

**AMENDMENT FOUR TO CECIL COMMERCE CENTER LEASE AGREEMENT
BETWEEN
THE CITY OF JACKSONVILLE
AND
CECIL FIELD POW/MIA MEMORIAL, INC.**

THIS AMENDMENT FOUR to Lease (the “Amendment Four”) is made and entered into effective as ____ day of _____, 2023 (the “Effective Date”), by and between the CITY OF JACKSONVILLE (the “Landlord”), a municipal corporation and political subdivision of the State of Florida, and CECIL FIELD POW/MIA MEMORIAL, INC., a Florida not-for-profit corporation (the “Tenant”), with offices located at 6112 POW-MIA Memorial Parkway, Jacksonville, Florida, 32221 (formerly, 5628 Wolf Creek Drive, Jacksonville, Florida 32222.)

RECITALS:

WHEREAS, Landlord and Tenant entered into that certain Cecil Commerce Center Lease Agreement dated October 2, 2017, City Contract number 10460 (the “Original Lease”), which was amended by that certain Amendment One to Cecil Commerce Center Lease Agreement dated August 21, 2018 (“Amendment One”), and further amended by that certain Amendment Two to Cecil Commerce Center Lease Agreement dated March 1, 2021 (“Amendment Two”), and further amended by that certain Amendment Three to Cecil Commerce Center Lease Agreement dated December 16, 2021 (“Amendment Three”, and together with the Original Lease, Amendment One, and Amendment Two, the “Lease”) for the lease by Tenant of certain property within the Cecil Commerce Center, as further detailed in the Lease; and

WHEREAS, Landlord and Tenant desire to amend the Lease to provide for the extension of the Lease Term and of the Ground Parcel Vertical Construction deadlines, and other modifications to the Lease according to the terms, covenants and conditions as more particularly set forth herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, Landlord and Tenant agree as follows:

1. *Recitals*. The Recitals set forth above are true and correct and are incorporated as if fully set forth herein.
2. *Definitions*. Capitalized terms shall have the meanings ascribed to such terms in the Lease unless otherwise defined herein.
3. *Renewal Option*. Section 1.8 of the Lease is hereby deleted.
4. *Term*. Section 1.10 of the Lease is hereby deleted in its entirety and replace with the following language;

“Section 1.10. **Term**. The term of this Lease shall commence on the Effective Date and shall expire at noon on March 31, 2043, unless earlier terminated as provided for herein (the “Term”), with no renewal options.

5. *Base Rent.* Section 3.1 of the Lease is hereby deleted in its entirety and replace with the following language:

“3.1. **BASE RENT.** The Base Rent for the Premises is \$1.00 per year, payable in an annual installment plus applicable Florida Sales tax of 7%, upon delivery of the Premises, as set forth in Article 2.3, which shall take place on the Effective Date, and on or before the first (1st) day of each and every year thereafter during the Term of this Lease without notice, set off, deduction or demand (individually, a “Annual Base Rent” and collectively, the “Annual Base Rents”). Commencing April 1, 2023, Lessee shall pay \$2,400.00 per year Common Area Maintenance fee at the rate of \$200.00 per month, plus applicable State of Florida and Duval County Sales tax. Tenant shall pay each Annual Base Rent and the annual installment of the Common Area Maintenance fee by check made payable to “City of Jacksonville” and deliver the same to Landlord at the following address: City of Jacksonville, c/o Office of Economic Development, Attention: Finance and Compliance, 117 W. Duval Street, Suite 275, Jacksonville, Florida 32202. If the Effective Date is on a day other than the first day of a calendar month, then the Annual Base Rent and annual installment of the Common Area Maintenance fee for such calendar month shall be prorated on a daily basis.”

6. *Vertical Construction on Ground Parcel.* Sections 7.1 and 7.2 of the Lease are hereby deleted in their entirety and replaced with the following language;

“7.1 **VERTICAL CONSTRUCTION ON GROUND PARCEL.** Commencing April 1, 2023, and upon written notice from Tenant to Landlord, including evidence satisfactory to Landlord in its reasonable discretion that all preconditions, as defined herein, have been met, Tenant shall have the right to construct, at its sole cost and expense, a building of no less than 30,000 square feet on the Ground Parcel which will serve as the Memorial Hall and will support the completion of the POW/MIA Memorial and Museum (the “Project”). The preconditions for Tenant to be eligible to commence vertical construction on the Ground Parcel are as follows:

All of the required tenant renovations hereunder have been completed and Tenant is otherwise in compliance with all of its obligations in connection with this Lease and there are no Tenant defaults, or events that with notice or passage of time, or both, would constitute an Event of Default;

Tenant shall provide its pro forma, business plan, project budgets, fund-raising documentation, bank accounts, loan commitments, final plans and specifications, construction contract(s), and other documentation and information reasonably requested by Landlord to demonstrate to the reasonable satisfaction of Landlord that it has the financial wherewithal to commence and substantially complete construction of a facility on the Ground Parcel to be used as a Cecil Field POW/MIA Memorial and museum within two years from the Preliminary Commencement Date (as such date may be extended pursuant to Section 7.2(a)) as evidenced by a final certificate of occupancy or its equivalent for such uses of the Project building.

If Tenant is unable to demonstrate by December 31, 2027 that it has the necessary financial resources to commence and complete the Project as set forth herein, then Landlord, at its option, may terminate this Lease.

7.2 Performance Schedule. Subject to the terms and conditions of this Lease, Tenant and City have jointly established the following dates for the design, engineering, permitting and construction of the Project (herein called the “Performance Schedule”):

(a) “Commencement of Construction” shall be no later than six (6) months from the date written notice is received from Tenant in accordance with Section 7.1. The terms "Commence" or "Commenced" or "Commencing" Construction as used herein when referencing the Project means the date when Tenant (i) has obtained all permits for the construction of the Project, and (ii) has “broken ground” and begun physical, material construction (e.g., removal of vegetation or site preparation work or such other evidence of commencement of construction as may be approved by the City in its discretion) of the Project on an ongoing basis without delay. Notwithstanding the foregoing, so long as Tenant has diligently pursued all required permits and approvals, if Tenant has not procured such required permits and approvals on or before June 30, 2028, the Commencement of Construction shall be extended to such date as is sixty (60) days after the required permits and approvals are obtained, which date shall not be later than June 30, 2029.

(b) Completion of Construction shall be no later than eighteen (18) months from the Commencement of Construction date, as evidence by a certificate of occupancy or legal equivalent for the Project. Notwithstanding the foregoing, in the event the Project is delayed at no fault of the Tenant and remains under construction at the end of the eighteen (18) month period, Tenant shall have the option to extend the completion deadline by a period of up to six (6) months, for good cause shown by the Tenant (the “Extension Option”). Such request shall be made by the Tenant in writing to the OED and shall be granted at the reasonable discretion of the Economic Development Officer of the OED.

Failure of Tenant to comply with the Performance Schedule as set forth herein shall be an Event of Default under this Lease.”

7. *Events of Default.* Section 19.1 of the Lease is hereby amended to add a new subparagraph (h) as follows:

“(h) Tenant fails to meet the Performance Schedule deadlines as detailed in Section 7.2 herein.”

8. *Landlord’s Remedies.* Section 19.2 of the Lease is hereby amended to add a new subparagraph (d) as follows:

“(d) in the event Vertical Construction has not commenced in accordance with the Performance Schedule, the Landlord shall have the right to retake possession of the entire Ground Parcel.”

9. *Exhibit A. Premises.* **Exhibit A** of the Lease is amended to reflect that a survey legal description of the Ground Parcel shall be inserted once available.
10. *Brokerage.* Tenant represents and warrants that it has neither consulted nor negotiated with any broker or finder with respect to the Premises and/or this Amendment Four. Landlord shall not pay any commissions or fees that payable to any brokers or finders with respect to this Amendment Four. Tenant shall indemnify and hold Landlord harmless from any and all damages resulting from claims that may be asserted against indemnified party by any broker(s), finder(s) or other person, claiming to have represented Tenant in connection with this Amendment Four or any amendment or extension hereto, or which may result in Tenant leasing other or enlarged space from Landlord. The provisions of this Section shall survive the termination of the Lease.
11. *Counterparts; Electronic Submission.* This Amendment Four may be executed in one of more counterparts, each of which shall be deemed an original. The signatures to this Amendment Four may be executed on separate pages, and when attached to a counterpart of Amendment Four, shall constitute one complete document. Delivery of an executed counterpart by electronic transmission shall have the same effect as delivery of an original ink counterpart.
12. *Ratification.* The Lease remains in full force and effect except as expressly modified by this Amendment Four and is ratified and confirmed. If there is a conflict between the terms of the Lease and this Amendment Four, the terms of this Amendment Four shall control. Tenant further acknowledges that it has no claims, counterclaims, defenses or setoffs against Landlord or Landlord's property manager arising in connection with the Lease or Tenant's occupancy of the Premises, including, without limitation, in connection with any amounts paid by Tenant to Landlord, throughout the Term of the Lease, for Tenant's share of expenses associated with the management and operation of the property.

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

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment Four by their duly authorized representatives to be effective as of the Amendment Four Effective Date.

ATTEST:

CITY OF JACKSONVILLE, FLORIDA

By: _____

James R. McCain, Jr.
Corporation Secretary

By: _____

Lenny Curry, Mayor

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; and that provision has been made for the payment of monies provided therein to be paid.

Director of Finance
Amendment Four to Lease

Form Approved (as to Landlord only):

Office of General Counsel

WITNESS:

CECIL FIELD POW/MIA MEMORIAL, INC., a
Florida not-for-profit corporation

By: _____

Name: _____

By: _____

Name: _____

Title: _____

Exhibit A

Premises

(updated survey and legal description to be inserted upon completion)