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COUNCIL MEMBER GAFFNEY
FINANCE COMMITTEE AMENDMENT TO 2022-0163

Lease of 300 East Forsyth Lot (the "Premises")

1. Amend the Lease Agreement (the "Lease") between the Downtown Investment Authority and Churchwell Lofts at East Bay Condominium Association, Inc. ("Tenant") to reflect that, in consideration for Tenant's performance of all maintenance, repair and replacement obligations to the Premises during the period from October 1, 2021 through the effective date of the Lease, the Tenant will receive a rent credit in the amount of \$592.00 for each month during such period. This rent credit is to be applied to rent coming due under the Lease.

LEASE AGREEMENT

THIS **LEASE AGREEMENT** is entered into this ____ day of _____, 2022 (the "Effective Date"), by and between the **DOWNTOWN INVESTMENT AUTHORITY**, a community redevelopment agency on behalf of the City of Jacksonville (the "Landlord"), whose address is 117 West Duval Street, Jacksonville, Florida 32202, and **CHURCHWELL LOFTS AT EAST BAY CONDOMINIUM ASSOCIATION, INC.**, a Florida not-for-profit corporation whose address is 301 East Bay Street, Jacksonville, Florida 32202 ("Tenant").

WITNESSETH:

WHEREAS, Tenant is currently occupying the approximately 0.38 acre parcel located at the northeast corner of the intersection of North Market and East Forsyth Streets, Jacksonville, Florida 32202, and more particularly described on **Exhibit A** attached hereto, together with all improvements located thereon, (the "Premises") as a holdover tenant pursuant to that certain Lease and Operating Agreement dated as of September 30, 2011 between Tenant and the City of Jacksonville (the "Original Lease");

WHEREAS, the Original Lease expired on September 30, 2021 and Tenant has been paying a monthly lease rate of \$2,160.00 per month (plus applicable sales tax) during the period from October 1, 2021 through the Effective Date (the "Holdover Period"); and

WHEREAS, the DIA Board approved Resolution 2021-10-04 at its October 20, 2021, regularly scheduled meeting to allow for a 30-day public notice of disposition in accordance with the Negotiated Notice of Disposition Process adopted by DIA and consistent with Florida Statutes and the Ordinance Code, and no alternative proposals were received; and

WHEREAS, Tenant has continued to use and occupy the Premises on a month-to-month lease basis since the date the Original Lease expired; and

WHEREAS, Tenant has requested the Landlord to enter into this Lease so that it can continue to use and occupy the Premises for the Permitted Use (as hereinafter defined).

NOW, THEREFORE, for and in the consideration of one and 00/100 dollars (\$1.00) in hand paid each respective party to the other and other good/valuable considerations including, but not limited to, the covenants, conditions and terms hereof, the sufficiency and receipt of said good/valuable considerations being herewith acknowledged by the respective parties, the Landlord and Tenant stipulate and agree as follows:

Section 1. Recitals.

The recitals set forth herein are accurate, correct and true and incorporated herein by this reference.

Section 2. Authority.

The DIA was created by the City Council of the City of Jacksonville pursuant to Ordinance 2012-364-E. Pursuant to Chapter 163, Florida Statutes, and Section 55.104,

Ordinance Code, the DIA is the sole development and community redevelopment agency for Downtown, as defined by Section 55.105, Ordinance Code and has also been designated as the public economic development agency as defined in Section 288.075, Florida Statutes, to promote the general business interests in Downtown. The DIA has approved this Agreement pursuant to its Resolution 2021-10-04 (the "Resolution") and the City Council has authorized execution of this Agreement pursuant to City Ordinance 2022-____-E (the "Ordinance").

Section 3. Maximum Indebtedness/Availability of Funds.

The maximum indebtedness of the Landlord for all fees, reimbursable items or other costs pursuant to this Lease, shall not exceed the sum of \$0.00. The Landlord's obligations under this Lease are contingent upon availability of lawfully appropriated funds for this Lease.

Section 4. Definitions.

As used in this Lease, the words defined immediately below shall have the meaning stated next to same. Words imparting the singular number include the plural number and vice versa, the male gender shall include the female gender and vice versa, unless the context clearly requires otherwise.

4.1 "Building" means the Churchwell Lofts Condominium building located at 301 East Bay Street, Jacksonville, Florida, consisting of approximately 21 residential condominium units and ground floor retail space.

4.2 "City" means the City of Jacksonville, Florida, a municipal corporation and political subdivision established by and existing under Chapter 67-1320, Laws of Florida, as amended and supplemented, and other provisions of law, whose offices and address are situated at City Hall at St. James, 117 West Duval Street, Suite 400, Jacksonville, Florida 32202.

4.3 "Governmental Requirement" means any permit, law, statute, code, rule, regulation, ordinance, order, judgment, decree, writ, injunction, franchise, condition, certificate, license, authorization, policy, or other direction or requirement of the City or any governmental and/or regulatory federal, state or local entity with jurisdiction over the City, Tenant and/or the Premises. Governmental Requirements shall include all applicable, relevant, or appropriate Florida Statutes and City Ordinances including, without limitation, any regulation found in Florida Administrative Codes or regulations; and all Florida Statutes, City Ordinances and regulations or rules now existing or in the future enacted, promulgated, adopted, entered, or issued, both with and outside present contemplation of the respective parties to this transaction.

4.4 "Hazardous Materials" means any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, asbestos, radon, petroleum products, hazardous or toxic substances or related materials including, without limitation, those defined in:

- a. The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq.);
- b. The Hazardous Materials Transportation Act, as amended (42 U.S.C. §1808 et seq.);

c. The Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §6901 et seq.);

d. Regulations adopted and publications promulgated pursuant to the foregoing;

e. Any other Governmental Requirement; and

f. Any other material, of which its use, release, disposal, or presence may result in liability under any Government Requirement or common law action.

4.5 “Lease” means collectively this Lease Agreement and any and all exhibits thereto including any amendments or addendums, which may supplement, modify or amend same now or in the future.

4.6 “Lease Term” means a term of five (5) years commencing on the Effective Date, and terminating on the last day of the month in which the fifth (5th) anniversary of the Effective Date occurs, subject to adjustment and earlier termination as provided in the Lease. The Lease Term may be extended upon mutual consent of the Tenant and Landlord for an additional term of five (5) years pursuant to Section 8 below.

4.7 “Section” means the numerical Sections of this Lease and the respective subsections thereof. Each respective Section begins with a numerical number and a capitalized heading of the Section, which is underlined to indicate the subject matter thereof.

4.8 “Tenant” means Churchwell Lofts at East Bay Condominium Association, Inc., a not-for-profit corporation.

Section 5. Representations, Warranties, Validity and Binding Effect.

Tenant represents, warrants and agrees as follows as of the date hereof:

5.1 Tenant is a Florida not-for-profit corporation, duly organized, validly existing and in good standing under the laws of the State of Florida with full legal right, power and authority to conduct its operations substantially as presently conducted, and to execute, deliver and perform its obligations under this Lease.

5.2 Tenant has duly authorized the execution and delivery of this Lease, and such company authorization remains in full force and effect and has not been revoked or modified in any respect whatsoever.

5.3 This Lease is a legal, valid and binding obligation of Tenant, enforceable against Tenant in accordance with its covenants, conditions and terms, except as enforceability may be limited by equitable principles, or bankruptcy, insolvency, reorganization, moratorium or other similar laws effecting the enforcement of creditors’ rights generally.

5.4 The execution and delivery of this Lease and compliance with the covenants, conditions and terms hereof will not conflict with or constitute a breach of or a default under the

provisions of any applicable federal, state or local law, court or administrative regulation, judgment, decree or order, or any agreement, indenture or other instrument to Tenant is a party.

5.5 Tenant is not in breach of or in default under any applicable federal, state or local law, ordinance, court or administrative regulation, decree or order or any agreement, indenture or other instrument of which Tenant is a party, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a breach or default, which breach or default would affect the validity or enforceability of this Lease or would affect materially or adversely the financial condition, operation or properties of Tenant to perform its obligations hereunder.

5.6 There is no action, suit, proceeding, inquiry or investigation, in equity or at law, before or by any court, governmental agency, public board or body to which Tenant is a party, pending or, to the best of its knowledge, threatened against or affecting it (i) contesting its corporate existence, tax exempt status or powers or the titles of its officers to their respective offices; or (ii) contesting the validity or the power of Tenant to execute and deliver, or affecting the enforceability of this Lease, or contesting or affecting the power of Tenant to consummate the transactions contemplated by this Lease, or (iii) wherein an unfavorable court decision, ruling or finding would materially affect the financial position of Tenant.

Section 6. Lease.

In consideration of the representations, agreements and covenants contained herein, the Landlord shall lease the Premises to Tenant for the Lease Term in accordance with all of the provisions, covenants, conditions and terms herein.

Section 7. Lease Fee.

Tenant shall pay to the Landlord rent monthly in advance equal to Two Thousand One Hundred Seventy Six Dollars and 74/100 Dollars (\$2,176.74) per month (the "Rent") (plus applicable sales tax); provided that, so long as there is no Default hereunder, Tenant shall receive a monthly rent credit of Six Hundred Ten and 00/100 (\$610.00). Tenant acknowledges that this monthly rent credit is in exchange for Tenant's performance of all of its maintenance, repair and replacement obligations as set forth in Section 12 below without regard to actual expenses incurred. In addition to the foregoing, so long as there is no Default hereunder and provided that Tenant executes and delivers this Lease to Landlord within thirty (30) days of the date of the Ordinance, in consideration for Tenant's performance of all maintenance, repair and replacement obligations to the Premises during Holdover Period, Tenant shall be entitled to a rent credit equal to Five Hundred Ninety-Two and 00/100 (\$592.00) multiplied by the number of months in the Holdover Period (to be prorated for any partial months on a per diem basis). All rent credits hereunder shall be applied to Rent as and when it comes due, and in no event shall Landlord be required to pay any rent credit to Tenant including in the event that the rent credits exceed all remaining Rent due hereunder. Tenant shall timely pay Rent to the Landlord, without notice, demand, deduction or set off except as expressly set forth herein, by good and sufficient check drawn on a state chartered or national banking association at the Landlord's address provided for in this Lease or as otherwise specified by the Landlord and shall be accompanied by all applicable state and local sales or use taxes. The obligations of Tenant to pay Rent and the

obligations of the Landlord under this Lease are independent obligations. The first monthly installment of Rent shall be payable on the Commencement Date; thereafter, Rent shall be payable on the first day of each month. The monthly Rent for any partial month at the beginning of the Term shall equal the product of 1/365 of the annual Rent in effect during the partial month and the number of days in the partial month and shall be due on the Commencement Date. Payments of Rent for any fractional calendar month at the end of the Term shall be similarly prorated. Notwithstanding the foregoing, Tenant agrees that Rent shall not abate under any circumstance, at any time for any reason, including, without limitation, due to any decrease in the number of parking spaces on the Premises or as a result of any Governmental Requirements.

Section 8. Extension Option.

Provided no uncured Default exists, Tenant and Landlord, upon mutual agreement, may extend this Lease for one (1) additional period of five (5) years (the "Extension Term"). Tenant shall deliver written notice to the Landlord on or before 180 days, but no more than 270 days before the expiration of the Lease Term of Tenant's desire to extend this Lease. If the parties agree to Rent to be payable during the Extension Term and otherwise agree to extend the Lease as provided herein then the Landlord and Tenant shall execute an amendment to this Lease extending the Term on the same terms provided in this Lease, except that (i) the Rent shall be revised to the agreed upon amount, (ii) the Landlord shall lease to Tenant the Premises in its then-current condition, and (iii) the Landlord shall not provide to Tenant any allowances (e.g., moving allowance, construction allowance, and the like) or other tenant inducements. Tenant's rights under this Section 8 shall terminate if (1) this Lease or Tenant's right to possession of the Premises is terminated, or (2) Tenant fails to timely provide Tenant's desire to extend this Lease as provided in this Section 8, time being of the essence. The extension options herein are personal to the Tenant named in this Lease on the Effective Date.

Section 9. Taxes and Other Charges.

Tenant shall bear, pay and discharge, on or before the last day on which payment may be made without penalty or interest, all ad valorem real estate taxes, or other taxes, if any, which shall, or may during the Lease Term, be charged, laid, levied, assessed, imposed, become payable and due, or become liens upon, or arise in connection with the use, occupancy or possession of the Premises or any part thereof.

Section 10. Use of Premises.

10.1 Permitted Use. Tenant shall only use the Premises for the purpose of operating a surface parking lot (the "Surface Lot") for parking personal vehicles used solely by residents and guests of the Building (the "Permitted Users"). No other use of the Premises is permitted without the prior written consent of the Landlord, which consent may be withheld in the absolute discretion of the Landlord. Notwithstanding the foregoing, Tenant understands and agrees that the following uses are prohibited: (1) the parking any type of vehicle other than vehicles for personal use, including, without limitation, recreational vehicles, campers, commercial trucks, tractors, trailers, watercraft, boats and similar vehicles; (2) parking of vehicles that are not operational; (3) any display of "For Sale" or other advertising signs on or about any parked vehicle; (4) storage containers; (5) repair and maintenance of vehicles; and (6) the parking of

more than a total of thirty-six (36) vehicles at any one time. Without limiting the foregoing, Tenant agrees to comply with all policies and other requirements of the City of Jacksonville that apply to surface parking lots generally.

10.2 Non-Discrimination. Tenant shall not discriminate against any person on the basis of race, creed, color, sex, religion, ethnic/national origin, age, marital status, disability or any other protected class under applicable law in its use, operation and management of the Premises.

10.3 Parking Spaces. Only Permitted Users shall be permitted to park in the Surface Lot and Tenant shall be solely responsible for the allocation of the parking spaces among the Permitted Users.

10.4 Security. All personal property and vehicles of Tenant and the Permitted Users left at the Premises shall be at the Tenant's sole risk. Tenant assumes all responsibility for securing and protecting the Premises and all personal property and vehicles located thereon, and neither the Landlord nor the City shall not be responsible or liable for any security nor for any loss, theft or damage thereof.

Section 11. Improvements to Premises, Personal Property.

11.1 Alteration of Premises. With the exception of improvements required under Section 15 herein, Tenant shall not make additions, alterations, changes or improvements in or to the Premises or any part thereof, without the prior written consent of the Landlord, which consent may be withheld in the sole discretion of the Landlord. Menial maintenance shall not be included in this provision. All additions, alterations, changes or improvements made by Tenant shall be constructed at Tenant's sole expense and shall, become the property of the Landlord upon the expiration or termination of this Lease. Tenant may place its personal property on or within the Premises during the Lease Term from time to time at its discretion; however, all Tenant personal property that may be on the Premises during the Lease Term shall be at Tenant's sole risk.

Section 12. Maintenance, Repairs and Utilities.

Tenant shall, at its sole cost and expense, perform all maintenance, repair and replacements of the Premises and all improvements now or hereafter located thereon including, without limitation, all parking surfaces, curbs, landscaping, drives, striping, islands, fencing, gates, lighting, signage and all electric, water, sewer, telephone and other communication lines (the "Improvements"). Tenant shall also, at its sole cost and expense, maintain and keep the Premises and the Improvements in good, safe and attractive condition. Tenant shall place all trash for pickup in the location or receptacles designated by the Landlord. All maintenance shall be performed to at least the standard of other similarly situated Landlord properties. The Tenant shall be responsible for electric, water, sewer and any other utility costs for the Premises. Tenant shall be responsible for the installation and maintenance charges for any telephone facilities, computer facilities, or other communication facilities utilized by Tenant at the Premises. Tenant shall be responsible for all costs associated with extending existing electric, water, sewer, telephone or other communication lines from the exterior of the Premises to such locations as

shall be required for Tenant's use. Without limiting the foregoing, Tenant understands and agrees that the Landlord shall not be required to furnish any services or facilities or to make any repairs, replacements or alterations in or to the Premises except to the extent that any damage to the Premises is caused by Landlord's negligence or willful misconduct, and Tenant hereby assumes the full and sole responsibility for the condition, operation, repair, replacement and maintenance of the Leased Premises.

Section 13. Insurance.

Effective as of the Effective Date, and continuing throughout the Lease Term, Tenant shall maintain the insurance coverages set forth on **Exhibit B.**

Section 14. Indemnification.

Tenant shall defend, indemnify, and hold harmless the City and the Landlord and their respective members, officers, officials, employees, agents, successors and assigns (collectively the "Indemnified Parties") from and against all claims, demands, liabilities, losses, injuries, fines, penalties, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees, expert fees and court costs at all tribunal levels) (a "Loss") arising directly or indirectly out of or related to (a) the use of the Premises and conduct of Tenant's business by Tenant or any Tenant Parties, or any other activity, work or thing done, permitted or suffered by Tenant or any Tenant Parties, in or about the Premises, the Building or elsewhere on the Project; or (b) the negligence or willful misconduct of Tenant or any Tenant Party, (c) the installation, operation, maintenance, repair or removal of any of Tenant's Off-Premises Equipment, and/or (d) any breach or default by Tenant of any obligations on Tenant's part to be performed under the terms of this Lease (the "Indemnified Claims"), in each case even though caused or alleged to be caused by the negligence or fault of the City or Landlord or their respective agents (other than a Loss arising from the sole or gross negligence of the City, Landlord or their respective agents), and even though any such claim, cause of action, or suit is based upon or alleged to be based upon the strict liability of City, Landlord or their respective agents. This indemnity is intended to indemnify the Indemnified Parties against the consequences of their own negligence or fault as provided above when the City, Landlord or their respective agents are jointly, comparatively, contributively, or concurrently negligent with Tenant. The indemnities set forth in this Lease shall survive termination or expiration of this Lease and shall not terminate or be waived, diminished or affected in any manner by any abatement or apportionment of Rent under any provision of this Lease. If any proceeding is filed for which indemnity is required hereunder, Tenant agrees, upon request therefor, to defend the Indemnified Party in such proceeding at its sole cost utilizing counsel satisfactory to such Indemnified Party.

Without limiting the foregoing, the Indemnified Claims shall also include those Losses:

(1) General Tort Liability, arising out of injury (whether mental or corporeal) to persons (including death) or damage to property, arising out of or incidental to the performance of the Lease or work performed hereunder by Tenant or any of the Tenant Parties (the "Indemnifying Parties"); and

(2) Environmental Liability, including without limitation, any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs of cleanup, containment or other remediation, and all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney's fees), arising from or in connection with (a) the Indemnifying Parties' actions or activities under this Lease that result in a violation of any environmental law, ordinance, rule or regulation or that leads to an environmental claim or citation or to damages due to the Indemnifying Parties' activities, (b) any environmental, health and safety liabilities arising out of or relating to the operation or other activities performed in connection with this Lease by the Indemnifying Parties at any time on or prior to the effective date of this Lease, or (c) any bodily injury (including illness, disability and death, regardless of when any such bodily injury occurred, was incurred or manifested itself), personal injury, property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real property) or other damage of or to any person in any way arising from or allegedly arising from any hazardous activity conducted by the Indemnifying Parties; and

(3) Intellectual Property Liability, including without limitation any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney's fees), arising directly or indirectly out of any allegation that the Tenant's operations on the Premises (the "Operation"), any product generated by the Operation, or any part of the Operation, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right and will pay all costs (including, but not limited to reasonable attorney's fees and court costs), damages, charges and expenses charged to the Indemnified Parties by reason thereof. If in any suit or proceeding, the Operation, or any product generated by the Operation, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall, immediately, make every reasonable effort to secure for the Indemnified Parties a license, authorizing the continued use of the Operation or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall replace the Operation or product with a non-infringing Operation or product or modify such Operation or product in a way satisfactory to Tenant, so that the Operation or product is non-infringing; and

(4) Violation of Laws Liability, including without limitation any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney fees) charged to, recovered from or incurred by, any of the Indemnified Parties arising from or based upon the violation of any federal, state, or municipal laws, statutes, resolutions, or regulations, by Tenant or those under their control. This indemnification agreement is separate and apart from, and is in no way limited by, any insurance provided pursuant to this Lease or otherwise. This section relating to Indemnification shall survive the Term, and any holdover and/or contract extensions thereto, whether such Term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Lease; and

(5) Liability from Breach of Representations, Warranties and Obligations, including without limitation, any and all claims, suits, demands, judgments, losses, costs, fines, penalties,

damages, liabilities and expenses (including all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney's fees) that may be incurred by, charged to or recovered from any of the foregoing, arising directly or indirectly out of (a) any breach of any representation or warranty made by the Indemnifying Parties in connection with the Lease or in any certificate, document, writing or other instrument delivered by the Indemnifying Party, or (b) any breach of any covenant or obligation of the Indemnifying Parties set forth in this Lease or any other certificate, document, writing or other instrument delivered by the Indemnifying Parties pursuant to this Lease; and

Notwithstanding the foregoing, the Indemnified Claims shall not include, and Tenant shall not be liable for, damage or injury to the extent occasioned by the sole negligence or willful acts of the City, Landlord or their respective agents, contractors, servants or employees unless such damage or injury arises from perils against which Tenant is required by this Lease to insure and then only to the extent of such insurance. Tenant's indemnification obligation under this Section shall survive the expiration or earlier termination of this Lease. Tenant's covenants, agreements and indemnification in this Lease, are not intended to and shall not relieve any insurance carrier of its obligations under policies required to be carried by Tenant pursuant to the provisions of this Lease.

This Section 14 shall survive the Lease Term, and any holdover and/or contract extensions thereto, whether such Term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Lease. To the extent an Indemnified Party exercises its rights under this Article, the Indemnified Party will (1) provide reasonable notice to Tenant of the applicable claim or liability, and (2) allow Tenant to participate in the litigation of such claim or liability (at Tenant's expense) to protect its interests. Notwithstanding anything to the contrary contained in this Lease, Tenant shall not be liable to City or Landlord for any special, consequential, incidental or punitive damages unless arising out of Tenant's gross negligence or willful misconduct.

Section 15. Compliance with Governmental Requirements.

15.1 During the Lease Term, Tenant shall comply, at its sole cost and expense, with all Governmental Requirements as defined herein, which govern or affect the Premises and/or the Improvements and the use thereof for any reason. Tenant shall notify the Landlord of its violation of any Governmental Requirement immediately after Tenant's knowledge thereof, and Tenant shall diligently and prudently take requisite action to correct any violations of Governmental Requirements as soon as reasonably possible after the discovery of same. Tenant shall assure the Landlord from time to time, in written certifications, that Tenant and the Premises are in compliance with Governmental Requirements affecting same.

15.2 Without limiting anything in Section 15.1 above, Tenant shall comply, at its sole cost and expense (except as set forth in Section 15.3) with (i) Municipal Code, Subpart H. - Downtown Overlay Zone And Downtown District Use And Form Regulations Section 656.361.6.2.L (Screening and Landscaping of Surface Parking, Trash, Storage, and Loading Areas) by July 1, 2024, and (ii) the previous regulations of 656.361.16 and 656.351.17, subject to immediate Code Enforcement action, (collectively, the "Screening and Landscaping Requirements").

15.3 Prior to making any improvements to comply with Screening and Landscaping Requirements, Tenant may submit to the Chief Executive Officer of Landlord (the "CEO") a proposed budget (the "Budget") and plans and specifications (the "Plans") for such improvements (the "Improvements"). If the CEO approves, in his or her reasonable discretion, of the Budget and Plans, then the expenses set forth in the Budget actually incurred by Tenant to construct the Improvements (the "Compliance Costs") shall be eligible to be a rent offset (the "Rent Offset") as provided herein provided that each of the Offset Conditions (as hereinafter defined) have been satisfied as determined by the CEO in his or her reasonable discretion and that no Default has occurred or is continuing.

The following are conditions precedent to any Rent Offset (the "Offset Conditions"):

1. Tenant has submitted to the CEO the following documentation: (i) invoices, waivers of mechanic's and materialmen's liens and proof of payment in full of the Compliance Costs, and (ii) any other supporting documentation reasonably requested by the CEO or the Landlord.
2. The Improvements have been completed in accordance with the Plans and Tenant has obtained all governmental approvals and consents required for the Improvements.
3. The Improvements shall have received a satisfactory inspection from the City and the Landlord.

If the CEO determines that Tenant is eligible for the Rent Offset, then the Compliance Costs shall be amortized on a straight line basis in equal monthly installments (the "Monthly Rent Offset") over the number of months needed to fully amortize the Compliance Costs taking into account the Offset Limit (as hereinafter defined), provided that, in no event shall the amortization period be less than twelve (12) months. Tenant understands and agrees that the Monthly Rent Offset may not in any event exceed \$1,730.00 (the "Offset Limit"). Any Monthly Rent Offset amounts remaining at the expiration or earlier termination of this Lease shall be forfeited by Tenant; provided that, if this Lease is terminated by the Landlord for any reason other than Tenant Default prior to end of the foregoing amortization period, then Tenant will be eligible for a lump sum payment from the Landlord in an amount which is the lesser of (i) the amount of any remaining, unamortized Compliance Costs which have not been credited as Monthly Rent Offsets as of the date of termination of this Lease, or (ii) the product obtained when multiplying \$1,730.00 by the number of months that would have been remaining in the Term had the Lease not been terminated.

Section 16. Title to Premises.

Title to the Premises shall remain vested with the Landlord, subject to the covenants, conditions and terms of this Lease. Tenant hereby quitclaims and conveys to the Landlord, its successors and assigns any and all interest Tenant may have in and to the Premises and all improvements located thereon, except as expressly provided in this Lease. Tenant acknowledges and agrees that Tenant is currently in possession of the Premises and does hereby accept the Premises in its "as is" "where is" condition. Any improvements made to the Premises shall be

vested with the Landlord who shall have the title thereto, subject to the covenants, conditions and terms of this Lease; however, no furnishings, furniture, fixtures, equipment or other personal property installed or constructed by Tenant on or within the Premises shall be the Landlord's property, but shall be the property of Tenant. Tenant shall have control of the Premises, subject to the covenants, conditions and terms of this Lease, but the Landlord shall always remain vested with title to the Premises and in control thereof to ensure that neither Tenant nor any other entity shall have the authority or right to violate Governmental Requirements affecting the Premises and the utilization thereof.

Section 17. Destruction or Damage.

In the event the Premises, or any part thereof, is destroyed or damaged from any casualty, Tenant shall repair the damage and restore the Premises to the extent reasonable and practical under the circumstances then existing.

Section 18. Hazardous Materials.

18.1 Tenant shall not knowingly use, handle, store or permit the use, handling or storage of Hazardous Materials on the Premises. Tenant shall not dispose of or permit or allow the disposal, leakage, spillage or discharge on or upon the Premises of any Hazardous Material. If any Hazardous Material should be used, handled or stored (except in accordance with this Section) or if any Hazardous Material is disposed of or permitted to leak, spill or discharge on or upon the Premises by accident or otherwise, Tenant shall provide immediate written notice thereof to the Landlord and Tenant shall immediately commence and diligently pursue the removal of any such Hazardous Material and Tenant shall remediate, clean and restore the Hazardous Material area in accordance with all applicable Governmental Requirements, and pay all fines, fees, assessments and penalties arising there from. Tenant shall furnish the Landlord periodically at the Landlord's request, certification that Tenant is in compliance with the provisions of this Section.

18.2 Tenant shall provide written notice to the Landlord within three (3) days of:

- a. any change in Tenant's utilization and operation of the Premises involving the use, handling or storage of Hazardous Materials;
- b. receipt of any warning, notice, notice of violation, lawsuit or the like from any governmental agency or regulatory authority relating to environmental compliance;
- c. receipt of any complaint, claim, or lawsuit filed by any third party relating to environmental compliance; or
- d. releases, spillage, leakage or disposal of any Hazardous Material at the Premises.

18.3 If Tenant shall fail to comply with any of the provisions of this Section, the Landlord shall have the right, but shall not be obligated, to enter into and go upon the Premises without thereby causing or constituting a termination of this Lease, or eviction of Tenant, either constructive or otherwise, in whole or in part, from all or any portion of the Premises, or an

interference with Tenant's possession and use of the Premises, and take such steps and incur such reasonable expenses as the Landlord shall deem necessary to correct Tenant's default, including, without limitation of the generality of the foregoing, the making of all replacements or repairs for which Tenant is responsible and Tenant shall reimburse the Landlord on demand for any expense incurred by the Landlord as a result thereof.

18.4 The City has entered into that Declaration of Restrictive Covenants with the Florida Department of Environmental Protection ("FDEP") dated August 22, 2005 and recorded at Official Records Book 12714, page 1397 (the "Restrictive Covenants") to induce FDEP to issue a No Further Action with Conditions for the Premises. Tenant shall comply with the Restrictive Covenants and shall defend and hold harmless the City and Landlord for any costs, losses, and damages (including all attorney fees and court costs) arising out of or resulting from any failure to comply with the Restrictive Covenants. If, because of Tenant's failure to comply with the Restrictive Covenants any federal, state or local regulatory or grant authority requires remediation of contaminated media or Hazardous Materials on the Premises, then the Tenant shall be responsible for proper removal, handling and disposal or other lawful remediation of such contaminated media or Hazardous Materials which requires removal because of such failure to comply with the Restrictive Covenants. Tenant shall provide the Landlord immediate written notice of any communication from regulatory or grant authorities concerning contamination, or remediation requirements.

Section 19. Default.

19.1 Each of the following events shall be a "Default" hereunder by the Landlord or Tenant, as the case may be, and shall constitute a breach of this Lease: If either party shall fail to perform any of the covenants, conditions and terms of this Lease on such party's part to be performed and such non-performance shall continue for a period of thirty (30) days after written notice thereof by the non-defaulting party to the defaulting party; or if the defaulting party shall fail to act in good faith to commence and undertake performance within such thirty (30) day period to cure a non-performance which cannot be cured within the initial thirty (30) day period and the defaulting party shall designate in writing the reasonable time period to cure such non-performance and its intent to do so, or, defaulting party, having commenced to undertake such performance within the initial thirty (30) day period, shall fail to diligently proceed therewith to completion within the designated reasonable time period to cure such non-performance.

19.2 If a Default shall occur, then the non-defaulting party shall have the right to terminate and cancel this Lease by giving to defaulting party not less than ten (10) days written notice of such termination and cancellation, and upon the expiration of the time fixed in such notice, this Lease shall terminate and the parties shall be released from all obligations under this Lease which do not specifically survive its termination. The foregoing remedy shall not be the exclusive remedy for either party to this Lease.

Section 20. Tenant Termination.

Tenant shall retain an absolute right to terminate and cancel this Lease at any time during the Lease Term upon giving the Landlord at least ninety (90) days written notice of Tenant's need to terminate and cancel its obligations hereunder and designating the termination date. In

such event, the Lease shall terminate and cease as of the effective date of Tenant's termination hereunder and the parties shall be released from all obligations hereunder which do not specifically survive termination.

Section 21. Landlord's Right to Terminate.

Landlord shall have the right to terminate this Lease at any time by giving not less than one-hundred eighty (180) days prior written notice to Tenant but only if Landlord, in good faith, has specific and written plans to use the Premises for Landlord or public purposes, develop the Premises, contract with a third party to develop the Premises, or issue a request for proposals for development and/or sale of the Premises, and (ii) pays to Tenant any amounts due to Tenant under this Lease up through the date of termination.

Section 22. Leases, Permits.

Tenant will be responsible, at its sole cost and expense, for all operating costs in connection with this Lease. Tenant shall obtain, at its sole cost and expense, all licenses, permits, inspections and other approvals necessary for the operation of the Premises as a surface-parking lot. The Landlord shall cooperate, at no cost to the Landlord, with Tenant in obtaining all such licenses, permits, inspections and other approvals, including, but not limited to, supplying information and executing applications, forms or other documents necessary for same.

Section 23. Subletting and Assignment.

Tenant shall not transfer, hypothecate, mortgage, pledge, assign or convey its interest in the Lease or sublet the Premises or any part thereof, except for temporary licenses granted to residents and guests of the Building in connection with the Permitted Use.

Section 24. Expiration of Term.

At the expiration or earlier termination of the Lease Term (including any Extension Term), Tenant shall peaceably return to the Landlord the Premises in in the same condition as existed on the Effective Date, ordinary wear and tear excepted. It is understood and agreed between the Landlord and Tenant that Tenant shall have the right to remove from the Premises all personal property of Tenant situate at the Premises including, but not limited to all furnishings, furniture, fixtures, machinery, equipment, appurtenances and appliances placed or installed on the Premises by same, provided Tenant restores the Premises after the removal therefrom.

Section 25. Right of the Landlord to Inspect.

The Landlord may at all times enter into and upon the Premises for the purpose of inspecting same and/or for making improvements. Tenant shall provide to the Landlord keys to all gates and improvements on the Premises.

Section 26. Force Majeure.

If the Landlord or Tenant shall be delayed in, hindered in or prevented from the performance of any act required hereunder (other than performance requiring the payment of a sum of money) by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws, regulations or actions, riots, insurrection, the act, failure to act or default of the other party, war or other reason beyond such party's reasonable control (excluding the unavailability of funds or financing), then the performance of such act shall be excused for the period of the delay and the period for the performance of any such act as required herein shall be extended for a period equivalent to the period of such delay.

Section 27. Condemnation.

If any part of the Premises is taken by eminent domain or condemnation or voluntarily transferred to such authority under the threat thereof, the Landlord may, at its sole option, terminate the Lease by giving written notice to Tenant within thirty (30) days after the taking, or if by reason of such taking of the Premises, Tenant's operation on or access to the Premises is substantially and materially impaired, Tenant shall have the option to terminate this Lease by giving written notice to the Landlord within thirty (30) days after the taking. Tenant hereby waives any and all rights it may have in all condemnation awards including, without limitation, loss of or damage to its Lease, and hereby assigns said claims to the Landlord except such awards as are separately and specifically awarded to Tenant for its separate personal property, moving expenses and business damages.

Section 28. Mechanics Liens.

Tenant shall immediately after it is filed or claimed, have released (by bonding or otherwise) any mechanics', materialmen's or other lien filed or claimed against any or all of the Premises or any other property owned or licensed by the Landlord, by reason of labor or materials provided for Tenant or any of its contractors or subcontractors, or otherwise arising out of Tenant's use or occupancy of the Premises. Nothing in the provisions of this Lease shall be deemed in any way to give Tenant any right, power or authority to contract for or permit to be furnished any service or materials which would give rise to the filing of any mechanics' or materialmen's lien against the Landlord's estate or interest in and to the Premises, it being expressly agreed that no estate or interest of the Landlord in and to the Premises shall be subject to any lien arising in connection with any alteration, addition or improvement made by or on behalf of Tenant. At the Landlord's request, Tenant shall execute a written instrument to be recorded for the purpose of providing notice of the existence of the provisions of the preceding sentence in accordance with Section 713.10, Florida Statutes.

Section 29. Audit.

With reasonable notice, the Landlord shall have the right to conduct an audit of the Tenant in connection with the operation of the Premises. Tenant shall cooperate with the Landlord in conducting the audit.

Section 30. Miscellaneous.

30.1 Notices. Any and all notices, which are permitted or required in this Lease, shall be in writing and shall be duly delivered and given when personally served or mailed to the person at the address designated below. If notice is mailed, the same shall be mailed, postage prepaid, in the United States mail by certified or registered mail - return receipt requested. Notice shall be deemed given on the date of personal delivery or mailing and receipt shall be deemed to have occurred on the date of receipt; in the case of receipt of certified or registered mail, the date of receipt shall be evidenced by return receipt documentation. Failure to accept certified or registered mail shall be deemed a receipt thereof within ten (10) days after the first notice of delivery of the certified or registered mail. Any entity may change its address as designated herein by giving notice thereof as provided herein.

If to the Landlord: Downtown Investment Authority
117 W. Duval Street, Suite 310
Jacksonville, Florida 32202
Attn: Chief Executive Officer

With a copy to:

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

**City of Jacksonville
c/o Real Estate Division
214 N. Hogan Street
Jacksonville, Florida 32202**

If to Tenant: _____

Attn: _____

With a copy to: _____

 Attn: _____

or such other address either party from time to time specify in writing to the other.

30.2 Legal Representation. Each respective party to this Lease has been represented by counsel in the negotiation of this Lease and accordingly, no provision of this Lease shall be construed against a respective party due to the fact that it or its counsel drafted, dictated or modified this Lease or any covenant, condition or term thereof.

30.3 Further Instruments. Each respective party hereto shall, from time to time, execute and deliver such further instruments as any other party or parties or its counsel may reasonably request to effectuate the intent of this Lease.

30.4 Severability or Invalid Provision. If any one or more of the agreements, provisions, covenants, conditions and terms of the Lease shall be contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such agreements, provisions, covenants, conditions or terms shall be null and void with no further force or effect and shall be deemed separable from the remaining agreements, provisions, covenants, conditions and terms of the Lease and shall in no way affect the validity of any of the other provisions hereof.

30.5 No Personal Liability. No representation, statement, covenant, warranty, stipulation, obligation or agreement contained herein shall be deemed to be a representation, statement, covenant, warranty, stipulation, obligation or agreement of any member, officer, employee or agent of the City, Landlord or Tenant in his or her individual capacity and none of the foregoing persons shall be liable personally or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

30.6 Third Party Beneficiaries. Nothing herein express or implied is intended or shall be construed to confer upon any entity other than the Landlord and Tenant any right, remedy or claim, equitable or legal, under and by reason of this Lease or any provision hereof, all provisions, conditions and terms hereof being intended to be and being for the exclusive and sole benefit of the Landlord and Tenant.

30.7 Successors and Assigns. To the extent permitted by Section 233, this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

30.8 Survival of Representations and Warranties. The respective indemnifications, representations and warranties of the respective parties to this Lease shall survive the expiration or termination of the Lease and remain in effect.

30.9 Governing Law; Venue. This Lease shall be governed by and construed in accordance with the laws of the State of Florida and the Ordinances of the City of Jacksonville. Wherever possible, each provision, condition and term of this Lease shall be interpreted in such manner as to be effective and valid under applicable law; but if any provision, condition or term of this Lease, or any documentation executed and delivered hereto, shall be prohibited by or invalid under such applicable law, then such provision, condition or term shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision, condition or term or the remaining provisions, conditions and terms of this Lease or any documentation executed and delivered pursuant hereto. Venue for any action arising out of this Lease shall lie in Duval County, Florida.

30.10 Section Headings. The Section headings inserted in this Lease are for convenience only and are not intended to and shall not be construed to limit, enlarge or affect the scope or intent of this Lease, nor the meaning of any provision, condition or term hereof.

30.11 Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

30.12 Entire Agreement. This Lease contains the entire agreement between the respective parties hereto and supersedes any and all prior agreements and understandings between the respective parties hereto relating to the subject matter hereof. No statement or representation of the respective parties hereto, their agents or employees, made outside of this Lease, and not contained herein, shall form any part hereof or bind any respective party hereto. This Lease shall not be supplemented, amended or modified except by written instrument signed by the respective parties hereto.

Notwithstanding the foregoing, Tenant will remain responsible to Landlord for: (a) any and all rent and other charges due, owing or accruing under the Original Lease prior to the Effective Date; (b) its obligations under the Original Lease which expressly or impliedly survive termination of the Original Lease; (c) third party claims against the Landlord for which Tenant was required to indemnify, defend and/or hold City harmless pursuant to the Original Lease; (d) Tenant's introduction of Hazardous Materials in or about the Premises prior to the Effective Date; and (e) violations of Governmental Requirements or the Restrictive Covenants prior to the Effective Date. Further, the City's right to audit the records of Tenant under the Original Lease will continue despite the expiration of the Original Lease.

30.13 Attorneys' Fees and Costs. In any litigation arising out of or pertaining to this Lease, each party shall be responsible for its own attorneys' fees and costs, whether incurred before, after or during trial, or upon any appellate level.

30.14 Time. Time is of the essence of this Lease. When any time period specified herein falls upon a Saturday, Sunday or legal holiday, the time period shall be extended to 5:00 P.M. on the next ensuing business day.

30.15 Waiver of Defaults. The waiver by either party of any breach of this Lease by the other party shall not be construed as a waiver of any subsequent breach of any duty or covenant imposed by this Lease.

30.16 No Warranty. Nothing contained in this Lease or any other document attached hereto or contemplated hereby shall constitute or create any duty on or warranty or representation by the City or the Landlord including, without limitation, regarding: (a) the condition of the Premises; (b) the number of parking spaces on the Surface Lot; or (c) the adequacy of parking for the Tenant or the residents and guests of the Building. Tenant acknowledges that it has not relied and will not rely upon any experience, awareness or expertise of the City or the Landlord regarding any matter. THE PREMISES IS BEING LEASED ON AN "AS IS" "WHERE IS" BASIS, WITHOUT WARRANTIES, REPRESENTATIONS OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED INCLUDING, WITHOUT

LIMITATION, ANY WARRANTIES OR CONDITIONS OF TITLE OR FITNESS FOR A PARTICULAR PURPOSE.

30.17 Radon Disclosure. The following disclosure is required to be made by the laws of the State of Florida:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

IN WITNESS WHEREOF, the respective parties hereto have hereunto executed this Lease for the purposes expressed herein effective the day and year first above written.

Witness:

**DOWNTOWN INVESTMENT
AUTHORITY**, a community redevelopment
agency

By: _____

Name: _____

By: _____

Lori N. Boyer, Chief Executive Officer

By: _____

Name: _____

Witness:

**CHURCHWELL LOFTS AT EAST BAY
CONDOMINIUM ASSOCIATION, INC.**, a
Florida not-for-profit corporation

By: _____

Name: _____

By: _____

Its: _____

By: _____

Name: _____

Name: _____

FORM APPROVED (as to Landlord):

By: _____

Office of General Counsel

Exhibit A

Premises

LOT 1, W1/2 LOT 2, BLOCK 4, AS SHOWN ON MAP OF DOGETT'S MAP OF JACKSONVILLE OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.

Tax Parcel # 073386-0000.

As shown on the following location map, provided that neither the Landlord nor the City of Jacksonville provide any warranties, expressed or implied, concerning the accuracy, completeness, reliability or suitability of this location map for any particular use.



EXHIBIT B

INSURANCE

Without limiting its liability under this Lease, Tenant shall at all times during the term of this Lease procure prior to commencement of work and maintain at its sole expense during the life of this Lease (and Tenant shall require its contractors, subcontractors, laborers, materialmen and suppliers to provide, as applicable), insurance of the types and limits not less than amounts stated below:

Insurance Coverages

Schedule	Limits
Worker's Compensation	Florida Statutory Coverage
Employer's Liability	\$500,000 Each Accident
	\$500,000 Disease Policy Limit
	\$500,000 Each Employee/Disease

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

Commercial General Liability	\$2,000,000	General Aggregate
	\$2,000,000	Products & Comp. Ops. Agg.
	\$2,000,000	Personal/Advertising Injury
	\$2,000,000	Each Occurrence
	\$ 500,000	Fire Damage
	\$ 5,000	Medical Expenses

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

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

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

Personal Property: Tenant shall insure its personal property at its sole cost and expense. All Tenant personal property and vehicles that may be placed in, on or about the Premises during the Lease Term shall be thereon at Tenant's sole risk. Under no circumstances will the City be responsible for the Tenant's personal property.

Additional Insurance Provisions

A. **Certificates of Insurance.** Tenant shall deliver the City Certificates of Insurance that shows the corresponding City Contract or Bid Number in the Description, Additional Insureds, Waivers of Subrogation and Primary & Non-Contributory statement as provided below. The certificates of insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.

B. **Additional Insured:** All insurance except Worker's Compensation, Professional Liability, AD&D and Crime (if required) shall be endorsed to name the City of Jacksonville and City's members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and, if products and completed operations is required, CG2037, Automobile Liability CA2048.

C. **Waiver of Subrogation.** All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City of Jacksonville and its members, officials, officers employees and agents.

D. **Carrier Qualifications.** The above insurance shall be written by an insurer holding a current certificate of authority pursuant to chapter 624, Florida State or a company that is declared as an approved Surplus Lines carrier under Chapter 626 Florida Statutes. Such Insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.

E. **Tenant's Insurance Primary.** The insurance provided by the Tenant shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents.

F. **Deductible or Self-Insured Retention Provisions.** All deductibles and self-insured retentions associated with coverages required for compliance with this Contract shall remain the sole and exclusive responsibility of the named insured Tenant. Under no circumstances will the City of Jacksonville and its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Lease.

G. **Tenant's Insurance Additional Remedy.** Compliance with the insurance requirements of this Contract shall not limit the liability of the Tenant or its Subcontractors, employees or

agents to the City or others. Any remedy provided to City or City's members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Lease or otherwise.

H. Waiver/Estoppel. Neither approval by City nor failure to disapprove the insurance furnished by Tenant shall relieve Tenant of Tenant's full responsibility to provide insurance as required under this Lease.

I. Notice. The Tenant shall provide an endorsement issued by the insurer to provide the City thirty (30) days prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, the Tenant, as applicable, shall provide said a thirty (30) days written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.

J. Survival. Anything to the contrary notwithstanding, the liabilities of the Tenant under this Contract shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.

K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in commercially reasonable amounts responsive to those liabilities, which may or may not require that the City also be named as an additional insured.

L. Special Provision: Prior to executing this Agreement, Tenant shall present this Contract and insurance requirements attachments Exhibit F to its Insurance Agent Affirming: 1) That the Agent has Personally reviewed the insurance requirements of the Contract Documents, and (2) That the Agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of the Tenant.

If Tenant fails to comply with the foregoing insurance requirements or to deliver to City the certificates or evidence of coverage required herein, City, in addition to any other remedy available pursuant to this Lease or otherwise, may, but shall not be obligated to, obtain such insurance and Tenant shall pay to City on demand the premium costs thereof, plus an administrative fee of 15% of such cost.

All references in this **Exhibit B** to the City and/or its members, officers, directors, employees, representatives, and agents shall be deemed to also include Landlord and/or its members, officers, directors, employees, representatives, and agents.



Downtown Investment Authority

Ordinance 2022-0163 Churchwell Lofts Parking Lease Agreement March 30, 2022

The DIA is requesting City Council approval of ordinance 2022-0163 authorizing the lease of a City owned parking lot located at the northeast corner of E Forsyth Street and N Market Street to the Churchwell Lofts at East Bay Condominium Association, Inc. ("Tenant"). Following the public Notice of Disposition in accordance with Florida statutes and local ordinance codes, Tenant was awarded a lease of the parking lot by the DIA Board, subject to the following terms and conditions and further approval by Jacksonville City Council:

- 5 year initial term with one 5 year renewal option on terms acceptable to both parties.
- Tenant responsible for all operating costs including maintenance.
- Tenant responsible for all costs associated with compliance with landscape and screening improvements required by Municipal Code by July 1, 2024. Such costs, as approved and verified by the DIA, will be offset from rent payments over a one year period.
- Tenant will pay a lease rate established on the equivalent prevailing market rate for similar surface lots in Downtown Jacksonville, \$65.00 per space per month (inclusive of sales tax), less monthly expenses, payable monthly. This equates to \$2,340 per month less monthly expenses averaging \$610 which provides a net payment of \$1,730.00 to be received each month through the end of the 5 year term of the Ground Lease Agreement.
- City shall have the right to terminate this Lease Agreement at any time by giving not less than one-hundred eighty (180) days prior written notice to Tenant but only if City plans to use the Premises for City or public purposes, develop the Premises, contract with a third party to develop the Premises, or issue a request for proposals for further development and/or sale of the Premises.

Tenant originally entered into a lease for the lot in 2011, and the term of that original lease ended September 2021. Tenant has been leasing the 36-space lot on a month to month basis since the expiration of the original lease.

Your consideration of this request is appreciated. Please contact me at 255-5304 or through email at skelley@coj.net with any questions you may have on this legislation.

Sincerely,

A handwritten signature in blue ink that reads 'Steven T. Kelley'.

Steven T. Kelley, DBA

Director of Downtown Real Estate and Development
Downtown Investment Authority