Agreement, a certificate of occupancy or its equivalent and such other permits and/or certificates (including a certificate of substantial completion issued by the contractor and certified by the architect of record) as shall be required to establish to the DIA's satisfaction that the Improvements have been Substantially Completed in accordance with the terms of this Agreement and are not subject to any material violations or uncorrected conditions noted or filed in any City department, and Developer shall have fulfilled all of its obligations under the Agreement for Settlement of Fines.

(g) The Developer shall submit to the DIA a proper contractor's final affidavit and full and complete releases of liens from each contractor, subcontractor and supplier, and such other proof satisfactory to the DIA in its reasonable discretion, confirming that final payment has been made for all materials supplied and labor furnished in connection with the Project or that, in

the event of a dispute in any amount owed, such amount is properly bonded off pursuant to Florida law so that it will not become a lien on the Project Parcel;

(h) Prior to submission of a Disbursement Request, the Developer shall provide evidence and documentation sufficient to demonstrate to the DIA, in its reasonable discretion, satisfaction of the Minimum Total Development Cost as to the Improvements, as the same may be reduced consistent with Section 4.2 hereof;

(i) Prior to submission of a Disbursement Request, the Developer shall provide evidence and documentation sufficient to demonstrate to the DIA, in its reasonable discretion, satisfaction of the Minimum Developer Equity Contribution as to the Improvements;

(j) The Developer shall provide a final as-built schedule of values for the Project, with itemized detail as to each of the Historic Buildings and remaining components of the Project, and such other additional information and documentation as reasonably requested by the DIA.

(k) The Improvements shall have been Substantially Completed in all respects in accordance with the terms and conditions of this Agreement, as verified by a final inspection report satisfactory to the DIA, certifying that the Improvements have been constructed in a good and workmanlike manner and are in satisfactory condition. In the event the DIA determines that there is a deficiency with the Improvements the DIA reserves the right to require that an escrow be established in an amount satisfactory to the DIA to remedy such deficiency;

(l) The Developer must submit to a “post-work” inspection by the Historic Preservation Section or consultant to examine the Developer’s compliance with previously approved Permits, the applicable COAs, the Conditions, and all Historic Preservation Section interpretations issued to the Developer. The Historic Preservation Section shall have completed this “post-work” inspection and be satisfied that the Developer has met the obligations of this Agreement in accordance with the following criteria, as applicable: (a) United States Department of Interior Standards for Historic Preservation; (b) United States Department of Interior Standards for Rehabilitation; (c) the applicable COA from the Jacksonville Historic Preservation Commission; and (e) the applicable scope of work for the Improvements;

(m) The Developer shall take all action necessary to have any mechanic’s and materialmen’s liens, judgment liens or other liens or encumbrances filed against the Project Parcel (other than any consensual mortgage) released or transferred to bond within ten (10) days of the date the Developer receives notice of the filing of such liens or encumbrances. If any such lien or encumbrance is filed, the DIA shall have received a copy of the recorded release. The DIA shall not be obligated to disburse any of the DPRP Loan funds to the Developer if, in the reasonable opinion of the DIA, any such disbursement or the Project or Project Parcel would be subject to a mechanic’s or materialmen’s lien or any other lien or encumbrance other than inchoate construction liens. The Developer shall be fully and solely responsible for compliance in all respects whatsoever with the applicable mechanic’s and materialmen’s lien laws;

(n) The Developer shall have provided to the DIA, in form and substance reasonably satisfactory to the DIA, any such other document, instrument, information, agreement

or certificate the DIA may reasonably require related to the construction or completion of the Improvements, and all Loan Documents shall have been executed and delivered by the Developer; and

(o) All other conditions and requirements under the DPRP Guidelines have been satisfied as determined by the DIA in its sole but reasonable discretion.

4.5 Loan Amount; Loan Program.

The total of all DPRP Loans to be advanced under this Agreement shall not exceed a maximum aggregate amount as set forth in Section 1.4 hereof. No DPRP Loan may exceed the limits set forth in the DPRP Guidelines, including with respect to Total Development Costs (as defined in the DPRP Guidelines and Section 1.1 above). To be eligible for the maximum amount of DPRP Loans authorized under this Agreement, the Developer shall incur not less than the applicable Minimum Total Development Costs with respect to the Improvements. The term “Eligible Expenses” shall mean those expenses that are (i) found within Total Development Costs as approved by the DIA, (ii) actually incurred by the Developer to construct Improvements meeting the standard criteria used by the DIA and the Historic Preservation Section in determining eligible improvements or otherwise eligible hereunder, and (iii) eligible for the applicable DPRP Loans pursuant to the terms and conditions of this Agreement, the DPRP Guidelines, the COA and the Conditions. All Eligible Expenses shall be determined by the Historic Preservation Section and the DIA in its reasonable discretion. Upon such a determination of Eligible Expenses for the Project, subject to the compliance with all of the conditions precedent in Section 1.5 and Section 4.4, above, including, without limitation, paid invoices matching the applicable scope of work, a contractor’s affidavit, mechanics’ lien releases and other evidence (including without limitation site inspections and other inspection reports) that may be required in the reasonable discretion of the City or DIA, the applicable DPRP Loans with respect to the Eligible Expenses incurred in the Project will be advanced, subject to adjustment as set forth in Section 4.2 hereof.

4.6 DPRP Loan Terms; Loan Documents.

The maturity date of each DPRP Loan advanced hereunder shall be as set forth elsewhere in this Agreement and as set forth in the applicable loan documents, in accordance with the DPRP Guidelines. For so long as there is no default under this Agreement or any Loan Document, each HPRR Loan and CCR Loan shall be forgiven at the rate of twenty percent (20%) per annum, in accordance with the DPRP Guidelines. These terms shall be more fully set forth in the promissory notes to be executed and delivered by the Developer in connection with each DPRP Loan (the “Notes”) and the related loan documents. In addition to the Notes, the Developer shall also execute and deliver all other security agreements, documents, instruments, and certificates required by the DIA under this Agreement or in connection with any DPRP Loan (collectively with the Notes, the “Loan Documents” and each, a “Loan Document”).

Improvements

| Loan component | Amount | Interest rate | Term | Repayment Schedule | Amortization |
|----------------|----------------|---------------|---------|--------------------|--------------|
| HPRR Loan | \$9,377,766.00 | 0.0% | 5 years | None | 20%/year |

| | | | | | |
|------------------------------|-----------------|---|----------|-------------------------------------|------------------------|
| CCR Loan | \$10,016,699.00 | 0.0% | 5 years | None | 20%/year |
| DPRP Deferred Principal Loan | \$5,279,835.00 | 10-year Treasury note at time of closing* | 10 years | Interest only; balloons at maturity | None - due at maturity |

*not to exceed rate on 10-year Treasury note at time of closing on construction financing.

**Article 5.
LIMITATION OF LIABILITY**

5.1 No Warranty by City or DIA.

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

5.2 Further Disclaimer.

The DPRP Loans shall not be deemed to constitute a debt, liability, or obligation of the City, DIA or of the State of Florida or any political subdivision thereof within the meaning of any constitutional or statutory limitation, or a pledge of the faith and credit or taxing power of the City, DIA or of the State of Florida or any political subdivision thereof, but shall be payable solely from the funds provided therefor, respectively, in Article 4 and Article 5 of this Agreement. The DIA shall not be obligated to pay any DPRP Loan or any installment of the foregoing except from the non-ad valorem revenues or other legally available funds provided for that purpose, and neither the faith and credit nor the taxing power of the City, DIA or of the State of Florida or any political subdivision thereof is pledged to the payment of the DPRP Loans or any installment of the foregoing. The Developer, and any person, firm or entity claiming by, through or under the Developer, or any other person whomsoever, shall never have any right, directly or indirectly, to compel the exercise of the ad valorem taxing power of the City, DIA or of the State of Florida or any political subdivision thereof for the payment of the DPRP Loans or any installment of the foregoing.

**Article 6.
FORGIVABLE LOAN**

6.1 Forgivable Economic Development Loan; Terms and Conditions.

To facilitate the financing and construction of the Improvements, the City shall make a Forgivable Economic Development Loan (“Forgivable Loan”) in the not to exceed amount of \$2,000,000 to the Developer. The Forgivable Loan proceeds shall be used by the Developer to partially satisfy the exiting LISC Mortgage (defined below) on the Project Parcel, and allow LISC

to restructure its loan to allow financing for the Project to proceed. The City shall make the Forgivable Loan upon the following terms and conditions:

- (a) **Conditions Precedent:** The City's obligation to pay the Forgivable Loan to the Developer is conditioned upon prior occurrence of the following:
 - (i) The Developer must promptly furnish the DIA evidence satisfactory to the DIA that the Developer owns the Project Parcel.
 - (ii) All property taxes on the Project and the Project Parcel must be current.
 - (iii) Additionally, Developer shall take all action necessary to have any construction liens, judgment liens or other liens or encumbrances filed against the Project Parcel, other than the first mortgage or other encumbrances acceptable to the DIA in its sole discretion, released or transferred to bond within ten (10) days of the date Developer receives notice of the filing of such liens or encumbrances. If any such lien or encumbrance is filed, the City shall not be required to make the disbursement of the Forgivable Loan until such lien or encumbrance is bonded over or removed and the City receives a copy of the recorded release. The City shall not be obligated to disburse any of the Forgivable Loan to the Developer if, in the opinion of the DIA, any such disbursement or the Project or the Project Parcel would be subject to a construction lien or any other lien or encumbrance other than inchoate construction liens. Developer shall be fully and solely responsible for compliance in all respects whatsoever with the applicable construction lien laws.
 - (iv) The DIA shall have received all the invoices, contractor's affidavits, construction lien releases and/or other evidence, including, without limitation, site inspections and inspection reports that may be required in the discretion of the DIA.
 - (v) All outstanding principal and accrued interest on the Forgivable Loan shall be due and payable upon the sale or transfer of the Project or the Project Parcel.
- (b) **Amount:** The principal amount of the Forgivable Loan is \$2,000,000
- (c) **Use of Proceeds:** The proceeds of the Forgivable Loan shall be used by the Developer solely to pay down the existing mortgage on the Project Parcel in favor of Local Initiatives Support Corporation ("LISC"), and recorded at Original Records Book 18397, Page 1006, current public records of Duval County (the "LISC Mortgage"), and shall be paid into escrow at loan closing on behalf of the Developer and disbursed to LISC on closing.
- (d) **Interest Rate:** Interest shall accrue and be paid on the outstanding balance of the Forgivable Loan at 0% per annum. The loan documents shall provide that, from

and after the occurrence of any event of an uncured default under the loan documents or this Agreement, the Forgivable Loan shall accrue interest at 10 percent (10%) per annum.

- (e) **Priority:** The Forgivable Loan will be secured by a mortgage in the amount of the Forgivable Loan subordinate only to the construction loan/s for the Improvements.
- (f) **Terms of Repayment:** The term of the Forgivable Loan is five (5) years. The interest rate is zero percent (0%) per annum. Provided there is no Event of Default hereunder or under the Loan Documents, there are no payments due during the Term of the Forgivable Loan. Principal plus any and all accrued interest will be due in full at maturity in the event the Forgivable Loan is not forgiven.
- (g) **Collateral:** The Forgivable Loan shall be secured by a mortgage (the "Mortgage") in favor of the City, a promissory note, a security agreement and such other loan documents necessary or appropriate to secure the debt. The Mortgage shall be subordinate only to the construction loan/s for construction of the Improvements. The City agrees to subordinate its Mortgage only to such loan/s.
- (h) **Draw:** The Draw will be disbursed lump sum to Developer at loan closing pursuant to the terms of this Agreement.

6.2 **Loan Documents**

- (a) All documentation relating to the Forgivable Loan shall be prepared by counsel for the City and shall contain such representations, warranties, covenants, conditions (e.g. a due on sale clause), events of default, rights, remedies and other terms in addition to those specifically set forth herein as the City deems reasonably necessary or appropriate and shall otherwise be satisfactory in all respects to the City and its counsel.
- (b) The loan documents shall include such audited and unaudited financial reporting requirements for the Developer and/or the Project as the City may require.

6.3 **Additional Requirements.** In addition to the above, the following conditions must be met prior to the City's funding of the transactions contemplated herein:

- (a) The Developer shall provide the City with any and all documents requested by the City at Developer's expense, which may include, without limitation, the following documents at or before closing on the Forgivable Loan:
 - (i) Mortgage and Security Agreement;
 - (ii) Promissory Note;
 - (iii) Collateral Assignment of Rents and Leases;

- (iv) Collateral Assignment of Contracts, Licenses and Permits;
- (v) Borrower's Title and No Lien Affidavit;
- (vi) Environmental Affidavit;
- (vii) Borrower's Certificate;
- (viii) Anti-Coercion Statement;
- (ix) Agreement to Provide Insurance;
- (x) Title Commitment insuring City's mortgage, subject only to exceptions acceptable to the City in its sole discretion;
- (xi) Copies of any existing leases;
- (xii) Survey certified to City;
- (xiii) Copies of licenses, permits, operating contracts;
- (xiv) Evidence of insurance with City listed as additional insured and loss payee in form and content acceptable to the City;
- (xv) Opinion of Borrower's Counsel; and
- (xvii) Any other documents or reports reasonably requested by the City.

6.4 **Fees and Costs.**

The Developer shall pay all of the City's fees, expenses and costs in connection with the documentation, closing, administration and collection of the Forgivable Loan, whether or not the transaction contemplated herein is consummated. Such costs include, without limitation, all attorneys' fees and costs, filing fees, title review, intangible tax, recording fees, title, site inspection, survey, letter of credit fees and documentary stamp taxes, if any, which are incurred in connection with this Agreement or the negotiation, documentation and/or closing of the transaction contemplated by this Agreement, whether or not such transaction is closed.

6.5 **Closing Conditions.**

As a condition to the Forgivable Loan Closing, LISC must have provided into escrow: (x) a mortgage modification agreement to the LISC Mortgage; and (y) an intercreditor agreement between the City and LISC, in each case duly executed by LISC. The mortgage modification agreement and intercreditor agreement shall provide that the LISC Mortgage and the City's Mortgage and Security Agreement authorized hereby shall be co-equal in lien priority. Prior to making any disbursement under the Forgivable Loan, the City shall receive, at the Developer's expense, such additional items in form and substance satisfactory to the City and its counsel as

deemed necessary or appropriate. The loan documents governing the Forgivable Loan will include, without limitation, such environmental representations, warranties, indemnities and other provisions as the City may reasonably require.

6.6 Prepayment; Forgivable Loan Forgiveness.

The Forgivable Loan may be prepaid in full without penalty at any time. Provided there is no then outstanding event of default by Developer under this Agreement or the loan documents, or an event which, with the giving of notice or the passage of time, or both, would constitute an event of default with respect to Developer's obligations under this Agreement or the loan documents, has occurred and is continuing, the Forgivable Loan shall be forgiven in full at such time as the Developer has provided evidence and documentation sufficient to demonstrate a minimum of \$50,000,000 in Verified Direct Costs in the Improvements in accordance with the terms and conditions of this Agreement.

6.7 Termination.

At the loan closing, the Developer shall certify to the City that none of the events listed below have occurred, and the City may, at its option, terminate the funding of the transaction contemplated hereunder by written notice to the Developer, at the address set forth in Section 11.4 of this Agreement, upon:

- (a) The commencement by or against the Developer or any affiliate of any bankruptcy, insolvency or similar proceedings.
- (b) The Developer's or any affiliate's assignment for the benefit of its, his or her creditors, or admission in writing of its, his or her inability to pay its, his or her debts as they become due.
- (c) Any change in the financial condition of the Project, the Developer, or any affiliates which is, in the sole discretion of the DIA, material and adverse.
- (d) If any statement or representation made by the Developer related to the Project in connection with or in support of the Forgivable Loan, shall prove untrue in any material respect.
- (e) Default by the Developer in the performance of any other material covenant, condition or agreement set forth in this Agreement.

Any termination shall not affect the City's rights to enforce the provisions of this Agreement regarding costs and expenses or indemnification. All such rights shall survive any such termination.

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, all Improvements which the Developer is obligated to construct and develop with respect to the Project under this Agreement. The Developer shall construct all Improvements in accordance with all applicable laws and building and permitting codes.

7.2 Cost of Development.

Except as otherwise set forth in this Agreement, the Developer shall pay the cost of constructing and developing the Improvements at no cost to the DIA.

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, the DIA does not guarantee approval of this Agreement or any aspect of the Project by any government authorities and agencies that are independent of the DIA.

7.4 Authority of DIA to Monitor Compliance.

During all periods of design and construction, the Project Coordinator or his or her designee shall have the authority to monitor compliance by the Developer with the provisions of this Agreement and the Project Documents. Insofar as practicable, the Project Coordinator 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 a minimum of twenty-four (24) hours' prior written notice to the Developer, representatives of the City and Project Coordinator or his or her designee 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.

7.6 Construction and Operation Management.

Except as otherwise expressly provided herein, 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, 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 acknowledges 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 agrees as follows:

- (a) 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 Sections 126.608 et seq., *Ordinance Code*, to enter into contracts with City certified JSEBs to provide materials or services in an aggregate amount of not less than twenty percent (20%) of the DIA's maximum potential contribution to the Project as requested from time to time with respect to the development activities or operations of the Project over the term of this Agreement; and
- (b) The Developer shall submit JSEB report(s) regarding the Developer's actual use of City certified JSEBs on the Project, (i) on the date of any request for DIA funds which are payable prior to the Completion of Construction, (ii) upon Completion of Construction. The form of the report to be used for the purposes of this section is attached hereto as **Exhibit G** (the "JSEB REPORTING FORM").

Article 9.
LOAN PERIOD; REPORTING; SITE VISITS

9.1 **Taxes.**

All property, business, and income taxes must be maintained in current status (subject to extensions permitted pursuant to applicable law) throughout the term of this Agreement, and through all DPRP Loan periods.

9.2 **Reporting.**

On an annual basis, and prior to March 1 each year this Agreement is in effect, the Developer shall submit reports to the DIA regarding all activities affecting the implementation of this Agreement, including a narrative summary of progress on the Project. Developer shall also submit to the DIA its notice of ad valorem taxes paid with respect to the Project Parcel contemporaneously with such payment.

The Developer's obligation to submit such reports shall continue until the Developer has complied with all of the terms of this Agreement concerning the construction and Substantial Completion of the Project and during the term of each outstanding DPRP Loan. Within thirty (30) days following the receipt of a request of the DIA, the Developer shall provide the DIA with additional information reasonably requested by the DIA.

9.3 **Site Visits.**

After Substantial Completion and for so long as City or DIA has any payment obligations to Developer pursuant to this Agreement, Developer shall permit representatives from the City and DIA and other designated City/DIA personnel, to monitor compliance by Developer with the provisions of this Agreement. Once per calendar year, with a minimum twenty-four (24) hours' prior notice to Developer, the Project Coordinator, or his or her designee, shall have the right to tour non-public portions of the Project and access Developer's relevant business records related to the Project and this Agreement, during normal business hours, provided, however, that Developer shall have the right to have a representative of Developer present during any such inspection. Public portions of the Project, such as restaurants and retail spaces open to the public, may be visited without notice during normal operating hours of the respective businesses.

9.4 **Transfer or Refinance During DPRP Loan Period.**

DIA reserves the right in its reasonable discretion to approve any sale or disposition of the Project Parcel and/or Historic Buildings by Developer during the DPRP Loan period. If DIA fails to respond to a written request (provided consistent with Section 11.4 below) for approval of a sale or disposition within twenty (20) business days, DIA shall be deemed to have waived such approval right. DIA further reserves the right to approve any refinance of the senior debt during the DPRP Compliance Period, provided however that any refinance which does not increase the outstanding principal amount or interest rate shall be permitted without further DIA approval.

Article 10.
DEFAULTS AND REMEDIES

10.1 **General.**

A default shall consist of the breach of any covenant, agreement, representation, provision, or warranty contained in (i) this Agreement (including, but not limited to, any failure to meet the reporting requirements described herein), (ii) any documents executed by Developer in connection with this Agreement, (iii) any document provided to the DIA in connection with the underwriting and approval of to the Project, or (iv) any of the Loan Documents (collectively, the “Project Documents”). A default shall also exist if any event occurs or information becomes known which, in the reasonable judgment of the DIA, makes untrue, incorrect or misleading in any material respect any statement or information contained in any of the documents described in clauses (i) – (iv) above or causes such document to contain an untrue, incorrect or misleading statement of material fact or to omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

If any such default or breach occurs under this Agreement, the DIA may refuse to advance any further funds under this Agreement, including pursuant to any DPRP Loan and additionally, may at any time or from time to time proceed to protect and enforce all rights available to the DIA under this Agreement 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, including, but not limited to, terminating this Agreement. The DIA shall not act upon a default until it has given the Developer written notice of the default and fifteen (15) business days within which to cure the default; provided, however, that the DIA may withhold any and all funds, including pursuant to any DPRP Loan immediately upon the occurrence of a default and throughout any notice or cure period. However, if any default cannot reasonably be cured within the initial fifteen (15) business days, Developer’s time to cure the default shall be extended during such time that Developer is diligently pursuing such cure provided that such time period shall not exceed ninety (90) days, so long as Developer has commenced and is diligently proceeding to cure such default within the initial fifteen (15) business day period.

Notwithstanding the foregoing, Developer shall immediately and automatically be in default, and the DIA shall not be required to give Developer any notice or opportunity to cure such default (and thus the DIA shall immediately be entitled to act upon such default), upon the occurrence of any of the following:

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

- (b) The institution by Developer of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under the United States Bankruptcy Code or any other similar applicable federal or state law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, custodian, assignee, trustee or sequestrator (or other similar official) of the Developer or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due;
- (c) Payment defaults, or other defaults that trigger legal actions against the Applicant that endanger the lien position of the City, shall also be a default on the subject facilities provided that such defaults are not cured within ten (10) days; and
- (d) Payment defaults, bankruptcy filings, or other material defaults during the DPRP Loan period (subject in each case to any grace periods or notice and cure periods provided in this Agreement or any Project Documents) will trigger the right for the City of Jacksonville to accelerate all amounts funded and outstanding under any or all programs at such time plus a twenty percent (20%) penalty of any amounts amortized or prepaid prior to that date.

10.2 Specific Defaults.

Additionally, for any of the specific events of default described in this Section 10.2 below, the parties agree that the DIA's damages recoverable from the Developer shall include, but not be limited to, the following:

- (a) In the event reporting requirements are not met in the time period specified in this Agreement, and such failure is not cured within thirty (30) days of the date such report is required to be submitted, the DIA will be entitled to withhold all further advances for any DPRP Loan;
- (b) In the event all property, business, and income taxes are not timely paid throughout the term of this Agreement, and through all DPRP Loan periods, the DIA will be entitled to withhold all further advances for any DPRP Loan and all amortization or forgiveness on any outstanding DPRP Loans will cease until all taxes are brought current;
- (c) In the event the Developer restructures its ownership interest in the Developer entity (a "Change in Control"), sells, refinances the Project Parcel, or any portion thereof, in such a way as to remove any equity injected prior to closing, or otherwise transfers any portion of the Historic Buildings, the Project Parcel or any interest in the Developer entity, or in the event of a Change in Control, which shall be deemed to have occurred when as a result of a transfer or series of transfers, (i) more than fifty percent (50%) of the control or the beneficial ownership of any voting interests or equity interests of Developer changes, or (ii) any direct or

indirect sale, assignment, transfer, exchange or other disposition of all or any portion of a general partner's or managing member's interest in Developer, the substitution of a general partner or managing member, or the addition of a general partner or managing member, or (iii) all or substantially all of the assets of Developer are sold, assigned, transferred or conveyed (collectively, a "Sale") during the five (5) year period immediately following the date of disbursement of any DPRP Loan, the Developer shall pay to the DIA at closing of the Sale all or a portion, as applicable, of the total amount of funds disbursed under HPRR Loan and the CCR Loan with respect to the portion of the Project Parcel sold (collectively, the "Disbursed Funds") as follows:

- (i) one hundred percent (100%) of the funds actually disbursed to Developer as part of a DPRP Loan in the one (1) year prior to the Sale;
- (ii) eighty percent (80%) of the funds actually disbursed to Developer as part of a DPRP Loan between the date that is one (1) year prior to the Sale and the date that is two (2) years prior to the Sale;
- (iii) sixty percent (60%) of the funds actually disbursed to Developer as part of a DPRP Loan between the date that is two (2) years prior to the Sale and the date that is three (3) years prior to the Sale;
- (iv) forty percent (40%) of the funds actually disbursed to Developer as part of a DPRP Loan between the date that is three (3) years prior to the Sale and the date that is four (4) years prior to the Sale; and
- (v) twenty percent (20%) of the funds actually disbursed to Developer as part of a DPRP Loan between the date that is four (4) years prior to the Sale and the date that is five (5) years prior to the Sale.

In addition, if such Sale involves only a portion of the Project Parcel, all DPRP Loans outstanding with respect to the remainder of the Project Parcel may, in DIA's discretion, become immediately due and payable and all amortization will cease on any outstanding DPRP Loans.

- (d) In the event the Developer or any lessee, transferee or assignee of the Developer uses the Project for any use not contemplated by this Agreement or the DPRP Guidelines at any time on or before the fifth (5th) anniversary of the last date of any disbursement of funds to the Developer, such use has not been approved by the DIA Board, and such use continues for thirty (30) days after written notice from DIA to Developer of such violation, the full amount of the funds actually disbursed to the Developer, together with all accrued but unpaid interest thereon, shall immediately become due and payable to the DIA by the Developer. However, if any unapproved use was not authorized or permitted by Developer or its agents and cannot reasonably be cured within the initial thirty (30) days, Developer's time to cure the default shall be extended during such time that Developer is diligently pursuing

such cure, so long as Developer has commenced and is diligently proceeding to cure unapproved use within the initial thirty (30) day period;

- (e) The maximum combined repayment due under this Section 10.2 shall not exceed the total amount of the Disbursed Funds actually paid to the Developer under this Agreement.

10.3 **Performance Schedule Default.**

Notwithstanding anything in this Agreement to the contrary, in the event that the Developer fails to Commence and Substantially Complete the Project in accordance with the Performance Schedule, the Developer shall be deemed to have forfeited and waived its right to, and the DIA shall not be obligated to pay, any further amounts under this Agreement or any DPRP Loan.

Article 11. GENERAL PROVISIONS

11.1 **Non-liability of DIA Officials.**

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

11.2 **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; 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, and in no event shall any of the foregoing excuse any financial liability of a party.

In the event of any delay or nonperformance resulting from such causes, the party affected shall notify the other in writing within ten (10) calendar days after beginning to incur delays that are the result of a Force Majeure Event, but in no event later than thirty (30) days after the date of the Force Majeure Event. Such written notice shall describe the nature, cause, date of commencement, and the anticipated impact of such delay or nonperformance, shall indicate the extent, if any, to which it is anticipated that any delivery or completion dates will be thereby affected, and shall describe the actions taken to minimize the impact thereof.

11.3 **Offset.**

DIA shall have the right to offset any amount owed by Developer under or in connection with this Agreement against any payments owed by DIA under this Agreement. Such offsets shall be in addition to any other rights or remedies available under this Agreement and applicable law.

11.4 **Notices.**

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

(a) The DIA:

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

With a copy to:

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

(b) The Developer:

Laura Trio, LLC
P.O. Box 5160
Jacksonville, Florida 32247
Attn: Stephen L. Atkins

With a copy to:

Driver, McAfee, Hawthorne & Diebenow
1 Independent Drive, Suite 1200
Jacksonville, Florida 32202
Attn: Steve Diebenow

11.5 **Time.**

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

11.6 **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.

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

11.8 **Waivers.**

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

11.9 **Indemnification.**

The Developer shall indemnify, hold harmless and defend the DIA 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 DIA 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 the Developer contained or provided in connection with this Agreement; (ii) any breach or violation of any covenant or other obligation or duty of the Developer under this Agreement or under applicable law; (iii) any negligent act, error or omission, recklessness or intentionally wrongful conduct on the part of the 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 the Developer’s performance under this Agreement or relating to the Project, except to the extent caused by the sole negligence of the DIA. Nothing contained in this paragraph shall be construed as a waiver, expansion or alteration of the DIA’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 term “DIA” as used in this Section 11.9 shall include all DIA’s members, officers, officials, employees and agents.

11.10 **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.

11.11 **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.

11.12 **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 nondiscrimination provisions of Chapter 126, Part 4 of the *Ordinance Code*, provided however, that the Developer shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the day and year first above written. The Developer agrees that, if any of its obligations to be provided pursuant to this Agreement are to be performed by a subcontractor, the provisions of this Section 11.12 shall be incorporated into and become a part of the subcontract.

11.13 **Contingent Fees Prohibited.**

In conformity with Section 126.306, *Ordinance Code*, the 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 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.

11.14 **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*.

11.15 **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 DIA, to the extent the parties are aware of the same.

11.16 **Public Entity Crimes Notice.**

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

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

11.17 **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 DIA's right to conduct an audit shall survive the expiration or termination of this Agreement.

11.18 **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.

11.19 **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.

11.20 **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 a counterpart by electronic means shall be valid for all purposes.

11.21 **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 DIA. The Developer and its employees or agents shall be solely responsible for the means, method, technique, sequences and procedures utilized by the Developer in the performance of this Agreement.

11.22 **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 all funds provided by the DIA under this Agreement;
- (b) To retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Agreement for a period of six (6) years after completion of the date of final payment by the DIA under this Agreement, including auditable records pertaining to jobs filled by third-party employers. If an audit has been initiated and audit findings have not been resolved at the end of such six (6) year period, 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 DIA. Any audit of the Developer pursuant to the terms of this Section 11.22 shall not be performed by an auditing firm that is paid on a contingency basis;
- (c) Upon demand, at no additional cost to the DIA, to facilitate the duplication and transfer of any records or documents pertinent to this Agreement during the required retention period;
- (d) To assure that these records pertinent to this Agreement including any of the Developer's contracts and related records and documents, regardless of the form in which kept shall be subject at all reasonable times to inspection, review, copying, or audit by personnel duly authorized by the DIA, including but not limited to the City Council auditors;
- (e) To ensure that all related party transactions are disclosed to the DIA;
- (f) To include the aforementioned audit, inspections, investigations and record keeping requirements in all subcontracts and assignments of this Agreement;

- (g) To permit persons duly authorized by the DIA, including but not limited to the City Council auditors, to inspect and copy any records, papers, documents, facilities, goods and services of the Developer which are relevant to this Agreement, and to interview any employees and subcontractor employees of the Developer to assure the DIA of the satisfactory performance of the terms and conditions of this Agreement. Following such review, the DIA 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;
- (h) If the result of any audit by the City or DIA establishes that the amount of its Total Development Cost has been overstated by five percent (5%) or more, the entire expense of the audit shall be borne by the Developer;
- (i) Additional monies due as a result of any audit or annual reconciliation shall be paid within thirty (30) days of date of the DIA's invoice; and
- (j) Should any audit reveal that the Developer has overstated the amount of its Total Development Cost, and the Developer does not make restitution within thirty (30) days from the date of receipt of written notice from the DIA, then, in addition to any other remedies available to the DIA, the DIA may terminate this Agreement, solely at its option, by written notice to the Developer.

11.23 **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 the Project Parcel.

11.24 **Exemption of DIA.**

Neither this Agreement nor the obligations imposed upon the DIA hereunder shall be or constitute an indebtedness of the DIA within the meaning of any constitutional, statutory or charter provisions requiring the DIA to levy ad valorem taxes nor a lien upon any properties of the DIA. Payment or disbursement by the DIA of any loan or grant amount hereunder is subject to the availability of lawfully appropriated funds. If funds are not available pursuant to a lawful appropriation thereof by the City Council and/or the DIA Board as applicable, this Agreement shall be void and the DIA shall have no further obligations hereunder.

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

This is an agreement solely between the DIA and the Developer. The execution and delivery hereof shall not be deemed to confer any rights or privileges on any person not a party hereto. This Agreement shall be binding upon the Developer and the Developer's permitted successors and assigns, and shall inure to the benefit of the DIA and its successors and assigns. However, Developer shall not assign, transfer or encumber its rights or obligations hereunder or under any document executed in connection herewith including, without limitation, any and all Project Documents, without the prior written consent of the DIA, which consent may be withheld in the sole discretion of the DIA. Notwithstanding the foregoing, in the event any proposed

assignee has both development experience, and maintains a net worth equivalent to or greater than that of Developer, consent to assignment shall not be unreasonably withheld.

11.26 **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, or in the Federal District Court for the Middle District of Florida, Jacksonville Division. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement. Each party shall be responsible for the payment of its own attorneys' fees and costs incurred in connection with the enforcement of the terms of this Agreement.

11.27 **Civil Rights.**

The Developer agrees to comply with all of the terms and requirements of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1968, as amended, and the antidiscrimination provisions of Chapter 126, Part 4, of the *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.

11.28 **Further Assurances.**

Developer will, on request of the DIA,

- (a) promptly correct any defect, error or omission herein or in any document executed in connection herewith or any other Project Document;
- (b) execute, acknowledge, deliver, procure, record or file such further instruments and do such further acts deemed necessary by the DIA to carry out the purposes of the Project Documents; and
- (c) provide such certificates, documents, reports, information, affidavits and other instruments and do such further acts reasonably deemed necessary, desirable or proper by the DIA to carry out the purposes of the Project Documents and this Agreement.

11.29 **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.

11.30 **Further Authorizations.**

The parties acknowledge and agree that the Chief Executive Officer of the DIA is hereby authorized to execute any and all other contracts and documents and otherwise take all necessary action in connection with this Agreement and the Resolution.

11.31 **Estoppel Certificate.**

On twenty (20) days written request from the other party, either party shall execute and deliver to the other party an estoppel letter stating that this Agreement is: (i) unmodified and in full force and effect, or in full force and effect as modified, and stating the modification; (ii) the amount of DPRP Loans actually paid to Developer and the remaining portion of DPRP Loans for which Developer remains eligible; and (iii) that there are not, to that party's actual knowledge, any uncured defaults, or events which with the passage of time would become a default, on the part of the other party, or specifying existing defaults.

11.32 **Attorney's Fees.**

Each party shall be responsible for its own attorneys' fees and costs in connection with any legal action related to this Agreement.

11.33 **Termination.**

Notwithstanding anything contained to the contrary in this Agreement, following any termination of this Agreement by either party hereto pursuant to any right to terminate this Agreement contemplated hereunder, neither party shall owe any further obligation to the other party under this Agreement.

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

DOWNTOWN INVESTMENT AUTHORITY

By: _____

Name Printed: Lori N. Boyer

Its: Chief Executive Officer

WITNESS:

LAURA TRIO, LLC, a Delaware limited liability company

Print Name: _____

By: _____

Name: _____

Its: _____

Print Name: _____

Form Approved:

Office of the General Counsel

GC-#1435008-v13-Laura_Trio__LLC_EDA.docx

Encumbrance and funding information for internal DIA use:

Account..... _____

Amount.....\$ _____

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

City Contract # _____

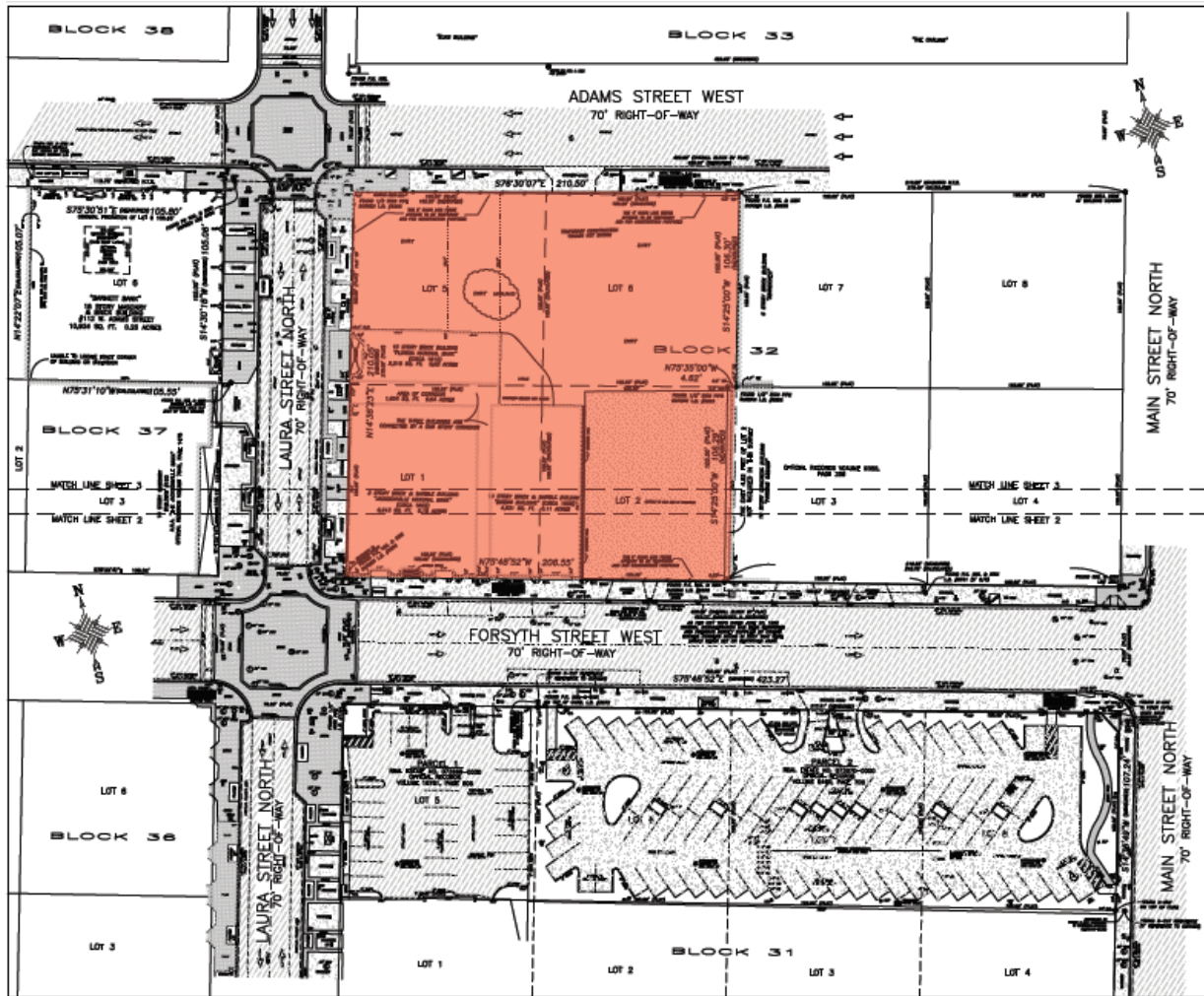
Contract Encumbrance Data Sheet follows immediately.

LIST OF EXHIBITS

- Exhibit A – Project Parcel
- Exhibit B – Bisbee Building Improvements
- Exhibit C – Florida National Bank Building Improvements
- Exhibit D – Florida Life Insurance Building Improvements
- Exhibit E – Laura St. Addition Improvements
- Exhibit F – Circulation Core Improvements
- Exhibit G – JSEB Reporting Form
- Exhibit H – Request for Loan Disbursement Form
- Exhibit I – Historic Buildings General Construction Costs
- Exhibit J – Agreement for Settlement of Fines

Exhibit A
Project Parcel

That certain real property located generally at 51 W. Forsyth Street, 47 W. Forsyth Street, 117 N. Laura Street, having R.E. # 073676-0000, and those certain, adjacent parcels of unimproved real property having R.E. # 073687-0000 and 073688-0000, all as generally shown below.



SHEET 3 (BOUNDARY)

Exhibit B

Bisbee Building Improvements

(All square footages and room counts presented are approximate from plans provided)

Redevelopment of the existing, ten-story, plus basement, forty-eight thousand four hundred eleven (48,411) square foot building located at 47 W. Forsyth Street in accordance with plans and approvals as provided by Historic Preservation Section of the City Planning and Development Department, Florida Division of Historical Resources, and the U.S. Department of the Interior, National Parks Service. Redevelopment of the historic property will adhere to design and functional elements as approved by the DDRB.

Redevelopment is to include mechanical operations in the basement, a four thousand four hundred one (4,401) square foot retail bodega on the ground floor, four thousand four hundred one (4,401) square foot conference center on the second (2nd) floor, and eight (8) floors of four thousand four hundred one (4,401) square feet each to provide seven (7) hotel rooms on each floor (fifty-six (56) rooms total), materially consistent with the outline as shown below:

| Floor | Area | Description |
|----------|-----------|----------------------|
| Basement | 4,401 SF | Mechanical |
| Floor 1 | 4,401 SF | Retail Bodega Market |
| Floor 2 | 4,401 SF | Conference Center |
| Floor 3 | 4,401 SF | 7 Typical Rooms |
| Floor 4 | 4,401 SF | 7 Typical Rooms |
| Floor 5 | 4,401 SF | 7 Typical Rooms |
| Floor 6 | 4,401 SF | 7 Typical Rooms |
| Floor 7 | 4,401 SF | 7 Typical Rooms |
| Floor 8 | 4,401 SF | 7 Typical Rooms |
| Floor 9 | 4,401 SF | 7 Typical Rooms |
| Floor 10 | 4,401 SF | 7 Typical Rooms |
| Totals | 48,411 SF | 56 Rooms |

Exhibit C

Florida National Bank Building Improvements

(All square footages and room counts presented are approximate from plans provided)

Redevelopment of the existing two-story building plus basement located at 51 W. Forsyth Street with approximately eighteen thousand two hundred sixteen (18,216) square feet total in accordance with plans and approvals as provided by Historic Preservation Section of the City Planning and Development Department, Florida Division of Historical Resources, and the U.S. Department of the Interior, National Parks Service. Redevelopment of the historic property will adhere to design and functional elements as approved by the DDRB.

Redevelopment to include a seven thousand four hundred forty-two (7,442) square foot private dining/wine cellar space in the basement, a seven thousand sixty-nine (7,069) square foot restaurant on the first (1st) floor with additional three thousand six hundred fifteen (3,615) square feet of restaurant operating space on the mezzanine level, materially consistent with the outline as shown below:

| Floor | Area | Description |
|----------|-----------|----------------------------|
| Basement | 7,442 SF | Private Dining/Wine Cellar |
| Floor 1 | 7,069 SF | First floor (Restaurant) |
| Floor 2 | 3,615 SF | Mezzanine (Restaurant) |
| Totals | 18,216 SF | |

Exhibit D

Florida Life Insurance Building Improvements

(All square footages and room counts presented are approximate from plans provided)

Redevelopment of the existing eleven-story building plus basement located at 117 N. Laura Street with approximately twenty-six thousand eight hundred three (26,803) square feet total in accordance with plans and approvals as provided by Historic Preservation Section of the COJ Planning and Development Department, Florida Division of Historical Resources, and the U.S. Department of the Interior, National Parks Service. Redevelopment of the historic property will adhere to design and functional elements as approved by the DDRB.

Redevelopment to include a two thousand five hundred forty-eight (2,548) square foot media theater in the basement, two thousand two hundred five (2,205) square foot lobby/business center on the ground floor, two thousand two hundred five (2,205) square foot fitness/media center on the second (2nd) floor, and eight (8) floors of two thousand two hundred five (2,205) square feet each to provide four (4) hotel rooms on each floor, and on the eleventh (11th) floor, two thousand two hundred five (2,205) square feet to provide three (3) hotel rooms (thirty-five (35) rooms total), materially consistent with the outline as shown below:

| Floor | Area | Description |
|----------|-----------|-----------------------|
| Basement | 2,548 SF | Media Theater |
| Floor 1 | 2,205 SF | Lobby/Business Center |
| Floor 2 | 2,205 SF | Fitness/Media Center |
| Floor 3 | 2,205 SF | 4 Typical Rooms |
| Floor 4 | 2,205 SF | 4 Typical Rooms |
| Floor 5 | 2,205 SF | 4 Typical Rooms |
| Floor 6 | 2,205 SF | 4 Typical Rooms |
| Floor 7 | 2,205 SF | 4 Typical Rooms |
| Floor 8 | 2,205 SF | 4 Typical Rooms |
| Floor 9 | 2,205 SF | 4 Typical Rooms |
| Floor 10 | 2,205 SF | 4 Typical Rooms |
| Floor 11 | 2,205 SF | 3 Typical Rooms |
| Totals | 26,803 SF | 35 Rooms |

Exhibit E

Laura St. Addition Improvements

(All square footages and room counts presented are approximate from plans provided)

New construction to develop a mixed-use retail and hotel property with seven (7) occupied stories with eight thousand eight hundred forty-three (8,843) square feet of retail space on the ground floor, and six (6) floors of four thousand six hundred fifty (4,650) square feet providing nine (9) hotel rooms per floor. A four thousand six hundred fifty (4,650) square foot roof top bar will be constructed on the eighth (8th) floor, materially consistent with the outline as shown below:

| Floor | Area | Description |
|---------|-----------|-----------------|
| Floor 1 | 8,843 SF | Retail |
| Floor 2 | 4,650 SF | 9 Typical Rooms |
| Floor 3 | 4,650 SF | 9 Typical Rooms |
| Floor 4 | 4,650 SF | 9 Typical Rooms |
| Floor 5 | 4,650 SF | 9 Typical Rooms |
| Floor 6 | 4,650 SF | 9 Typical Rooms |
| Floor 7 | 4,650 SF | 9 Typical Rooms |
| Floor 8 | 4,650 SF | Roof Top Bar |
| Totals | 41,393 SF | 54 Rooms |

Exhibit F

Circulation Core Improvements

(All square footages presented are approximate from plans provided)

New construction to include eleven (11) floors with two thousand twelve (2,012) square feet of additional lobby space on the first (1st) floor, and ten (10) floors of one thousand six hundred seventy-five (1,675) square feet with not less than two (2) elevators and one (1) stairway as necessary to provide circulation between each of the Historic Buildings and the Laura St. Addition Improvements.

| Floor | Area | Description |
|----------|-----------|-------------------|
| Floor 1 | 2,012 SF | Lobby-Circulation |
| Floor 2 | 1,675 SF | Circulation |
| Floor 3 | 1,675 SF | Circulation |
| Floor 4 | 1,675 SF | Circulation |
| Floor 5 | 1,675 SF | Circulation |
| Floor 6 | 1,675 SF | Circulation |
| Floor 7 | 1,675 SF | Circulation |
| Floor 8 | 1,675 SF | Circulation |
| Floor 9 | 1,675 SF | Circulation |
| Floor 10 | 1,675 SF | Circulation |
| Floor 11 | 1,675 SF | Circulation |
| Totals | 18,762 SF | |

**Exhibit G
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 |
|-----------------------|-----------------|---|-----------------------|-----------------|---------------------|-----------------------------|
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| | | (1) AA – African American | (2) Examples: Masonry | | | |
| | | HANA – Hispanic, Asian, Native American | Painting | | | |
| | | WBE – Women | Site Clearing | | | |
| | | C - Caucasian | Electrical | | | |

Exhibit H

REQUEST FOR LOAN DISBURSEMENT FORM

Developer Name: _____ Phase Number: _____

Address: _____ Document Number: _____

_____ Date Submitted: _____

Phone: _____ Tax ID #: _____

Historic Building Name: _____

Historic Building Address: _____

DEVELOPER PAYMENT REQUEST Total documented Project Cost (for this Phase): _____

| <u>Type of Eligible Expenditure</u> | <u>Amount of Eligible Expenses Submitted for this Phase</u> | <u>Eligible Percentage</u> | <u>Allowable Amount for this Phase</u> |
|---|---|----------------------------|--|
| Exterior Rehabilitation & Restoration _____ | | x 75% | _____ |
| Interior Restoration _____ | | x 75% | _____ |
| Interior Rehabilitation _____ | | x 30% | _____ |
| General Requirements & Overhead _____ | | x 20% | _____ |
| Code Compliance _____ | | x 75% | _____ |

Total Amount Requested in this Phase: _____

- 1 Loan funds received to date (all Phases): _____
- 2 Loan funds previously requested but not yet received: _____

Loan disbursements will be provided only after 100% completion of the Improvements for the applicable Project Phase. Once such Improvements are 100% complete, a final inspection by the Historic Preservation Section must be performed.

Developer:

I hereby request an inspection to receive a final loan disbursement in the amount of \$_____. I certify that I have satisfactorily completed the necessary work to justify this request and that all bills incurred for labor used and materials furnished in making said repairs and improvements have been paid in full to this date.

Attached is a description of the work completed, the amount of payment requested by work item and such invoices, receipts, cancelled checks (or evidence that payment has cleared the Developer's banking account), and other documents required by the DIA evidencing that the costs and expenses were actually incurred and paid for by the Developer and were expended on and pertain to the work.

Exhibit I

Historic Buildings General Construction Costs

CONSTRUCTION SUMMARY (by Building)

| Scope | Marble Bank | Bisbee | Florida Life |
|---------------------------|--------------------|---------------------|---------------------|
| 01/ FOUNDATIONS | \$0 | \$108,406 | \$105,277 |
| 02/ SUB-STRUCTURE | \$0 | \$126,770 | \$91,637 |
| 03/ SUPERSTRUCTURE | \$289,800 | \$1,966,548 | \$916,376 |
| 04/ SKIN | \$1,214,955 | \$2,147,338 | \$1,667,420 |
| 05/ ROOFING | \$165,500 | \$129,575 | \$124,575 |
| 06/ INTERIOR | \$688,364 | \$1,251,035 | \$785,688 |
| 07/ CONVEYING SYSTEMS | \$125,000 | \$501,104 | \$501,104 |
| 08/ MECHANICAL SYSTEMS | \$743,606 | \$3,061,321 | \$1,965,760 |
| 09/ ELECTRICAL | \$250,824 | \$1,581,295 | \$1,316,422 |
| 10/ SPECIALTIES | \$0 | \$22,945 | \$17,805 |
| 11/ SITEWORK | \$0 | \$0 | \$0 |
| 12/ GENERAL REQUIREMENTS | \$731,875 | \$1,833,077 | \$1,461,425 |
| 13/ SPECIAL CONSTRUCTION | \$881,190 | \$1,041,073 | \$259,720 |
| SUB-TOTAL | \$5,091,115 | \$13,770,487 | \$9,213,208 |
| CONSTRUCTION INSURANCES | \$135,173 | \$401,764 | \$274,557 |
| SDI INSURANCE | \$47,729 | \$129,098 | \$86,374 |
| CONSTRUCTION FEE | \$237,331 | \$643,561 | \$430,836 |
| SUB-TOTAL | \$5,511,348 | \$14,944,910 | \$10,004,975 |
| CM CONTINGENCY | \$551,135 | \$1,494,491 | \$1,000,497 |
| SPECIAL ALLOWANCES | | | |
| CONSTRUCTION TOTAL | \$6,062,483 | \$16,439,401 | \$11,005,472 |

Exhibit J

Agreement for Settlement of Fines

Case No: 2012-57406 (MCEB # 120490)

Address: 51 W. Forsyth Street (Laura St. Trio Property)

**AMENDED AND RESTATED AGREEMENT FOR SETTLEMENT OF FINES
IMPOSED BY THE MUNICIPAL CODE
ENFORCEMENT BOARD/SPECIAL MAGISTRATE**

THIS AGREEMENT FOR SETTLEMENT OF FINES IMPOSED BY THE MUNICIPAL CODE ENFORCEMENT BOARD/SPECIAL MAGISTRATE (“Agreement”) is made this ___ day of _____, 2021, by and between the **CITY OF JACKSONVILLE** (“City”), and **LAURA TRIO, LLC**, a Delaware limited liability company (“Owner”).

R E C I T A L S

A. Owner owns certain real property (the “Property”) which Property is subject to a fine imposed by the Special Magistrate/Board under the authority of Florida Statutes Chapter 162, and Chapter 91, *Ordinance Code*, for certain violations of Chapter 518, *Ordinance Code*, as more specifically described in the order imposing the fine, which order is recorded in the public records of Duval County, Florida, and the City and Owner previously entered into an agreement for settlement of fines imposed by the municipal code enforcement board/special magistrate, dated August 30, 2017 (the “Prior Agreement”).

B. On even date herewith, City and Owner have entered into a new redevelopment agreement governing the Improvements (the “Redevelopment Agreement”) and the parties hereto desire to amend and restate the Prior Agreement in its entirety to align the performance dates in the Prior Agreement with the performance schedule set forth in the Redevelopment Agreement.

C. Pursuant to Section 162.09(3), Florida Statutes, a fine imposed pursuant to Chapter 162, Florida Statutes shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to that section, whichever occurs first.

D. Owner wishes to obtain a reduction or rescission of the fine in order to purchase the Property or obtain financing to make repairs to the Property in order to rehabilitate the Property and bring said Property into compliance with the standards set forth in Chapter 518, *Ordinance Code* (the “Property Safety Code”). Owner understands that pursuant to paragraph B above, the City is unable to release the fine until such time as the property is in compliance with the Property Safety Code.

E. In order to facilitate the process of achieving compliance, the Owner wishes to enter into this Agreement so that Owner will have a commitment from City as to the amount necessary for reduction or release of the fine once the Property is rehabilitated and brought into compliance.

NOW THEREFORE, for the mutual covenants granted herein and other good and valuable consideration which is hereby acknowledged, the parties agree to the following:

1. **Purpose of Agreement.** The purpose of this Agreement is to state the terms and conditions to be fulfilled by Owner and City for the reduction and/or rescission of the fine imposed against the property upon completion of all repairs necessary to bring the Property into compliance with the Property Safety Code. City acknowledges that Owner will substantially rely on the various agreements and commitments of City contained in this Agreement and will incur substantial expense in realization of the activities contemplated under the terms of this Agreement. Owner acknowledges that City will substantially rely upon its performance and will either release or reduce the fine in realization of this Agreement.

2. **Permitting of Improvements.** If required by the Municipal Code Compliance Division, within thirty-six (36) months of the execution of this Agreement, Owner shall provide to City a copy of the plans and specifications (“Plans and Specifications”) and any permits necessary to rehabilitate the property or complete the repairs (the “Improvements”) in order to bring the Property into compliance with the Property Safety Code and any other applicable codes, including, but not limited to the Florida Building Code. If Owner does not receive the final permits referenced in this section within thirty-six months of execution of this Agreement, then City, through the Chief of the Municipal Code Compliance Division, may agree to extend the time period for Owner receiving these permits; otherwise, this Agreement shall be terminated.

3. **Completion of Improvements.**

(a) The Owner shall receive conditional approval to commence construction on the Part 2 application from the National Park Service (“NPS”) within one year from the application filing dated as of January 14, 2021.

(b) The Owner shall apply for final approval from DDRB within sixty (60) days of the date of receiving Part 2 conditional approval to commence construction from NPS.

(c) The Owner shall apply for a building permit from the City as necessary for the Commencement of vertical construction of the Improvements (“Building Permit”) within sixty (60) days following final approval for the Improvements from DDRB.

(d) The Owner shall Commence Construction of the Improvements within ninety (90) days of receipt of the Building Permit. Owner shall provide written notice to City within five (5) days of the actual Commencement of Construction date (the “Commencement Date”) and provide supporting documentation to that effect. Owner shall diligently and in good faith pursue completion of the Improvements, in accordance with any approved Plans and Specifications, in accordance with all permits necessary to complete the Improvements, and in accordance with Chapter 518, Ordinance Code and any other applicable regulations

(e) The Improvements shall be Substantially Completed within thirty-six (36) months from the Commencement Date (the “Completion Date”), in accordance with the terms and conditions of this Agreement and the Plans and Specifications. The Chief Executive Officer (“CEO”) shall have the authority to extend the foregoing performance schedule for up to six (6) months for good cause shown by the Owner, in the CEO’s sole discretion.

The Improvements shall be deemed substantially complete when the Chief of the Municipal Code Compliance Division or his or her designee certifies to Owner and City that the construction of the Improvements has been substantially completed in accordance with Chapter 518, *Ordinance Code*, and any Plans and Specifications, and such date shall be deemed the "Compliance Date." Owner shall notify City of the anticipated Completion Date at least thirty (30) days prior to such anticipated Completion Date.

4. **Settlement or Release of Fine(s)/Lien(s)**. After the Compliance Date, City hereby agrees that it shall execute a satisfaction or release of the Special Magistrate/Board order recorded against the Property in exchange for payment in the amount of \$10,000 (compliance within 60 months) (hereinafter, the "Settlement Amount"). If not already paid in connection with the Prior Agreement, at the time of execution of this Agreement, Owner shall deliver to City full payment of the Settlement Amount in either a cashier's check or certified funds. No later than thirty (30) days after the Compliance Date, City shall deliver to Owner a release or satisfaction of the Municipal Code Enforcement Board order recorded against the Property. Owner acknowledges that if the Property is not brought into compliance within 60 months from the date of this Agreement, all rights and obligations under this Agreement shall terminate. Owner acknowledges that the Settlement Amount is non-refundable.

5. **Conditions**. While the structure located on the Property is under rehabilitation it shall be kept safe and secured. The Property shall also be kept free of rubbish and excessive overgrowth of weeds and shrubbery.

6. **Assignment**. Owner may assign the rights and obligations under this Agreement to another person or entity that will serve substantially the same role as Owner. Such assignment by the Owner may only occur upon the written consent of City, not to be unreasonably withheld. Upon any assignment under this section, the assignor(s) shall be fully released from any and all liability under this Agreement.

7. **Default**. If, at any time during the term of this Agreement, it shall come to the attention of City that Owner is not performing its obligations under this Agreement, City may, at its option, proceed as follows:

a. Terminate this Agreement and proceed with action to abate the nuisance/unsafe conditions and impose a lien against the Property; or

b. Terminate this Agreement and refer the case to the Special Magistrate/Board which has the authority to impose fines of up to \$250.00 per day for each day the violation(s) continue (\$500.00 per day for repeat offenders).

8. **Miscellaneous**.

8.1 **Notices**. For purposes of this Agreement, all notices provided herein shall be sent certified mail, return receipt requested, by hand delivery, by overnight courier, or by facsimile machine with receipt confirmed, to the address referenced below:

If to the City: Chief, Municipal Code Compliance
City of Jacksonville

214 N Hogan Street, 1st Floor
Jacksonville, Florida 32202

If to Owner: Laura Trio, LLC
P.O. Box 5160
Jacksonville, FL 32247
Attn: Stephen L. Atkins

With a copy to: Driver, McAfee, Hawthorne & Diebenow
1 Independent Drive, Suite 1200
Jacksonville, Florida 32202
Attn: Steve Diebenow

8.2 **Agreement Format.** All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

8.3 **Execution of Agreement.** This Agreement may be simultaneously executed in two or more counterparts, each of which shall be deemed an original.

8.4 **Entire Agreement/Non-Waiver/Amendment.** This Agreement constitutes the complete agreement between the parties with respect to its subject matter and all antecedent or contemporaneous negotiations, undertakings, representations, warranties, inducements and obligations are merged into this Agreement and superseded by its delivery. No provision of this Agreement may be waived unless such waiver is set forth in writing signed by the party to be charged and this Agreement otherwise may be modified or amended only by a written instrument signed by Owner and City.

8.5 **Third Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

8.6 **Force Majeure.** Neither party shall be liable for its failure to perform hereunder if its performance is rendered impossible by any act, event or condition beyond its reasonable control which by the exercise of due diligence it shall be unable to overcome. Such acts, events or conditions shall include, but not be limited to, the following:

- (a) strike, work stoppage or slowdown;
- (b) acts of God (except normal weather conditions for the Jacksonville, Florida area), hurricane, tornado, lightning or earthquake;
- (c) acts of war, civil insurrection or terrorism;
- (d) fire or flood not caused by the party unable to perform; or
- (e) any unforeseeable causes, as determined in the sole discretion of the Chief, Municipal Code Compliance Division.

- (f) Any authorized event of Force Majeure under that certain Redevelopment Agreement executed on even date herewith among the City, Downtown Investment Authority, Owner, and Barnett Tower, LLC shall constitute an event of force majeure under this Agreement.

8.7 **Severability**. If any part of this Agreement is finally found by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue to be enforceable.

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date set forth above.

ATTEST:

“CITY”

CITY OF JACKSONVILLE, a municipal corporation and a political subdivision of the State of Florida

James R. McCain, Jr.
Corporation Secretary

By: _____
Lenny Curry, Mayor

“OWNER”

LAURA TRIO, LLC

By: _____

Name: _____

Its: _____

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this ___ day of _____, 2021, by _____ the _____ of Laura Trio, LLC, a Delaware limited liability company, on behalf of the Company. He/She (*check one*) is personally known to me or has produced a valid driver’s license as identification.

Notary Public, State of Florida
Name: _____
My Commission Expires: _____
My Commission Number is: _____

Form Approved:

Office of the General Counsel