

DISCOUNTED PAYOFF AGREEMENT

THIS DISCOUNTED PAYOFF AGREEMENT (this "Agreement") is entered into as of the ____ day of _____, 2022, by and between W.A. KNIGHT BUILDING DEVELOPMENT, L.L.C., a Florida limited liability company ("Borrower"), and the CITY OF JACKSONVILLE, a municipal corporation and political subdivision of the State of Florida ("Lender").

RECITALS:

A. Pursuant to the terms of that certain Redevelopment Agreement dated as of March 21, 2000 by and among Lender, the Jacksonville Economic Development Commission (the "JEDC") and LB Jax Development, L.L.C. (the "Original Developer"), as amended by that certain First Amendment to Redevelopment Agreement dated August 3, 2001 by and among Lender, JEDC, the Original Developer and Borrower (as amended, the "Redevelopment Agreement"), Lender made a loan to Borrower in the original principal amount of Three Hundred Thousand and No/100 (\$300,000.00) (the "Loan"). The Loan is evidenced by that certain Promissory Note dated October 5, 2001 executed by Borrower in favor of Lender (the "Note").

B. The repayment of the Loan and Borrower's performance of its obligations under the Note are secured by, among other things, that certain (i) Third Mortgage and Security Agreement dated as of October 5, 2001, executed by Borrower in favor of Lender (the "Mortgage"), and recorded in Official Records Book 10197, Page 1441, of the public records of Duval County, Florida and encumbering that certain real property described in Exhibit A attached thereto and incorporated herein by this reference (the "Property"), and (ii) Collateral Assignment of Rents and Leases dated as of October 5, 2001, executed by Borrower in favor of Lender (the "Assignment of Rents") and recorded in Official Records Book 10197, Page 1455, of the public records of Duval County, Florida. As used herein, the term "Loan Documents" shall mean the Redevelopment Agreement, the Note, the Mortgage, the Assignment of Rents and all other documents securing, or executed in connection with, the Loan.

C. Borrower has requested that Lender accept less than the full amount outstanding under the Note and other Loan Documents in full satisfaction of any and all amounts due thereunder, and Lender has agreed to do so upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agrees as follows:

1. Incorporation of Recitals. Each of the above recitals is represented to be true and correct and are incorporated herein by reference.

2. Reaffirmation of Obligations. Borrower hereby acknowledges and agrees that the Note and the other Loan Documents constitute the valid and binding obligations of Borrower enforceable against Borrower in accordance with their respective terms, and Borrower hereby reaffirms its obligations under the Loan Documents. Borrower hereby acknowledges and agrees that Lender's entry into this Agreement, Lender's negotiations with Borrower with respect to the Loan, Lender's conduct of any analysis or investigation of the Property or any other collateral for the Loan, or any other action or failure to act on the part of Lender, shall not constitute a modification of the Loan or any of the Loan Documents or a waiver of any of Lender's rights or remedies under the Loan Documents.

3. Discounted Payoff Amount. Lender agrees to accept Three Hundred Twenty-Three Thousand Eighty-Three and 30/100 Dollars (\$323,083.30) (the "Discounted Payoff Amount") on or before November 30, 2022 (the "Outside Date"), in full satisfaction of all of Borrower's obligations under the Note and the other Loan Documents (the "Complete Payoff"), provided that (a) each of the conditions set forth in Section 4 below are satisfied on or before the dates set forth therein, (b) Borrower otherwise complies

with the terms and conditions of this Agreement, and (c) the representations and warranties made by Borrower in this Agreement remain true and correct, (d) concurrently with its delivery of the Discounted Payoff Amount, Borrower delivers to Lender a duly executed consent in substantially the form of **Exhibit A** attached hereto (the “Senior Lender Consent”), and (e) notwithstanding Lender's acceptance of the Discounted Payoff Amount, Borrower shall remain liable for all indemnities of Borrower under the Loan Documents and any other provisions of the Loan Documents which by their terms are intended to survive a payoff of the Loan, each of which Borrower agrees shall survive this Agreement and the satisfaction of Borrower's other obligations under the Note and the other Loan Documents.

4. Conditions to Continued Effectiveness of Discounted Payoff Amount. Lender's agreement to the accept the Discounted Payment Amount as provided in Section 3 is expressly conditioned upon (a) Borrower's satisfaction of all of its other obligations under the Loan Documents in the time and manner set forth therein, (b) no default shall have occurred and be continuing under the Loan Documents, and (c) Lender's receipt on or before the Outside Date of (i) the Discounted Payoff Amount in immediately available funds, and (ii) the Senior Lender Consent. In the event that Borrower pays to Lender the Discounted Payoff Amount by the Outside Date but fails to deliver the Senior Lender Consent, Borrower hereby unconditionally and irrevocably directs Lender to apply the Discounted Payoff Amount to reduce the outstanding obligations under the Loan in such order and manner as Lender shall determine; provided, however, that Borrower acknowledges and agrees that the Discounted Payoff Amount shall not be deemed to be a Complete Payoff, and Borrower shall remain liable for all of its obligations under the Loan Documents unless and until the Senior Lender Consent is delivered to Lender prior to the Outside Date.

5. Full Satisfaction. If all of the conditions set forth in Section 4 above are fully and timely satisfied, Lender shall, promptly following the satisfaction of the last such condition, deliver to Borrower a satisfaction of the Mortgage for recording in the Official Records of Duval County, Florida, as well as such other documents as may be reasonably necessary to evidence the release of Lender's lien on the Property, and the obligations of Borrower under the Note and the other Loan Documents shall thereafter be deemed satisfied, except for any obligations which by the terms of the Loan Documents or this Agreement survive.

6. Release. Borrower, for itself and its successors and assigns does hereby forever release, discharge and acquit Lender, the Downtown Investment Authority, as successor in interest to the JEDC, (the “DIA”), and each of their respective successors and assigns, and the officers, members, directors, employees, representatives and agents of each (collectively, with Lender and the DIA, the “Released Parties”), of and from any and all claims, demands, obligations, liabilities, indebtedness, breaches of contract, breaches of duty or any relationship, acts, omissions, misfeasance, malfeasance, cause or causes of action, judgments, debts, controversies, damages, costs, losses and expenses, of every type, kind, nature, description or character, and irrespective of how, why, or by reason of what facts, whether now or heretofore existing (regardless of when discovered), or which could, might or may now or hereafter be claimed to exist, of whatever kind, name or nature, whether known or unknown, foreseen or unforeseen, past or present, latent or patent, suspected or unsuspected, anticipated or unanticipated, liquidated or unliquidated, each as though fully set forth herein at length, which in any way arise on, before or after the date hereof and arise out of, are connected with, grow out of or relate to the Loan or the Loan Documents (the “Release”). Nothing contained herein shall be deemed or construed to be a release of any party's rights or obligations under this Agreement. Borrower hereby agrees, represents and warrants that it realizes and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and it further agrees, represents and warrants that this Release has been negotiated and agreed upon in light of that realization and that it nevertheless hereby intends to release, discharge and acquit the Released Parties, and each of them, from any and all such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which in any way arise out of, are connected with, or relate to, the Loan or the Loan Documents. Releasor hereby represents and warrants that (a) it owns all of the purported claims, rights, demands and causes of action that it is releasing by this Release and that no other person or entity has any interest in said claims, rights, demands

or causes of action by reason of any contract or dealing with Borrower, and (b) Borrower has not assigned to any other person or entity all or any part of such claims, rights, demands or causes of action.

7. Representations and Warranties. Borrower represents and warrants to Lender as follows:

a. Except as disclosed to Lender in writing prior to the date hereof, all representations and warranties set forth in the Loan Documents are true, correct and complete.

b. No default has occurred and is continuing under any of the Loan Documents.

c. The Borrower (i) is duly organized and validly existing under the laws of its jurisdiction of organization, (ii) is in good standing under such laws, and (iii) has full power and authority to execute, deliver and perform its obligations under this Agreement.

d. Borrower's execution, delivery, and performance of this Agreement has not resulted and will not result in a breach of any provision of (i) its organizational documents, (ii) any statute, law, writ, order, rule or regulation of any applicable governmental authority applicable to Borrower, (iii) any judgment, injunction, decree or determination applicable to Borrower, or (iv) any contract, indenture, mortgage, loan agreement, note, lease or other instrument by which the Borrower may be bound or to which any of its assets are subject.

e. This Agreement is valid, binding and enforceable against Borrower.

f. No attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or actions pursuant to any other debtor relief laws are pending or contemplated against Borrower.

g. This Agreement is entered into without force or duress, of the free will of Borrower. Borrower's decision to enter into this Agreement is a fully informed decision and Borrower is aware of all legal and other ramifications of such decision.

h. Lender has not agreed to forbear from the exercise of any of its rights and remedies under the Loan Documents, including, without limitation, the right to commence foreclosure proceedings against the Property.

i. Borrower has read and understands this Agreement, has consulted with and been represented by legal counsel in connection therewith, and has been advised by its counsel of its rights and obligations thereunder.

8. Event of Default. The continuing breach or default by Borrower of any term, covenant, agreement, condition, provision, representation or warranty contained herein or the failure to fully and timely satisfy the conditions in this Agreement including, without limitation, Section 4 of this Agreement, shall be deemed an "Event of Default" under this Agreement. Immediately upon an Event of Default, this Agreement and Lender's agreement to accept the Discounted Payoff Amount shall be deemed terminated and of no further force or effect.

9. Miscellaneous.

a. Taxes. Borrower agrees to pay any and all taxes payable to any applicable governmental authority with respect to any portion of the Loan that is deemed to be forgiven by Lender in connection herewith ("Forgiven Debt") and Borrower hereby agrees to indemnify, defend, and hold Lender and all other Released Parties harmless from and against any and all federal, state, or local taxes payable on or with respect to any such Forgiven Debt. Borrower acknowledges and agrees that neither Lender nor

its representatives have provided any advice or consultation, and Borrower has sought and received the advice of independent and competent legal counsel and/or accounting consultants, with respect thereto.

b. No Impairment. The Loan Documents shall remain unaffected by this Agreement and shall remain in full force and effect unless and until a Complete Payoff occurs prior to the Outside Date in accordance with the terms of this Agreement. Nothing in this Agreement shall impair the lien of the Mortgage, which shall remain a lien encumbering the Property.

c. No Joint Venture. This Agreement and the Loan Documents shall not be deemed or construed to create a partnership, tenancy in common, joint tenancy, joint venture, co-ownership or any other relationship aside from a debtor-creditor relationship between Borrower and Lender.

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

e. 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.

f. Reinstatement. Notwithstanding Lender's acceptance of the Discounted Payoff Amount in accordance with the terms hereof, all obligations of Borrower to Lender under the Loan Documents will be reinstated in full if, for any reason, any portion of the Discounted Payoff Amount is invalidated, declared to be fraudulent or preferential, set aside, rescinded, restored or otherwise required by a court of law having proper jurisdiction to be returned or paid by Lender to a trustee, debtor-in-possession, receiver or any other party, whether as a result of any proceedings in bankruptcy or reorganization, common law, equity or otherwise. Borrower agrees to indemnify Lender on demand for all costs and expenses that Lender incurs in connection with such rescission or restoration of the Discounted Payoff Amount, or any portion thereof, including, without limitation, any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference or fraudulent transfer. In addition, if any portion of the Discounted Payoff Amount is rescinded, restored or otherwise required by a court of law having proper jurisdiction to be returned by Lender, the Borrower agrees that it shall cause Lender to be placed in the same secured position with respect to the collateral secured by the Loan Documents as Lender was in prior to the acceptance of the Discounted Payoff Amount.

g. Modification. This Agreement may not be amended, waived or modified in any manner without the written consent of the party against whom the amendment, waiver or modification is sought to be enforced.

h. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

i. Section Headings. The various headings used in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any provision hereof.

j. 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.

k. Construction. All parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Borrower 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.

l. Maximum Indebtedness. The maximum indebtedness of the City of Jacksonville for all any and all costs and expenses pursuant to this Agreement shall not exceed the sum of ZERO DOLLARS (\$0.00).

m. Attorney's Fees. Except as otherwise specifically set forth herein, each party shall be responsible for its own attorneys' fees and costs in connection with the enforcement of the terms of this Agreement and any legal action related to this Agreement.

n. Time is of the Essence. Time is of the essence of this Agreement and in the performance of each provision of this Agreement.

o. Submission of Agreement. The submission of this Agreement to Borrower or its agents or attorneys for review or signature does not constitute a commitment by Lender, and this Agreement shall have no binding force or effect until it is executed and delivered by the parties and all conditions to its effectiveness have been satisfied within the time period set forth herein.

p. Waiver. WAIVER OF RIGHT TO TRIAL BY JURY. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE PARTIES HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS AGREEMENT OR THE RELATIONSHIP OF THE PARTIES UNDER THIS AGREEMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION WITH THIS AGREEMENT.

q. 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 U.S. District Court for the Middle District of Florida, Jacksonville Division. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement.

[Signatures appear on the following pages.]

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

ATTEST:

CITY OF JACKSONVILLE

By: _____

James R. McCain, Jr.
Corporation Secretary

By: _____

Lenny Curry, Mayor

Form Approved:

Office of General Counsel

**W.A. KNIGHT BUILDING DEVELOPMENT,
L.L.C.,** a Florida limited liability company

By: LB JAX DEVELOPMENT, L.L.C., a Florida
limited liability company, its sole member
and manager

By: LANGTON ASSOCIATES, INC., a
Florida corporation, a managing member

By: _____

Name: Michael E. Langton

Title: President

GC-#1523223-v4-Discounted_Payoff_Agreement_-_W_A_Knight_Building_Development.docx

EXHIBIT A

SENIOR LENDER CONSENT LETTER

[insert letterhead]

[insert date]

City of Jacksonville
c/o Downtown Investment Authority
117 W. Duval Street, Suite 300
Jacksonville, Florida 32202
Attn: Chief Executive Officer

RE: Intercreditor Agreement dated April 18, 2016 the "Intercreditor Agreement") by and among The Jacksonville Bank, a division of Ameris Bank (the "Bank"), the Jacksonville Housing Finance Authority, and the City of Jacksonville (the "City"); capitalized terms not otherwise defined herein shall have the meanings set forth in the Intercreditor Agreement

To Whom It May Concern:

You have advised that an agreement has, or will be, entered into by the Borrower and the City with respect to the Third Mortgage Loan, which contemplates that the Borrower will make a payment to the City in the amount of Three Hundred Twenty-Three Thousand Eighty-Three and 30/100 Dollars (\$323,083.30) in satisfaction of Borrower's obligations under the Third Mortgage Note whereupon the Third Mortgage will be satisfied. The Bank hereby consents to the foregoing transaction, waives any right to apply said payment to the Senior Liabilities, and agrees that the transaction will not cause a breach or default under the Intercreditor Agreement. The undersigned is a duly appointed officer of the Bank and has the full authority to execute and deliver this letter on its behalf. This letter may be relied upon by City and its successors and assigns.

Sincerely,

[insert name and address of officer]