

EXCHANGE AGREEMENT

THIS EXCHANGE AGREEMENT (this “**Agreement**”) is entered into and made effective as of this [] day of [], 2022 (the “**Effective Date**”), by and between **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida (the “**County**”), and [], a [] limited liability company (the “**Developer**”).

RECITALS

WHEREAS, the County is the owner of certain properties located at 710 Alton Road and 720 Alton Road, Miami Beach, Florida, having folio numbers 02-4203-001-0260 and 02-4203-001-0270, respectively, and more particularly described on **Exhibit “A”** attached hereto and made a part hereof (collectively, the “**County Property**”);

WHEREAS, Resolution No. R-1398-05, approved by the Miami-Dade Board of County Commissioners (the “**Board**”) on December 19, 2005, authorized the allocation of \$8,000,000 of bond premium funds realized from the sale of Building Better Communities General Obligation Bond Program (the “**GOB Program**”) to the Miami Beach Community Health Center, Inc. (the “**MBCHC**”) to be used by MBCHC to purchase and renovate the County Property; and

WHEREAS, MBCHC is a Florida not-for-profit corporation established in 1977 which operates a primary healthcare facility providing certain healthcare services (including, without limitation, prenatal care, acute and well-child care, acute and well-adult care, chronic disease management, dental services, HIV case management and laboratory and pharmacy services) to the uninsured and the underinsured residents of the City of Miami Beach (the “**City**”); and

WHEREAS, Resolution No. R-1398-05 also required MBCHC to convey the County Property to the County after (a) MBCHC’s acquisition and renovation of the County Property, and (b) the execution of a long-term lease by the County to MBCHC for the County Property (the “**MBCHC Lease**”); and

WHEREAS, the County Property was acquired by the County from MBCHC pursuant to Resolution No. R-1398-05 in January 2006 for \$6,995,000 plus closing costs; and

WHEREAS, on August 7, 2019, the GOB Program granted \$624,100 for GOB Project Number 305-77123/Renovation to Health Clinic, which included \$593,100 of unspent allocation from the GOB Program plus \$31,000 from other sources (collectively, the “**2019 \$624,100 GOB Grant**”), in order to make repairs to a large part of the County Property which is in disrepair, unoccupiable and closed from the public; and

WHEREAS, the County does not require the County Property for any County purpose at this time, but desires to acquire the “**Replacement Property**” (as hereinafter defined) for a County purpose; and

WHEREAS, the Miami-Dade Public Library System (the “**MDPLS**”) currently operates the “**South Shore Library**” located at 131 Alton Road, Miami Beach, Florida, which is leased from the City as part of the City’s and the County’s Library Interlocal Agreement (R-1205-20); and

WHEREAS, MDPLS seeks to re-locating the South Shore Library to a location that is more visible and more easily-accessible to the majority of library patrons registered at the current South Shore Library; and

WHEREAS, Developer owns or will acquire 2 parcels of land improved with surface parking totaling approximately 15,000 square feet located at 663 Alton Road, Miami Beach, Florida, having folio

numbers [REDACTED] and [REDACTED], respectively, and more particularly described on Exhibit “B” attached hereto and made a part hereof (collectively, the “**Replacement Property**”); and

WHEREAS, the fair market value of the Replacement Property as of the Effective Date is \$[REDACTED] (the “**Developer Approved Value**”), and the fair market value of the County Property (assuming it is entitled with the “County Property Entitlements” (as hereinafter defined) as of the Effective Date) is estimated to be \$[REDACTED] (the “**County Approved Value**”); and

WHEREAS, Developer has applied to the County for an exchange of the County Property for the Replacement Property on and subject to the terms and conditions of this Agreement including, without limitation, that (a) Developer shall, prior to the conveyance of the Replacement Property to the County, construct the “New County Facilities” (as hereinafter defined) on the Replacement Property pursuant to and in accordance with the terms and conditions of this Agreement, (b) the County shall rescind the 2019 \$624,100 GOB Grant for repairs at the County Property in favor of contributing such monies to Developer for payment towards the “Project Costs” (as hereinafter defined) of the healthcare component of the New County Facility, and (c) the MDPLS shall contribute its “Pro-Rata Share” (as hereinafter defined) to Developer for payment towards the Project Costs of the library component of the New County Facility; and

WHEREAS, pursuant to Section 125.37, Florida Statutes, the County desires to convey the County Property to Developer in exchange for the Developer conveying the Replacement Property (together with the New County Facilities thereon) to the County, all on and subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

TERMS:

1. INCORPORATION OF RECITALS.

The foregoing Recitals are true and correct and are hereby incorporated herein by this reference. If there is a conflict between any of the Recitals and the Terms of this Agreement, the Terms of this Agreement as set forth below shall govern and control.

2. DEFINITIONS.

“**Business Day**” means all days, other than the Jewish Holidays, Saturdays, Sundays and legal holidays on which banking institutions are generally closed in the State of Florida. For purposes hereof, the term “**Jewish Holidays**” shall mean any of the following Jewish Holidays: (a) the first 2 days and the last 2 days of Passover; (b) 2 days of Shavuot; (c) 2 days of Rosh Hashanah; (d) 1 day of Yom Kippur; and (e) the first 2 days and the last 2 days of Sukkot. If any time period set forth in this Agreement expires on a day other than a Business Day, such period shall be extended to and through the next succeeding Business Day.

“**County Clinic Cost Contribution**” means \$624,100 of unspent but allocated GOB Project Number 305-77123/Renovation to Health Clinic funds to be re-allocated to the construction of the New County Facilities, notwithstanding any additional contributions or credits made by or on behalf of the County towards the New County Facilities.

“**County Library Cost Contribution**” means the MDPLS’ Pro-Rata Share of the Project Costs of the New County Facility, notwithstanding any additional contributions or credits made by or on behalf of the County towards the New County Facilities.

“**County Property Entitlements**” means, collectively, all final, non-appealable approvals (including, without limitation, all land development, zoning, ordinances, development orders, variances and waivers) to be issued by any and all “Governmental Authorities” (as hereinafter defined) (including, without limitation, the City, the County and the State of Florida (the “**State**”) and all boards, commissions, departments and committees of any such Governmental Authority) that are required to construct the New Developer Project on the County Property.

“**Escrow Agent**” means [REDACTED].

“**Law**” means any applicable law, statute, code, ordinance, administrative order, implementing order, development order, charter, resolution, rule, regulation, judgment, decree, writ, injunction, order, franchise, permit or license, of any Governmental Authority, now existing or hereafter enacted, adopted, promulgated, entered or issued.

“**Liquidated Damage Amount**” means an amount equal to 150% of the Project Costs as set forth in the approved “Project Budget” (as such term is defined in the “Rider” (as hereinafter defined)). The parties acknowledge and agree that: (a) the damages Developer will incur in the event of the County’s default under this Agreement is incapable of ascertainment; (b) the Liquidated Damages Amount is a fair and reasonable measure of the damages to be suffered by Developer in the event of the County’s default under this Agreement and constitute reasonable liquidation thereof; and (c) is intended not as a penalty, but as liquidated damages.

“**New County Facilities**” means that certain two-story building to be constructed on the Replacement Property consisting of approximately [22,500] square feet of interior space (the “**Total Project Square Footage**”), comprised of approximately: (a) [8,000] square feet of ground floor library space built-out to the specifications of the MDPLS as established herein (the “**Library Square Footage**”); (b) approximately [13,250] square feet of ground floor and second floor space built-out to the specifications of the MBCHC as established herein; and (c) all other on-site improvements to constructed by Developer on the Replacement Property on the in accordance with the terms and conditions of this Agreement.

“**New Developer Project**” means [REDACTED]

“**Project Costs**” means all shall mean all hard costs, soft costs, financing costs and administration/development fees and costs incurred by Developer in the design, entitlement, permitting, financing, development, construction and completion of the New County Facilities.

“**Pro-Rata Share**” means the percentage determined as follows: Library Square Footage / Total Project Square Footage [(i.e., 8,000 / 22,500 = 35.56%)].

“**Replacement Property Entitlements**” means, collectively, all final, non-appealable approvals (including, without limitation, all land development, zoning, ordinances, development orders, variances and waivers) to be issued by any and all Governmental Authorities (including, without limitation, the City, the County and the State and all boards, commissions, departments and committees of any such Governmental Authority) that are required to construct the New County Facilities on the Replacement Property.

3. PROPERTY TO BE EXCHANGED AND INTEREST CONVEYED.

The County agrees to convey to Developer, by County Deed in the form attached to and made a part of this Agreement as **Exhibit “C”** (the “**County Property Deed**”), the County Property, subject to the terms and conditions of this Agreement.

Developer agrees to convey to the County, by Special Warranty Deed in the form attached to and made a part of this Agreement as **Exhibit “D”** (the “**Replacement Property Deed**”), the Replacement Property, subject to the terms and conditions of this Agreement.

For the avoidance of doubt, both the County Property and the Replacement Property include all improvements, easements, tenements, hereditaments and appurtenances thereon or thereto belonging or in anywise appertaining to each such property, except that: (a) the New County Facilities shall be constructed on the Replacement Property prior to the conveyance thereof to the County; and (b) the MBCHC Lease shall be terminated prior to the conveyance of the County Property to Developer.

Each party acknowledges that it is acquiring the other party’s property in its “AS-IS, WHERE-IS” condition with and subject to all faults and defects whether latent or patent. Each party also acknowledges that, except only for the specific representations, warranties, covenants, statements and agreements expressly made by the other party in this Agreement and in the agreements, documents and instruments to be delivered by such other party at Closing 1 and Closing 2, respectively, no party has made nor makes, and each party specifically negates and disclaims, any and all other representations, warranties, covenants, statements and agreements of any kind, nature or character whatsoever, whether express or implied, oral or written, concerning or relating to the property owned by such party or any improvements located thereon or the fitness of either for any particular use or purpose. This paragraph shall survive closing or any earlier termination of this Agreement.

4. VALUATION OF COUNTY PROPERTY AND DEVELOPER PROPERTY.

For purposes of this Agreement, Developer and the County agree that as of the Effective Date: (a) the County Property (assuming it is entitled with the County Property Entitlements) is valued at the County Approved Value; and (b) the Replacement Property is valued at the Developer Approved Value.

5. CONSIDERATION FOR EXCHANGE.

As a material inducement and consideration for the County to enter into this Agreement, Developer agrees to construct the New County Facilities on the Replacement Property prior to conveying the Replacement Property to the County to compensate the County for the difference in the County Approved Value and the Developer Approved Value. Therefore, in accordance with the terms and conditions of this Agreement, Developer shall, prior to conveying the Replacement Property to the County, construct the New County Facilities on the Replacement Property at its sole cost and expense, except for: (a) the County Clinic Cost Contribution; (b) the County Library Cost Contribution; and (c) such other fees, costs and expenses to be paid by the County pursuant to the terms and conditions of this Agreement (including, without limitation, the Rider.

6. ENVIRONMENTAL SITE ASSESSMENTS OF DEVELOPER PROPERTY.

Developer shall convey the Replacement Property to the County free of any and all “Contaminants”, “Hazardous Materials” and “Environmental Conditions” (as those terms are hereinafter defined) that are in violation of any applicable “Environmental Laws” (as hereinafter defined) (any such Contaminant, Hazardous Material or Environmental Condition in violation of any applicable Environmental Law is referred to herein as an “**Environmental Defect**”). As evidence of and to achieve the same, Developer shall at its sole cost and expense and on or before the 30th day following the Effective Date, provide a current ASTM Phase I Environmental Report (an “**ASTM Phase I**”) to the Miami-Dade County Department of Regulatory and Economic Resources - Division of Environmental Resource Management (“**RER-DERM**”) for purposes of RER-DERM’s issuance of a “**No Further Action Plan**” in accordance with the Miami-Dade County Code of Ordinances (the “**Code**”), Section 24-44(2).

Developer has provided to the County an electronic copy of a “Phase I Environmental Site Assessment” dated October 27, 2020, prepared by Solutech, Inc, 5841 Corporate Way, Suite 102, West Palm Beach, Florida (the “**Solutech Report**”). Developer may at its sole option choose to have the Solutech Report updated and to provide such updated report to the County for RER-DERM review to fulfill the obligations herein, so long as such updated report is dated within the 30-day period following the Effective Date.

RER-DERM, within 30 days after receiving the ASTM Phase I (whether it’s a new ASTM Phase I or the updated Solutech Report) for the Replacement Property from Developer (the “**County Environmental Review Period**”), shall: (a) review such ASTM Phase I; and (b) either issue (i) a No Further Action Plan for the Replacement Property, or (ii) provide written notice to Developer of such actions as are necessary for RER-DERM to issue a No Further Action Plan for the Replacement Property. The review and approval of the Contaminants, Hazardous Materials and Environmental Conditions of the Replacement Property, and the testing for purposes of delivering the Replacement Property to the County as set forth herein, shall be granted, conditioned or denied in the reasonable exercise of RER-DERM’s discretion. If RER-DERM is unable to issue a No Further Action Plan for the Replacement Property based on such ASTM Phase I for the Replacement Property, then Developer shall in its sole and absolute discretion elect to either: (y) pursue the actions prescribed by RER-DERM (including, but not limited to, additional inspections and testing such as, but not limited to, an ASTM Phase II Environmental Site Assessment (the “**Additional Environmental Inspections**”)) as are necessary for RER-DERM to issue a No Further Action Plan for the Replacement Property at Developer’s sole cost and expense; or (z) terminated this Agreement on written notice to the County within 30 days after receipt of the proposed actions prescribed by RER-DERM as are necessary for RER-DERM to issue a No Further Action Plan for the Replacement Property, in which event this Agreement shall terminate and the parties shall be forever released from any and all rights, obligations and liabilities under this Agreement, except for those that expressly survive the termination of this Agreement.

If Developer does not terminate this Agreement under (z) above and any Additional Environmental Inspections show any Environmental Defect of the Replacement Property and/or of other surrounding properties or rights-of-way caused by any Environmental Defect of the Replacement Property, then Developer shall in its sole and absolute discretion elect to either: (a) promptly and diligently commence and complete any and all assessments, clean ups, repairs, monitoring and remedy of such Environmental Defect(s) as necessary to obtain full compliance of the Replacement Property and/or such other surrounding properties or rights-of-way with any and all applicable Environmental Laws; or (b) terminated this Agreement on written notice to the County within 30 days after receipt of such Additional Environmental Inspections, in which event this Agreement shall terminate and the parties shall be forever released from any and all rights, obligations and liabilities under this Agreement, except for those that expressly survive the termination of this Agreement.

Project Costs shall include any and all fees, costs and expenses expended by Developer for work undertaken by it in conjunction with the Contaminants, Hazardous Materials and Environmental Conditions on the Replacement Property (including, but not limited to, Phase I and Phase II testing, site assessments, environmental consultants and any remediation and clean-up work).

“**Contaminant**” shall mean any substance present in any medium which: (a) the environment limits or clean up target levels for which Chapter 24 of the Code provides; or (b) causes a nuisance as defined in Section 24-5, Section 24-27 or Section 24-28 of the Code; or (c) is defined in Sections 376.301 or 403.031, Florida Statutes.

“**Hazardous Material**” shall mean any hazardous or toxic substance, material or waste, pollutants or contaminants, as defined, listed or regulated now or in the future by any Environmental Laws, including without limitation: (a) chlorinated solvents; (b) petroleum products or by-products; (c)

asbestos; (d) polychlorinated biphenyls; and (e) anything that would be a hazardous waste, material or substance, toxic substance or pollutant under any Environmental Laws.

“**Environmental Conditions**” shall mean any conditions of the environment (including, without limitation, natural resources, soil, surface water, ground water, any actual or potential drinking water supply sources, substrata or the ambient air), relating to or arising out of or caused by the use, handling, storage, cleanup, treatment, recycling, generation, transportation, release, spilling, leaking, pumping, emptying, discharging, injecting, escaping, leaching, disposal, dumping, threatened release or other management or mismanagement of regulated substances (including, but not limited to, Hazardous Materials or Contaminants) resulting from the use of or operation of a business and/or activity on the Replacement Property.

“**Environmental Law(s)**” shall mean all present and future governmental laws, ordinances, rules and regulations pertaining to the protection of the environment including, without limitation, those pertaining to reporting, licensing, permitting, investigating, remediation, handling, manufacturing, treating, storing, generating, disposing, transporting, or releasing chemical substances, pollutants, contaminants, hazardous substances, toxic substances, pathogens, radioactive materials, or wastes, whether solid, liquid or gaseous. Without limiting the generality of the foregoing, Environmental Laws shall specifically include all federal, state and/or county laws, ordinances, rules and regulations directly related to environmental issues.

7. CONDITION OF THE COUNTY PROPERTY.

Developer and its employees, agents, consultants and contractors (collectively, the “**Agents**”) shall have the right to enter and come upon the County Property at all times while this Agreement remains in effect to perform any and all tests, inspections and investigations of or to the County Property that Developer or any of its Agents deems necessary or desirable, including without limitation, survey work, property condition reports, Phase I and Phase II environmental testing, asbestos surveys, soil and water sampling and geotechnical soil work and any other invasive-type testing (any of the foregoing being referred to herein as an “**Inspection**”). Developer acknowledges that MBCHC currently operates a primary healthcare facility on the County Property. The County will cooperate with Developer in good faith to make the necessary arrangements for Developer and its Agents to access and enter the County Property for Developer and its Agents to conduct full and complete Inspections of the County Property.

Developer shall have until 6:00 PM Eastern Standard Time of the date that is 120 days after the Effective Date (the “**Inspection Period**”) to review its Inspections of the County Property. If Developer is not, in its sole and absolute discretion, satisfied with the County Property for any reason whatsoever, then Developer shall have the right to terminate this Agreement by delivering a written notice of termination to the County prior to the expiration of the Inspection Period. If Developer timely delivers a written notice of termination to the County prior to the expiration of the Inspection Period, then this Agreement shall terminate and the parties shall be forever released from any and all rights, obligations and liabilities under this Agreement, except for those that expressly survive the termination of this Agreement. If, however, Developer does not timely deliver such termination notice to Seller, then Developer shall have waived its right to terminate this Agreement under this Section.

8. 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 department.

9. TITLE INSURANCE.

Developer / County Property

Developer shall have the right to obtain: (a) a title commitment (the “**Developer Commitment**”) from a title agent selected by Developer (the “**Developer Title Agent**”) for the issuance of an owner’s title insurance policy covering the County Property (the “**Developer Title Policy**”) from a national title insurance company of its choice (the “**Developer Title Company**”); and (b) a survey of the County Property (the “**Developer Survey**”) from a registered land surveyor licensed in the State of Florida selected by Developer which Developer Survey shall be certified to the parties, the Developer Title Agent, the Developer Title Company and such other persons as either party may request. Developer shall have the right to object to any requirement and/or exception set forth in the Developer Commitment or matter reflected on the Developer Survey by delivering a written notice of such objection(s) (the “**Developer Title Objection Letter**”) to the County within 45 days after the Effective Date (the “**Developer Title Review Period**”). If Developer fails to timely deliver its Developer Title Objection Letter to the County prior to the expiration of the Developer Title Review Period, then Developer shall have waived its right to object to any matters relating to the status of title to the County Property other than the “Mandatory Cure Items” (as hereinafter defined). If, however, Developer timely delivers its Developer Title Objection Letter to the County prior to the expiration of the Developer Title Review Period, then the County shall deliver to Developer, within 10 days after the expiration of the Developer Title Review Period (the “**County Title Response Period**”), written notice as to which objections in Developer’s Developer Title Objection Letter the County will satisfy or cure by Closing 2 (the “**County Title Cure Letter**”). If the County fails to timely deliver its County Title Cure Letter to Developer prior to the expiration of the County Title Response Period, or if the County refuses to satisfy and cure at its cost and expense on or before Closing 2 all of the objections set forth in Developer’s Developer Title Objection Letter, then Developer shall have the right to terminate this Agreement by delivering a written notice of termination to the County within 10 days after the expiration of the County Title Response Period, whereupon this Agreement shall terminate and the parties shall be forever released from any and all rights, obligations and liabilities under this Agreement, except for those that expressly survive the termination of this Agreement. The County shall be obligated to satisfy and cure at its cost and expense on or before Closing 2 those matters it agrees to satisfy and cure in the County Title Cure Letter.

The County / Replacement Property

The County shall have the right to obtain: (a) a title commitment (the “**County Commitment**”) from a title agent selected by the County (the “**County Title Agent**”) for the issuance of an owner’s title insurance policy covering the Replacement Property (the “**County Title Policy**”) from a national title insurance company of its choice (the “**County Title Company**”); and (b) a survey of the Replacement Property (the “**County Survey**”) from a registered land surveyor licensed in the State of Florida selected by the County which County Survey shall be certified to the parties, the County Title Agent, the County Title Company and such other persons as either party may request. The County shall have the right to object to any requirement and/or exception set forth in the County Commitment or matter reflected on the County Survey by delivering a written notice of such objection(s) (the “**County Title Objection Letter**”) to Developer within 45 days after the Effective Date (the “**County Title Review Period**”). If the County fails to timely deliver its County Title Objection Letter to Developer prior to the expiration of the County Title Review Period, then the County shall have waived its right to object to any matters relating to the status of title to the Replacement Property other than the Mandatory Cure Items. If, however, the County timely delivers its County Title Objection Letter to Developer prior to the expiration of the County Title Review Period, then Developer shall deliver to the County, within 10 days after the expiration of the County Title Review Period (the “**Developer Title Response Period**”), written notice as to which objections in the County’s County Title Objection Letter Developer will satisfy or cure by Closing 1 (the “**Developer Title Cure Letter**”). If Developer fails to timely deliver its Developer Title Cure Letter to the County prior to the expiration of the Developer Title Response Period, or if Developer refuses to satisfy and cure at its cost

and expense on or before Closing 1 all of the objections set forth in the County's County Title Objection Letter, then the County shall have the right to terminate this Agreement by delivering a written notice of termination to Developer within 10 days after the expiration of the Developer Title Response Period, whereupon this Agreement shall terminate and the parties shall be forever released from any and all rights, obligations and liabilities under this Agreement, except for those that expressly survive the termination of this Agreement. Developer shall be obligated to satisfy and cure at its cost and expense on or before Closing 1 those matters it agrees to satisfy and cure in the Developer Title Cure Letter.

Mandatory Cure Items

Notwithstanding anything to the contrary contained in this Agreement, and in addition to (a) those matters that Developer agrees to cure in the Developer Title Cure Letter, and (b) those matters that the County agrees to cure in the County Title Cure Letter, each party shall be obligated to have taken at its cost and expense on or before the applicable closing the necessary action to satisfy, delete and/or discharge from the other party's title commitment and/or public record (as applicable) the following matters (whether or not any such matters were objected to in such other party's title objection letter) (collectively, the "**Mandatory Cure Items**"): (s) any B-1 Requirement of the title commitment applicable to formation, governance, existence, good standing in the state of its formation, authority to do business in the State of Florida and execution and delivery of the instrument of conveyance (including, without limitation, the execution and/or delivery of formation documents, governance documents, certificates of good standing, qualifications to conduct business in the State of Florida, authorizing consents and resolutions and deeds); (t) the B-2 Standard Exceptions of the title commitment relating to the "gap exception", the "parties-in-possession exception" and the "mechanic's lien exception"; (u) any lien recorded against the property arising from labor, services, materials and/or supplies performed or provided in connection with any improvement made to or upon such property; (v) any mortgages and related loan documents encumbering the property; (w) all real estate taxes and assessments for years prior to the year in which the closing occurs; (x) any liens, judgments, tax warrants or other encumbrances of record affecting the property which can be satisfied and discharged by payment of a liquidated sum; (y) any open permits and/or existing code violations affecting the property; and (z) any matter new matter first appearing in any update to the title commitment, except for those matters expressly permitted by this Agreement.

10. CONDITIONS PRECEDENT TO CLOSING.

Developer Conditions Precedent

Notwithstanding anything to the contrary contained in this Agreement, it shall be a condition precedent (each, a "**Developer Condition Precedent**") to Developer's obligation to commence construction of the New County Facilities and/or close on the transaction contemplated by this Agreement (as applicable) that each of the Developer Condition Precedents set forth on **Exhibit "E"** attached hereto and made a part hereof have been satisfied. If there is a failure of a Developer Condition Precedent, then Developer shall have the right, in its sole and absolute discretion, to: (a) terminate this Agreement by delivering a written notice of termination to the County within 10 days after the failure of any such Developer Condition Precedent (but in no event later than the closing date of Closing 1), whereupon this Agreement shall terminate and the parties shall be forever released from any and all rights, obligations and liabilities under this Agreement, except for those that expressly survive the termination of this Agreement; or (b) waive the Developer Condition Precedent by delivering a written waiver of the same to the County within 10 days after the failure of any such Developer Condition Precedent (but in no event later than the closing date of Closing 1) and proceed with the transaction contemplated by this Agreement; or (c) extend the date by which the Developer Condition Precedent Date was to have been satisfied for a reasonable period of time (not to exceed an additional 90 days) by delivering a written extension notice to the County within 10 days after the date by which such Developer Condition Precedent was to have been satisfied to give Developer and/or the County (as applicable) an opportunity to cure such failure. Should Developer

elect to extend the date by which such Developer Condition Precedent was to have been satisfied under (c) above and Developer and/or the County either fails or refuses to cure such failure within the cure period given by Developer, Developer shall then have the right to elect either (a) or (b) above.

County Conditions Precedent

Notwithstanding anything to the contrary contained in this Agreement, it shall be a condition precedent (each, a “**County Condition Precedent**”) to the County’s obligation to proceed with and/or close on the transaction contemplated by this Agreement that each of the County Condition Precedents set forth on **Exhibit “F”** attached hereto and made a part hereof have been satisfied. If there is a failure of a County Condition Precedent, then the County shall have the right, in its sole and absolute discretion, to: (a) terminate this Agreement by delivering a written notice of termination to Developer within 10 days after the failure of any such County Condition Precedent (but in no event later than the closing date of Closing 2), whereupon this Agreement shall terminate and the parties shall be forever released from any and all rights, obligations and liabilities under this Agreement, except for those that expressly survive the termination of this Agreement; or (b) waive the County Condition Precedent by delivering a written waiver of the same to Developer within 10 days after the failure of any such County Condition Precedent (but in no event later than the closing date of Closing 2) and proceed with the transaction contemplated by this Agreement; or (c) extend the date by which the County Condition Precedent Date was to have been satisfied for a reasonable period of time (not to exceed an additional 90 days) by delivering a written extension notice to Developer within 10 days after the date by which such County Condition Precedent was to have been satisfied to give the County and/or Developer (as applicable) an opportunity to cure such failure. Should the County elect to extend the date by which such County Condition Precedent was to have been satisfied under (c) above and the County and/or Developer either fails or refuses to cure such failure within the cure period given by the County, the County shall then have the right to elect either (a) or (b) above.

11. CLOSING 1 FOR REPLACEMENT PROPERTY AND COUNTY POSSESSION.

Subject to the terms and conditions of this Agreement, Closing 1 shall take place: (a) on a date mutually agreed to by the parties, but no later than 30 days following satisfaction of the “**Closing 1 Closing Conditions**” set forth on **Exhibits “E”** and “**F**” attached hereto; and (b) simultaneously with Closing 2. Closing 1 shall take place through an escrow with the Escrow Agent.

At Closing 1, the parties shall execute and/or deliver (as applicable) the following closing documents:

(a) Developer shall execute and deliver to the County the Replacement Property Deed, subject only to: (i) taxes for the year of closing and subsequent years not yet due and payable, (ii) all laws, ordinances, rules, regulations, restrictions, prohibitions and other requirements imposed by governmental authorities, and (iii) all conditions, restrictions, limitations, easements and other matters of record without any such reference reimposing the same.

(b) Developer shall execute and deliver to the County an absolute bill of sale conveying to the County all of the personal property within the New County Facilities in usual and customary form and otherwise in form and substance reasonably acceptable to the parties;

(c) Developer shall execute and deliver to the County a title affidavit with respect to the “gap exception”, the “parties-in-possession exception” and the “mechanic’s lien exception” in usual and customary form and otherwise in form and substance reasonably acceptable to the County and the County Title Company;

(d) Developer shall execute and deliver to the County a non-foreign affidavit in usual and customary form;

(e) Developer shall deliver to the County the “NCF Plans” (as such term is defined in the Rider), together with the final “as built” plans and specifications for the New County Facilities;

(f) Developer shall deliver to the County all operating manuals and other printed materials provided to Developer by the “Project Contractor” (as such term is defined in the Rider) with respect to the New County Facilities or by manufacturers or installers of any element or system in the New County Facilities;

(g) Developer shall deliver to the County copies of the “Warranties” (as such term is defined in the Rider)

(h) Developer and the County shall each execute and deliver to the other all other documents, agreements, certificates, statements and other instruments required of or from Developer and/or the County by this Agreement in form and substance reasonably acceptable to the parties;

(i) Developer and the County shall each execute and deliver evidence of their authority to enter into the transactions contemplated by this Agreement and to execute and deliver this Agreement and all documents, agreements, certificates, statements and other instruments required hereby in usual and customary form and otherwise in form and substance reasonably acceptable to the parties;

(j) Developer shall deliver to the County all keys, access cards, alarm codes and similar items with respect to the Replacement Property;

(k) The County shall deliver to Developer (i) the County Clinic Cost Contribution, (ii) the County Library Cost Contribution, and (iii) MDPLS’ Pro-Rata Share; and

(l) Developer and the County shall each execute and deliver original counterparts of the closing statement.

At Closing 1, the Escrow Agent shall: (a) cause the Replacement Property Deed and any other recorded documents to be recorded in connection with the transfer of the Replacement Property by the County in the Public Records of Miami-Dade County, Florida; and (b) deliver the County Clinic Cost Contribution, the County Library Cost Contribution and MDPLS’ Pro-Rata Share to Developer.

12. CLOSING 2 FOR COUNTY PROPERTY AND DEVELOPER POSSESSION.

Subject to the terms and conditions of this Agreement, Closing 2 shall take place: (a) on a date mutually agreed to by the parties, but no later than 30 days following satisfaction of the “**Closing 2 Closing Conditions**” set forth on **Exhibits “E” and “F”** attached hereto; and (b) simultaneously with Closing 1. Closing 1 shall take place through an escrow with the Escrow Agent.

At Closing 2, the parties shall execute and/or deliver (as applicable) the following closing documents:

(a) The County shall execute and deliver to Developer the County Property Deed, subject only to: (i) taxes for the year of closing and subsequent years not yet due and payable, (ii) all laws, ordinances, rules, regulations, restrictions, prohibitions and other requirements imposed by governmental authorities, and (iii) all conditions, restrictions, limitations, easements and other matters of record without any such reference reimposing the same.

(b) The County shall execute and deliver to Developer an absolute bill of sale conveying to Developer all of the personal property within the County Property in usual and customary form and otherwise in form and substance reasonably acceptable to the parties;

(c) The County shall execute and deliver to Developer a title affidavit with respect to the “gap exception”, the “parties-in-possession exception” and the “mechanic’s lien exception” in usual and customary form and otherwise in form and substance reasonably acceptable to Developer and the Developer Title Company;

(d) The County shall execute and deliver to Developer a non-foreign affidavit in usual and customary form;

(e) The County and Developer shall each execute and deliver to the other all other documents, agreements, certificates, statements and other instruments required of or from the County and Developer by this Agreement in form and substance reasonably acceptable to the parties;

(f) The County and Developer shall each execute and deliver evidence of their authority to enter into the transactions contemplated by this Agreement and to execute and deliver this Agreement and all documents, agreements, certificates, statements and other instruments required hereby in usual and customary form and otherwise in form and substance reasonably acceptable to the parties;

(g) The County shall deliver to Developer all keys, access cards, alarm codes and similar items with respect to the County Property; and

(i) The County and Developer shall each execute and deliver original counterparts of the closing statement.

At Closing 2, the Escrow Agent shall cause the County Property Deed and any other recorded documents to be recorded in connection with the transfer of the County Property to Developer in the Public Records of Miami-Dade County, Florida.

At Closing 2, Developer and the County shall enter into a written limited license agreement in form and substance reasonably acceptable to the parties pursuant to which Developer shall grant the County and MBCHC a limited license for the sole and limited and exclusive purpose of accessing the County Property for a period of 15 days from and after the date of Closing 2 to disconnect and relocate the furniture, fixtures and equipment from the County Property to the New County Facilities; provided, however, the County shall not be obligated to remove all such furniture, fixtures or equipment from the County Property; and, provided further, that ownership of any such furniture, fixtures or equipment remaining in the County Property after the expiration of the limited license agreement shall become vested in Developer and Developer shall have the right to remove and dispose of the same without any notice, payment or other compensation to the County.

13. APPROVALS.

Developer intends to entitle, design, permit, develop and construct: (a) the New County Facilities on the Replacement Property; and (b) the New Developer Project on the County Property. In that respect, Developer shall have the right at all times while this Agreement remains in effect to execute, submit to and process with any and all local, county, state and/or federal governmental, quasi-governmental and/or regulatory bodies, agencies and/or authorities (any of the foregoing being referred to herein as a “**Governmental Authority**”) all applications, petitions, site plans, plats, covenants in lieu, easements, restrictive covenants, right of way deeds, development agreements, utility reservations and agreements (including, without limitation, for potable water, waste water and other utility services), concurrency certificates and reservations, and other agreements, documents and/or instruments (any of the foregoing,

together with all supporting materials and documents thereto, and any amended, modified, revised or supplemental submittals in connection therewith, are referred to herein collectively as the “**Approval Submittals**”) necessary or required to obtain from all Governmental Authorities (y) any and all final, non-appealable (i) approvals (including, without limitation, all variances and other governmental waivers) for the construction of the New County Facilities on the Replacement Property, and (ii) building permit for the construction of the New County Facilities on the Replacement Property ((i) and (ii) collectively, the “**Replacement Property Approvals and Permits**”); and (z) any and all final, non-appealable (i) approvals (including, without limitation, all variances and other governmental waivers) for the construction of the New Developer Project on the County Property, and (ii) building permit for the construction of the New Developer Project on the County Property ((i) and (ii) collectively, the “**County Property Approvals and Permits**”). The Replacement Property Approvals and Permits and the County Property Approvals and Permits are referred to herein collectively as the “**Approvals**”. Developer shall have the right to record any and all Approval Submittals and Approvals against title to the Replacement Property and/or the County Property (as applicable) in the Public Records of Miami-Dade County, Florida.

The County shall cooperate with and assist Developer in Developer’s efforts to prepare, submit, process, obtain and record all Approval Submittals and Approvals. In that regard, the County covenants and agrees, promptly upon the request of Developer (but in no event later than 10 days following such request), to execute and deliver to Developer all: (a) joinders, consents and/or other authorizations necessary for Developer to submit and process any Approval Submittal with any Governmental Authority; and (b) Approval Submittals necessary for Developer to obtain any Approval. The failure of the County to execute and deliver to Developer any joinder, consent, authorization or Approval Submittal within the time period required by this Section shall be a default by the County under this Agreement (an “**Execution/Delivery Default**”) and, in the event of any Execution/Delivery Default, Developer shall have the right (in addition to and not in lieu of any other right or remedy provided to Developer in this Agreement as a result of a default by the County) at its election to extend all dates in this Agreement and the Rider (including, without limitation, the “Pre-Development Schedule” (as such term is defined in the Rider)) for a period of time equal to the delay incurred by Developer in preparing, submitting, processing, obtaining and/or recording any Approval Submittal or Approval as a result of the Execution/Delivery Default.

Developer shall have the right to modify, amend and/or withdraw any Approval Submittal, as well as postpone, delay and/or withdraw any Approval Submittal for consideration from any public hearing at which such Approval Submittal is being considered, to address and resolve any comments, concerns or objections by any Governmental Authority or private organization, group, entity or individual. If Developer postpones, delays and/or withdraws any Approval Submittal for consideration from any public hearing at which such Approval Submittal is being considered (such public hearing is referred to herein as the “**Postponed Hearing**” and the Approval Submittal that was to be considered at such public hearing is referred to herein as the “**Postponed Approval Submittal**”) in order to address and resolve any comments, concerns or objections by any Governmental Authority or private organization, group, entity or individual, then all dates in the Pre-Development Schedule shall be extended on a day-by-day basis equal to the number of days between the date of the Postponed Hearing and the date of the re-scheduled public hearing at which the Postponed Approval Submittal is actually considered. The County covenants and agrees: (a) not to withdraw, hinder, delay or object to the execution, delivery, preparation, submission, processing, hearing of, amendment to or modification of any Approval Submittal or Approval in any way whatsoever (whether directly or indirectly), unless otherwise requested by Developer to do so in writing; and (b) not to seek any amendment, modification, rescission, cancellation or termination of any Approval Submittal or Approval, whether now or hereafter existing, unless otherwise requested by Developer to do so in writing.

If this Agreement is terminated for any reason, then Developer shall withdraw and/or terminate (as applicable) all Approval Submittals and Approvals applicable to the County Property at the cost and expense of Developer. This paragraph shall survive any termination of this Agreement.

14. DEVELOPMENT/CONSTRUCTION OF COUNTY FACILITIES.

Developer shall: (a) be responsible for obtaining all architectural, engineering, development, construction and other information and materials required for the entitlement, design, permitting, development and construction of the New County Facilities pursuant to and in accordance with this Agreement and the Development Rider to Exchange Agreement attached hereto and made a part hereof as **Exhibit “G”** (the “**Rider**”); and (b) construct the New County Facilities in accordance with the “Approved Plans” (as such term is defined in the Rider). Except as otherwise expressly provided in this Agreement or in the Rider, Developer shall pay for all costs and expenses associated with the entitlement, design, permitting, development and construction of the New County Facilities; provided, however, and notwithstanding anything to the contrary contained in this Agreement or in the Rider, the County shall be responsible to pay for its own attorneys’ fees and consultants’ fees for parties engaged by the County in connection with its review of any architectural, engineering, development, construction or other information and materials required for the entitlement, design, permitting, development and/or construction of the New County Facilities. The Rider shall govern the rights and obligations of the parties with respect to the plan approval process, selection of design professionals and contractors, construction budgets and change orders, construction and completion, punch-list, construction warranties, and all other matters relating to the development, construction and completion of the New County Facilities, all on the terms and conditions set forth therein. Notwithstanding anything to the contrary contained in this Agreement or the Rider, Developer shall have no obligation to commence construction of the New County Facilities unless and until all of the “**Commencement of Construction Conditions**” set forth on **Exhibits “E”** and “**F**” attached hereto have been satisfied.

15. TAXES AND ASSESSMENTS FOR DEVELOPER PROPERTY.

The County is a political subdivision of the State of Florida and is exempt from the payment of ad valorem taxes. Therefore, Developer shall continue to pay all ad valorem and any other taxes for the Replacement Property until the day immediately preceding the day of Closing 2 and all taxes on the County Property from and after the day of Closing 1. It shall be Developer’s responsibility to comply with Section 196.295, Florida Statutes by placing the appropriate amount of pro-rata taxes for the Replacement Property until the day immediately preceding the day of Closing 2 (together with any delinquent taxes, if any) in escrow with the Miami-Dade Tax Collector.

16. CLOSING COSTS.

Developer shall pay: (a) all fees, costs, expenses and other charges payable to the consultants, attorneys and other third parties retained by Developer in connection with the transaction contemplated by this Agreement; (b) all fees, costs, expenses and other charges for any Inspections of the County Property performed by Developer; (c) all fees, costs and expenses for the preparation of the Developer Survey; (d) all fees, costs, expenses and premiums for the preparation of the Developer Commitment and the issuance of the Developer Title Policy; (e) the cost to record the Replacement Property Deed; (f) all fees, costs, expenses and other charges required to satisfy and cure those matters Developer elects to satisfy and/or cure in the Developer Title Cure Letter; (g) all fees, costs, expenses and other charges required to satisfy and/or cure the Mandatory Cure Items Developer is obligated to satisfy and cure; and (h) the cost of all documentary stamp tax, surtaxes and other governmental impositions due on the Replacement Property Deed.

The County shall pay: (a) all fees, costs, expenses and other charges payable to the consultants, attorneys and other third parties retained by the County in connection with the transaction contemplated by this Agreement; (b) all fees, costs, expenses and other charges for any tests, inspections and/or investigations of the Replacement Property performed by the County; (c) all fees, costs and expenses for the preparation of the County Survey; (d) all fees, costs, expenses and premiums for the preparation of the County Commitment and the issuance of the County Title Policy; (e) the cost to record the County Property

Deed; (f) all fees, costs, expenses and other charges required to satisfy and cure those matters the County elects to satisfy and/or cure in the County Title Cure Letter; (g) all fees, costs, expenses and other charges required to satisfy and/or cure the Mandatory Cure Items the County is obligated to satisfy and cure; and (h) the cost of all documentary stamp tax, surtaxes and other governmental impositions due on the County Property Deed.

The following shall be prorated on a per diem basis as of the day preceding the applicable date of closing:

(a) Any, certified, confirmed or ratified liens for governmental improvements as of the day preceding the Closing Date shall be paid in full by the owner of the property subject to the same, and pending liens for governmental improvements as of the day preceding the applicable closing shall be assumed by the party acquiring such property; provided, however, to the extent any certified, confirmed or ratified liens are payable in installments, then: (i) installments due for the year of closing shall be prorated as provided herein; (ii) installments due for periods prior to the year of closing shall be paid in full by the owner of the property; and (iii) all installments due after the year of closing shall be assumed and paid in full by the party acquiring such property after closing as such installments become due and payable. Any tax proration based upon the prior year's taxes may, at the request of either party, be subsequently readjusted upon receipt of the actual tax bill covering the property. The agreement to readjust taxes set forth in this paragraph shall survive closing for a period of 12 months.

(b) Utility meters for utility services (including, but not limited to, water, sewer, electric and gas) for each property shall be read on the day preceding the date of closing (or on the closest day preceding the date of closing as possible and projected through the day preceding the date of closing) and the amounts due as disclosed by such readings shall be credited to the party acquiring such property at closing. Any utility, municipal or other service that is provided to a property but not metered shall be prorated using the prior billing period's bill for such service and such amounts shall be credited to the party acquiring such property at closing. If any deposits for any utility, municipal or other service are assigned to a party, then the other party shall receive a credit in the amount of such deposits at closing. Any projection or proration based upon an estimate or a prior billing period's bill may, at the request of either party, be subsequently readjusted upon receipt of the actual bill for the period in question. The agreement to readjust service charges shall survive closing for a period of 12 months.

17. RISK OF LOSS.

Prior to the time of Closing 1, risk of loss for the Replacement Property shall remain with Developer, and after Closing 1 the risk of loss shall thereafter belong solely to the County. Prior to the time of Closing 2, the risk of loss for the County Property shall remain with the County, and after Closing 2 the risk of loss shall thereafter belong solely to Developer.

18. THE COUNTY AND/OR DEVELOPER DEFAULT.

Developer Default

If Developer defaults on any term, covenant, condition or other provision of this Agreement to be observed or performed by Developer, then the County shall have as its sole and exclusive remedy for such default any one of the following rights:

(a) the right to terminate this Agreement by delivering a written notice of termination to Developer, whereupon this Agreement shall terminate and the parties shall be forever released from any and all rights, obligations and liabilities under this Agreement, except for those that expressly survive the termination of this Agreement;

(b) to waive such default; or

(c) if the New County Facilities are complete, to commence an action for specific performance against Developer to compel the County to convey the Replacement Property (together with the New County Facilities) to Purchaser in accordance with the terms and provisions of this Agreement; provided, however, if the remedy of specific performance is rendered unavailable, impossible or impractical for any reason whatsoever, then the County shall have the right to either (i) waive such default as provided in (b) above or (ii) terminate this Agreement as provided in (a) above.

County Default

If the County defaults on any term, covenant, condition or other provision of this Agreement to be observed or performed by the County, then Developer shall have as its sole and exclusive remedy for such default any one of the following rights:

(a) the right to terminate this Agreement by delivering a written notice of termination to Developer, whereupon this Agreement shall terminate, the County shall pay Developer an amount equal to the Liquidated Damage Amount and, upon such payment, the parties shall be forever released from any and all rights, obligations and liabilities under this Agreement, except for those that expressly survive the termination of this Agreement.

(b) to waive such default; or

(c) to commence an action for specific performance against the County to compel the County to convey the County Property to Purchaser in accordance with the terms and provisions of this Agreement; provided, however, if the remedy of specific performance is rendered unavailable, impossible or impractical for any reason whatsoever, then Developer shall have the right to either (i) waive such default as provided in (b) above or (ii) terminate this Agreement and receive payment of the Liquidated Damage Amount as provided in (a) above.

Cure Rights

Notwithstanding anything to the contrary contained in this Section or elsewhere in this Agreement, neither party (the “**Non-Defaulting Party**”) shall have any right to exercise any remedy under this Section due to a default by the other party (the “**Defaulting Party**”) unless: (a) the Non-Defaulting Party shall have first provided written notice of the default to the Defaulting Party, and (b) the Defaulting Party shall have failed to cure the default within a period of 15 days after receiving notice of such default; provided, however, the foregoing notice and cure provisions shall not apply to any failure of the County to execute and deliver to Developer any joinder, consent, authorization or Approval Submittal within the time period required Section 13 above or to close the transaction contemplated by this Agreement on the agreed upon closing date.

Limitation of Damages

Notwithstanding anything to the contrary contained in this Section or elsewhere in this Agreement, in no event shall Developer or the County be liable to the other for any indirect, incidental or consequential damages (including, without limitation, lost profits) as a result of any default under this Agreement.

Survival

This Section shall survive the closing or any earlier termination of this Agreement.

19. LITIGATION.

In the event of any action, suit or proceeding arising out of or in connection with or relating to this Agreement or the performance of a party hereunder, each party shall bear its own attorneys' fees and costs in such action, suit or proceeding. This Section shall survive the closing or any earlier termination of this Agreement

20. COUNTY AS SOVEREIGN.

The parties hereby understand and agree that the proposed New County Facilities are subject to various governmental considerations and approvals that are outside the terms and conditions of this Agreement. Such governmental considerations and approvals may be processed or considered by one or various Governmental Authorities (including agencies and/or departments of the County and/ the City in the normal course of business for those agencies and/or departments). The parties agree that the County shall not be liable in any manner, whatsoever, to Developer for the proper and legal exercise of any governmental authority, regulatory powers and/or police powers by the County.

It is expressly understood and agreed that, notwithstanding any term or provision of this Agreement to the contrary and the County's status hereunder: (a) the County retains all its sovereign prerogatives and rights as a county under applicable Law and shall in no way be estopped or otherwise prevented from properly and legally withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future Laws of whatever nature applicable to the design, entitlement, permitting, development and construction of the New County Facilities; and (b) the County shall not by virtue of this Agreement be obligated to grant Developer any approvals of applications for building, zoning, planning or development under present or future Laws of whatever nature applicable to the design, entitlement, permitting, development and construction of the New County Facilities.

It is expressly understood that, notwithstanding any County covenant or obligation that may be contained in this Agreement (including, but not limited to, any covenant or obligation to (a) cooperate with, or provide good faith, diligent, reasonable or other similar efforts to assist, Developer, regardless of the purpose required for such cooperation, (b) execute documents or give approvals, regardless of the purpose required for such execution or approvals, (c) apply for, or assist Developer in applying for, any Governmental Authority or third-party approval or permit, or (d) contest or defend against, or assist Developer in contesting or defending against, any challenge of any nature) shall not bind the Board of County Commissioners, the Department of Regulatory and Economic Resources or any other County department, authority, committee or agency to grant or leave in effect any zoning changes, variances, waivers, permits, contract amendments or other approvals, and that all of the foregoing may be granted, withheld or revoked in the discretion of the County in the proper and legal exercise of its police powers; and, the County shall not be in default under this Agreement resulting from the County's proper and legal denial, withholding or revocation (in whole or in part) of any zoning changes, variances, waivers, permits, contract amendments or other approvals of any kind or nature whatsoever.

21. ASSIGNMENT AND/OR LEASE.

This Agreement shall not be assigned or assignable by Developer (by instrument of assignment or assignments of any direct or indirect ownership interests in Developer) under any circumstances, without the prior written consent of the County, which consent may be withheld, conditioned or delayed in the sole and absolute discretion of the County, except as otherwise expressly set forth herein.

Notwithstanding anything to the contrary contained in this Section or elsewhere in this Agreement:

(a) The direct or indirect ownership interests in Developer may be sold, assigned, transferred and/or conveyed at any time and from time to time, without the prior consent or approval of the County, provided that (i)(A) Developer shall notify the County in writing of such sale, assignment, transfer

and/or conveyance no later than 5 Business Days prior to such sale, transfer, assignment and/or conveyance, and (B) no more than 49% of the direct or indirect ownership interests in Developer in the aggregate shall change (whether through one or a series of transactions) during the term of this Agreement from the direct or indirect ownership interests in Developer as of the Effective Date; or (ii) the purchaser, assignee or other transferee of such ownership interests is “Developer Entity” (as hereinafter defined).

(b) This Agreement and the rights and obligations hereunder may be assigned and transferred, without the prior consent or approval of the County, to any lender, lender designee or any non-lender affiliated purchaser who acquires title to the Replacement Property through a foreclosure sale or deed-in-lieu of foreclosure (any of the foregoing being referred to herein as a “**Foreclosure Purchaser**”), provided that: (i) the Foreclosure Purchaser assumes all remaining obligations of Developer under this Agreement at the time of such assignment or transfer; (ii) Developer or the lender shall notify the County in writing of such foreclosure or transfer no later than 5 Business Days prior to such foreclosure or transfer; and (iii) the lender exercising such remedies has entered into a recognition agreement with the County recognizing the rights of the County under this Agreement. In the event a Foreclosure Purchaser acquires title to the Property in accordance with the terms hereof, such Foreclosure Purchaser shall be deemed the “Developer” for purposes of this Agreement.

(c) The direct or indirect ownership interests in Developer pledged to a mezzanine lender in connection with mezzanine financing may be acquired, without the prior consent or approval of the County, by any mezzanine lender, any designee of the mezzanine lender or any purchaser not affiliated with the mezzanine lender (any of the foregoing being referred to herein as a “**Mezzanine Foreclosure Purchaser**”) through a pledge foreclosure sale or an assignment-in-lieu of pledge foreclosure, provided that: (i) Developer or the mezzanine lender shall notify the County in writing of such foreclosure or assignment no later than 5 Business Days prior to such foreclosure or assignment; and (ii) the mezzanine lender exercising such remedies has entered into a recognition agreement with the County recognizing the rights of the County under this Agreement. In the event a Mezzanine Foreclosure Purchaser acquires the direct or indirect ownership interests in Developer in accordance with the terms hereof, the Developer as so reconstituted shall be deemed the “Developer” for purposes of this Agreement.

(d) For purposes of this Section, the term “**Developer Entity**” shall mean individually or collectively (or any combination of): (i) (1) Russell Galbut, or any spouse, child, grandchild, brother, sister, niece, nephew or first cousin (each of the foregoing being referred to herein as a “**Family Member**”) Russell Galbut, or any combination of the foregoing, (2) any trust established for the benefit of Russell Galbut, or any Family Member of Russell Galbut, or any combination of the foregoing, and/or (3) any entity owned, directly or indirectly, one hundred percent (100%) by Russell Galbut or any Family Member of Russell Galbut, or any trust established for the benefit of Russell Galbut or any Family Member of Russell Galbut, or any combination of the foregoing; and/or (ii) (1) David Martin, or any Family Member of David Martin, or any combination of the foregoing, (2) any trust established for the benefit of David Martin, or any Family Member of David Martin, or any combination of the foregoing, and/or (3) any entity owned, directly or indirectly, one hundred percent (100%) by David Martin or any Family Member of David Martin, or any trust established for the benefit of David Martin or any Family Member of David Martin, or any combination of the foregoing.

The parties agree that prior to Closing 2, the County shall not assign this Agreement nor convey or lease the County Property without the prior written consent of Developer, which consent may be withheld, conditioned or delayed in the sole and absolute discretion of Developer. In the event of any permitted assignment, conveyance or lease of this Agreement or the County Property, the assignee, transferee or lessee shall review this Agreement and enter into a separate agreement with Developer acknowledging its rights, duties, responsibilities, obligations and liabilities under this Agreement.

22. NOTICES.

All notices, demands, requests and other communications required or permitted hereunder shall be in writing, and shall be: (a) personally delivered with a written receipt of delivery; (b) sent by a nationally recognized overnight delivery service requiring a written acknowledgement of receipt or providing a certification of delivery or attempted delivery; (c) sent by certified or registered mail, return receipt requested; or (d) sent by electronic transmission with an original copy thereof transmitted to the recipient by one of the means described in subsections (a) through (c) no later than one (1) Business Day thereafter. All notices shall be deemed effective when actually delivered as documented in a delivery receipt; provided, however, that if the notice was sent by overnight courier or mail as aforesaid and is affirmatively refused or cannot be delivered during customary business hours on a Business Day by reason of the absence of a signatory to acknowledge receipt, or by reason of a change of address with respect to which the addressor did not have written notice delivered in accordance with this Section then the first attempted delivery shall be deemed to constitute delivery. Each party shall be entitled to change the persons as well as the address for notices from time to time by delivering to the other party notice thereof in the manner herein provided for the delivery of notices. All notices shall be sent to the addressee at its address set forth following its name below:

Notice to The Developer: _____

With a copy to: _____

Notice to the County: Miami-Dade County
Internal Services Department
111 N.W. First Street, Suite 2100
Miami, Florida 33128
Attention: Director
c/o dawn.soper@miamidade.gov

With a copy to: Miami-Dade County
Office of the County Attorney
111 N.W. First Street, Suite 2800
Miami, Florida 33128
Attention: Monica Rizo, Esquire
monica.rizo@miamidade.gov

23. SUCCESSOR IN INTEREST.

All of the terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors, administrators and assigns.

24. ENTIRE AGREEMENT.

This Agreement constitutes full and final understanding between the parties as it pertains to the subject matter(s) contained herein and shall supersede and take precedence over any and all prior and contemporaneous agreements.

25. GOVERNING LAW.

This Agreement has been negotiated and executed in Florida. The parties hereby agree that this Agreement shall be construed and governed in accordance with the laws of the State of Florida, without application of conflict of laws principles, and venue shall be in Miami-Dade County, Florida.

26. SAVINGS CLAUSE.

In the event any term or provision of this Agreement is determined by an arbitration panel, or appropriate judicial authority, to be illegal, ineffective, unenforceable or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

27. NUMBERS AND GENDER.

Whenever used in this Agreement, the singular shall include the plural, the plural shall include the singular, any gender shall include every other and all genders, and captions and paragraph headings shall be disregarded.

28. CAPTIONS.

The captions or headings in this Agreement are inserted for the convenience of reference only and shall not be deemed to alter any provision of this Agreement, or affect its meaning or construction.

29. EXHIBITS.

All references in this Agreement to exhibits, schedules, paragraphs, subparagraphs and sections refer to the respective subdivisions of this Agreement, unless the reference expressly identifies another document.

30. BROKERAGE.

There are no brokerage fees or commissions payable with respect to the conveyance of the County Property to Developer and/or of the Replacement Property to the County.

31. AMENDMENTS.

All amendments, changes and/or modifications to this Agreement must be in writing and signed by all parties, and with regard to the County, any amendments, changes and/or modifications must be signed by the then-current County Mayor or the County Mayor's designee after approval of the Board of County Commissioners.

32. COUNTERPARTS.

This Agreement may be executed in counterparts and by each party on a separate but identical counterpart, each of which, when so executed and delivered shall be an original, but all of which together shall constitute one and the same instrument. The parties also hereby agree that the County and the Developer will execute this Agreement prior to the County's time or requirement for execution.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective authorized representatives, and they intend to be legally bound hereby to all of the terms and conditions of this Agreement.

DEVELOPER:

[_____]

Name: _____

By: _____

Name: _____

Title: _____

Name: _____

COUNTY:

MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida by its Board of County Commissioners

By: _____

Name: _____

Title: _____

ATTEST:

HARVEY RUVIN, CLERK

By: _____

Deputy Clerk

APPROVED FOR FORM AND LEGAL SUFFICIENCY

By: _____

Name: _____

Title: Assistant County Attorney

EXHIBIT "A"

Legal Description to the County Property

DRAFT

EXHIBIT "B"

Legal Description to the Replacement Property

DRAFT

EXHIBIT "C"

Form of County Property Deed

DRAFT

EXHIBIT "D"

Form of Replacement Property Deed

DRAFT

EXHIBIT “E”

Developer Conditions Precedent

1. The County

- a. The County must approve the rescission of the 2019 \$624,100 GOB Grant for repairs at the County Property in favor of contributing such monies to Developer for payment towards the Project Costs of the healthcare component of the New County Facility
- b. The County and the MDPLS must approve the contribution of the Pro-Rata Share to Developer for payment towards the Project Costs of library component of the New County Facility.
- c. All of the 2019 \$624,100 GOB Grant, and all of MDPLS’ Pro-Rata Share of the Project Costs of the library component of the New County Facility, shall be delivered to the Escrow Agent for the Escrow Agent to hold in and disburse from escrow in accordance with the Rider.

2. The Replacement Property

- a. The County must issue a No Further Action Plan for the Replacement Property
- b. Developer must acquire the Replacement Property
- c. The Developer must obtain all Replacement Property Entitlements
- d. Developer must obtain the Replacement Property Approvals and Permits
- e. There must be “Approved Plans” (as such term is defined in the Rider) for the New County Facilities
- f. Developer and the County must agree upon the Project Budget for the New County Facilities in which the amount to be paid by Developer does not exceed the difference between the County Approved Value and the Developer Approved Value.
- g. Developer and the Project Contractor must enter into the “GMP Contract” (as such term is defined in the Rider) for the construction of the New County Facilities for an amount not to exceed the agreed upon Project Budget
- h. “Substantial Completion” (as such term is defined in the Rider) of the New County Facilities must be achieved, subject to completion of “Punch-List Items” (as such term is defined in the Rider)
- i. The City must issue a temporary certificate of occupancy for the New County Facilities

3. The County Property

- a. Developer must obtain all County Property Entitlements including, without limitation, the following:
 - o Extend the Alton Road Gateway Area Development Ordinance to include the County Property and 740 Alton [zoning]
 - o Allows for buildings of up to 200 feet in height [height]
 - o Allows for the transfer of FAR from (i) the “commercial site” in the park, (ii) FDOT right of way located within Alton Road and 5th Street and (iii) 740 Alton, to the County Property
 - o Allows for the development of up to 383,496 of FAR [FAR]
 - o Allows for up to 400 residential units [residential units]
 - o Allows for up to 10,000 square feet of commercial space [commercial]

- b. Developer, the City and TCH 500 Alton, LLC (the “**Park Developer**”) must enter into an amendment to the existing development agreement that includes the following
 - o The issuance of the County Property Entitlements (including, without limitation, those set forth in (a) above) and the development of the County Property in accordance with the same
 - o Conversion of the “commercial site” in the park to “park” and conveyance of such “new park parcel” to the City
 - o The Park Developer’s lender must approve
 - The amendment to development agreement, and
 - Release of the “commercial site” from its loan
- c. Developer must obtain the County Property Approvals and Permits for the New Developer Project
- d. Execution of a covenant in lieu transferring not less than [] square feet of FAR from the commercial site to the County Property
- e. Execution of a covenant in lieu transferring not less than [] square feet of FAR from 740 Alton to the County Property
- f. Execution of a covenant in lieu transferring not less than [] square feet of FAR from the FDOT right-of-way located within Alton Road and 5th Street to the County Property

The following conditions are referred to herein as “**Conditions to Commencement of Construction**”

- Section 1 (a) through (c), inclusive
- Section 2 (a) through (g), inclusive
- Section 3 (a) through (f), inclusive
- Any other terms, conditions or requirements necessary for the commencement of construction of the New County Facilities as set forth in the Agreement and/or Rider

The following conditions are referred to herein as “**Closing 1 Closing Conditions**”

- Section 2 (h) and (i)
- All of the Conditions to Commencement of Construction
- The simultaneously occurrence of Closing 2
- Any other terms, conditions or requirements necessary for Closing 1 to occur as set forth in the Agreement and/or Rider

EXHIBIT “F”

County Conditions Precedent

1. **The Replacement Property**

- a. Substantial Completion of the New County Facilities must be achieved, subject to completion of Punch-List Items
- b. The City must issue a temporary certificate of occupancy for the New County Facilities

The following conditions are referred to herein as “**Closing 2 Closing Conditions**”

- Section 1 (a) and (b)
- The simultaneously occurrence of Closing 1
- Any other terms, conditions or requirements necessary for Closing 2 to occur as set forth in the Agreement

EXHIBIT “G”

Rider

DEVELOPMENT RIDER TO EXCHANGE AGREEMENT

THIS DEVELOPMENT RIDER TO EXCHANGE AGREEMENT (this “**Rider**”) is incorporated into and shall be deemed to supplement that certain Exchange Agreement by and between **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, and [REDACTED], a [REDACTED] limited liability company (as amended, modified, supplemented and/or restated from time to time, the “**Agreement**”), to which this Rider is attached as **Exhibit “G”**.

ADDITIONAL DEFINITIONS OF CERTAIN TERMS

For purposes of this Rider, each of the following terms shall have the respective meanings set forth in this **Section 1**. Unless otherwise defined in this Rider, all capitalized terms used in this Rider shall have the respective meanings given to them in the Agreement.

1.1 Approved Change Order shall mean a Developer Change Order or County Change Order approved and implemented in accordance with the terms of this Rider and, subject to the terms of Section 6.2, any Change Orders required by any Governmental Authorities.

1.2 Approved Plans shall mean the Complete Plans for the Project approved by the Governmental Authorities and initialed by Developer and County pursuant to Section 4.2 and shall include modifications by Approved Change Orders.

1.3 Change Order shall mean any modifications to any set of Approved Plans.

1.4 Complete Plans shall mean the Plans approved and initialed by Developer and County pursuant to Section 4.1, subject to revision pursuant to Section 4.2 and Approved Change Orders.

1.5 Completion Date shall mean, with respect to (a) Substantial Completion of the Project, the date that is [REDACTED] months following Construction Commencement, and (b) Final Completion of the Project, no later than one (1) year following Substantial Completion, as the context requires, in each case as extended from time to time by mutual agreement of Developer and County.

1.6 Construction Commencement shall mean the commencement of physical construction (including, at a minimum, the commencement of excavation for foundations/installation of piles).

1.7 Construction Commencement Deadline shall mean the date that is [REDACTED] days following the Effective Date.

1.8 County Change Order shall mean a Change Order that County desires to implement.

1.9 County Delay shall mean a delay arising from any of the following events:

1.9.1 County's failure to timely provide, approve or disapprove any Plans or any revisions thereof as provided for in **Section 4**, provided that Developer notifies County in writing of such event and County fails to cure same within 5 Business Days following receipt of such notice.

1.9.2 County Change Orders, provided that Developer has properly notified County of the potential time delay and cost increases resulting from same in accordance with the terms and conditions of **Section 6.2**.

1.10 County's Representative shall mean the individual designated by the County from time to time to serve as County's representative under this Rider. The initial County's Representative shall be [REDACTED], unless and until the County designates another individual as County's Representative.

1.11 Cure Period shall mean: (a) for monetary defaults, 10 Business Days following written notice of such monetary default to the defaulting party; and (b) for non-monetary defaults, 30 days following written notice of such non-monetary default to the defaulting party (provided, however, if such non-monetary default cannot reasonably be expected to be cured within such 30 day period, then the defaulting party shall have such additional time as is reasonably necessary to cure such non-monetary default (but in no event longer than 150 days following written notice of such non-monetary default), so long as the defaulting party commences curing such non-monetary default within such initial 30 day period and thereafter diligently pursues such cure to completion).

1.12 Design Professionals shall mean the Project Architect, engineers (including without limitation all civil, structural, mechanical, electrical, landscape and geotechnical engineers), interior designers and/or any other design professionals or consultants retained for the Project selected by Developer pursuant to Section 3.1.

1.13 Developer Change Order shall mean a Change Order that Developer desires to implement.

1.14 Developer's Representative shall mean the individual designated by Developer from time to time to serve as Developer's representative under this Rider. The initial Developer's Representative shall be any of [REDACTED] and [REDACTED], unless and until Developer designates another individual as Developer's Representative.

1.15 Final Completion shall occur upon the issuance of a final certificate of occupancy for the Project.

1.16 Material Adverse Effect shall mean a material and adverse effect on the use or operation of the Project for County's intended use.

1.17 Plans shall mean, collectively, the design and construction drawings, plans and specifications for the Project developed by the Project Architect and the other Design Professionals and approved by the parties in accordance with the terms set forth herein. The term "Plans" shall include the site plan for the Project.

1.18 Project shall mean the design, development and construction of the New County Facilities and any other improvements on or to the Replacement Property as finally described in the Approved Plans, as modified by Approved Change Orders.

1.19 Project Architect shall mean (a) [REDACTED] as the design architect, and (b) an architect to be selected by Developer as the executive architect, or in each of the foregoing cases, another architect selected by Developer, for the design and preparation of the Plans in accordance with Section 3.1.

1.20 Project Budget shall mean the budget for the Project setting forth the preconstruction costs and all construction costs for the entitlement, design, permitting, financing, development and construction of the Project including, without limitation, all hard costs, soft costs, financing costs and administration/development fees and costs, all related on-site and off-site infrastructure costs, and all fixtures and equipment required in connection with the Project.

1.21 Project Contractor shall mean the third-party general contractor for the Project selected by Developer in accordance with Section 3.2.

1.22 Punch List Items shall mean those uncompleted items related to the construction of the Project that do not materially or unreasonably interfere with County's use of the Project for their intended purposes; provided, however, that any outstanding items shall not constitute Punch-List Items and Substantial Completion shall not be deemed to have occurred in the event the list of outstanding items with respect to the Project includes any components which are required to obtain a temporary certificate of occupancy for the Project, or (b) relate to fire or life safety systems of the Project unless specific approval is granted by the agency having jurisdiction is granted.

1.23 Substantial Completion or Substantially Completed shall mean the issuance of a temporary certificate of occupancy (or final certificate of occupancy) for the Project.

1.24 Unavoidable Delay shall mean delays beyond the reasonable control of a party required to perform, including (but not limited to) delays due to strikes; lockouts; acts of God; floods; fires; named tropical storms or hurricanes; casualty; any act, neglect or failure to perform of or by one party that caused the other party to be delayed in the performance of any of its obligations hereunder; war; enemy action; civil disturbance; acts of terrorism; restraint by court or public authority; inability to obtain labor or materials; delays in settling insurance claims; pandemic as and when declared by the World Health Organization, State of Emergency when and as declared by the State of Florida or National Emergency when and as declared by the United States, in each case, only if and to the extent such occurrences affect the South Florida region; and moratoriums or other delays relating to Laws. The obligated party shall be entitled to an extension of time because of its inability to meet a time frame or deadline specified in this Rider or the Agreement where such inability is caused by an Unavoidable Delay.

SECTION 2 - RESPONSIBILITY FOR DESIGN AND CONSTRUCTION

Developer shall be responsible for the entitlement, design, permitting, development and construction of the Project, all in accordance with the terms and conditions of this Rider, the Agreement, the Approved Plans and the other agreements entered into by the parties pursuant hereto. Developer shall perform the work required of it hereunder through the Project Architect, engineers and other Design Professionals, consultants, contractors (including the Project Contractor) or other persons, firms or entities (collectively, “**Contractors**”) selected by Developer for the performance of such work in accordance with the terms hereof. The parties agree that the development and construction of the Project shall be subject to and performed in compliance with all applicable Laws.

SECTION 3 - DESIGN AND DEVELOPMENT OF THE PROJECT

3.1 Design Professional Selection. Developer shall select the Design Professionals to prepare architectural and other design documents for the Project. All Design Professionals providing services related to the Project shall meet all applicable local and state standards for licensing (including without limitation any special licensing requirements under any Laws applicable to County with respect to the Project, if any). Without limiting the foregoing, the Project Architect shall be a registered architect as provided in Chapter 481, Florida Statutes, and all engineers shall be licensed professional engineers as provided in Chapter 471, Florida Statutes. Developer shall assemble and negotiate the terms and conditions of the contracts with all Design Professionals providing services related to the Project.

3.2 Contractor Selection. Developer shall select the Project Contractor and other Contractors for the Project. The Project Contractor shall meet all applicable local and state standards for licensing (including without limitation any special licensing requirements under any Laws applicable to County with respect to the Project, if any). Developer shall contract with the selected Project Contractor pursuant to the “GMP Contract” (as hereinafter defined) for the construction of the Project in accordance with the terms and conditions of this Rider.

3.3 Design and Construction Documents. The Project shall be designed by the Project Architect and other Design Professionals in accordance with all applicable Laws. Developer shall design, develop and/or negotiate the Plans, Construction Schedule, Project Budget and other construction documents (collectively, the “**Design and Construction Documents**”) necessary for the development and construction of the Project as contemplated herein. Without limiting the foregoing or the other provisions of this Rider, all Plans for the Project shall be subject to the plan approval process set forth in **Section 4** and the GMP Contract shall be subject to the terms of **Section 5.2**. All costs and expenses associated with the County’s review of the Plans as well as any of the Design and Construction Documents by consultants engaged by County shall be borne solely by County.

3.4 Pre-Development Schedule. Attached hereto as **Schedule 3.4** is a schedule (as same may be updated pursuant to this **Section 3.4**, the “**Pre-Development Schedule**”) setting forth the pre-development milestones. Developer shall use commercially reasonable and diligent efforts to achieve each predevelopment milestone by the date for the same as set forth in the Pre-Development Schedule. If any pre-development milestone will not be achieved by the date for the same as set forth in the Pre-Development Schedule, Developer may update the Pre-Development Schedule to extend such date, provided that: (a) Developer is otherwise using commercially reasonable and diligent efforts to achieve all Pre-Development Deadlines; and (b) Developer shall promptly provide County with the updated Pre-Development Schedule. It shall not be a default by

Developer under this Agreement if it fails to achieve any milestone date by the date for the same as set forth in the Pre-Development Schedule.

3.5 Construction Schedule. A preliminary construction schedule for the construction and completion of the Project will be provided by Developer to County by the date set forth in the Pre-Development Schedule. Such preliminary construction schedule shall be updated periodically by Developer and the Project Architect. The final construction schedule for the Project (the “**Construction Schedule**”) shall be substantially consistent with the preliminary construction schedule (as updated) and will be provided by Developer to County as part of the GMP Contract after: (a) Developer awards the construction contract to the Project Contractor; and (b) Developer and the Project Contractor agree to the final construction schedule for the Project. Changes to the Construction Schedule prior to and following Construction Commencement shall not require the approval of County; provided, however, that extensions of any dates following Construction Commencement shall require notice to (but not the approval of) County. The Construction Schedule will reflect a date for Substantial Completion of the Project no later than the Completion Date.

3.6 Construction Commencement. Developer shall commence construction of the Project within [] days following the satisfaction of all Conditions to Commencement of Construction.

3.7 Construction Meetings. From the date the Project Contractor mobilizes on site through Substantial Completion, Developer and County will attend meetings (the “**Construction Meetings**”) for the purpose of coordinating the work to be done pursuant to this Rider and resolving issues and disputes related to the Project including, without limitation, the progress of construction and compliance of the Project with the Approved Plans. Such Construction Meetings are intended to facilitate the construction process and shall not create or enlarge any rights of the parties under this Rider, the Agreement or otherwise relating to the Project. County’s Representative and Developer’s Representative will attend the meetings in person or by electronic means (through Zoom, Microsoft Teams or other virtual platform). The Project Architect, Design Professionals, Project Contractor and other Contractors will attend the Construction Meetings as required under their respective contracts with Developer and as otherwise necessary or desirable to address matters pertaining to the current and upcoming stages of Project construction.

SECTION 4 - PLANS FOR PROJECT

4.1 Plan Approval Process.

4.1.1 Developer shall submit to County for review and approval a preliminary site plan for the Project (including conceptual plans for the Project) by the date set forth in the Pre-Development Schedule. The site plan shall be subject to the review and approval of County and all Plans for the Project shall be consistent with the approved site plan in all material respects.

4.1.2 County shall have the right to review and approve the Plans for the Project at the initial conceptual phase, and at completion of 50% and 100% of the schematic design phase, 50% and 100% of the design development phase, and 50% and 100% of the construction documents phase. Each subsequent set of Plans shall further define the design of the Project based on the immediately prior Plans approved by Developer and County. County shall provide its comments (if any) to the Plans to Developer within the time frames set forth in this **Section 4.1**, which Developer shall in turn submit to the Project Architect (and any other applicable Design Professionals) so the Plans and other documents can be revised accordingly before submission of

the Project Architect's next phase of Plans. County's approval of the Plans may be granted or withheld in accordance with **Section 4.1.3**. The 100% complete Plans at each design phase (i.e., schematic design phase, design development phase and construction documents phase), as finally approved by County and Developer, shall be initialed by the parties and, once initialed, shall be deemed incorporated into this Rider by this reference.

4.1.3 County shall have a period of: (a) 5 Business Days after receipt of the preliminary and each subsequent site plan under **Section 4.1.1**; and (b) 10 Business Days for all other Plans identified in **Section 4.1.2** that require County review hereunder to advise Developer, in writing, of its approval or disapproval of same. In the event County disapproves of any Plans submitted by Developer, County shall include in its written notification the specific reasons for disapproval and the steps necessary to correct same. In the event of a disapproval of any Plans by County, Developer shall incorporate any corrections in the subsequent set of Plans issued under **Sections 4.1.1-4.1.3**. No Plans that require the approval of County hereunder shall be deemed approved unless and until County actually approves same in writing. In the event of a County Delay under this Section, Developer shall be entitled to a day-for-day extension of the dates contained in the Pre-Development Schedule. County may not unreasonably withhold, condition or delay its approval of any Plans that require its approval hereunder. If County has previously approved any aspect of the Plans and no portion of any revised set of Plans has affected the earlier-approved aspect, County shall have no right to disapprove that which it approved earlier.

4.2 Approved Plans.

4.2.1 Developer shall promptly submit each set of Complete Plans (once each of same are approved pursuant to **Section 4.1**) to the City and any other applicable Governmental Authorities. Developer shall promptly notify County of any changes to the Complete Plans requested by the Governmental Authorities in connection with the review of the Complete Plans and issuance of any permits for the Project.

4.2.2 Revisions to each set of the Complete Plans (each herein, the "**Revised Complete Plans**") will be made by the Project Architect (in conjunction with the other Design Professionals, as necessary) within 10 Business Days after the Project Architect receives notice from the Governmental Authorities or Developer (or such longer period of time if required by the Project Architect, if the revisions, by their nature cannot reasonably be completed within 10 Business Days, provided that the Project Architect promptly commences the revisions and diligently pursues same until completion). County shall have a period of 10 Business Days from receipt of a set of Revised Complete Plans to review and approve or disapprove same.

4.2.3 In the event County disapproves a set of Revised Complete Plans, Developer and County shall, within 5 Business Days (or such longer period as may be reasonably necessary for the parties to convene) of the date of County's written disapproval, detailing County's objections, convene a meeting of the Project Architect, any other required Design Professionals, County's Representative and Developer's Representative. The purpose of the meeting shall be to review the Revised Complete Plans along with County's written objections and to work towards remedying such objections so that a revised set of Revised Complete Plans, as mutually agreeable by Developer and County, can be re-submitted to the Governmental Authorities. Developer shall then cause the Revised Complete Plans to be further revised to address County's objections made in accordance with the foregoing provisions and resubmit same for County's review. Within 10 Business Days of County's receipt of the further Revised Complete Plans, County shall: (a) approve such Revised Complete Plans (in which case such Revised Complete Plans shall be the Complete Plans with respect to the Project depicted therein); or (b) disapprove such Revised Complete Plans

with specific written objections to same. The parties shall continue the foregoing process until County approves of the Revised Complete Plans and the parties shall reasonably work together continuing this review and revision process until the Revised Complete Plans have been so approved.

4.2.4 Upon County's approval of a set of Revised Complete Plans, which shall include any changes required by the Governmental Authorities, Developer will promptly resubmit the Complete Plans to the Governmental Authorities for approval. Any further changes to the resubmitted Complete Plans requested or required by the Governmental Authorities shall be handled in accordance with the procedures set forth in this **Section 4.2**. Each set of the Complete Plans as approved by the Governmental Authorities shall be initialed by the parties, and, once initialed, shall be deemed incorporated into this Rider by this reference and included in the Approved Plans.

4.3 Plan Disputes. County and Developer shall attempt to resolve any disputes concerning the Plans in good faith with the Project Architect, Project Contractor or other required parties, as applicable. In furtherance thereof, upon the request of either party, Developer shall coordinate a meeting (similar to the Construction Meetings) with the Project Architect or any other appropriate party to review the Plans and discuss any issues, disputes or other concerns of the parties relating to the Plans as often as reasonably required to resolve disputes and avoid delays in the Project.

4.4 Project. Notwithstanding Developer's responsibility for the administration and construction of the Project pursuant to the Design and Construction Documents, County shall provide guidance (and meet with the Project Architect, the other Design Professionals and Developer) and such other detail for the design of the Project to ensure that the Plans meet the needs of County. As such, County shall actively participate in and work with (including, without limitation, meeting with as frequently as is necessary) the Project Architect, the other Design Professionals and Developer on the development of the Plans.

4.5 Rights to Plans. Subject to the terms, conditions and limitations set forth in the agreements with the Project Architect and the other Design Professionals, the parties agree that Developer shall be the owner of the Plans prepared by or under the direction of the Project Architect and other Design Professionals for the Project. Developer shall obtain a written consent from the Project Architect and any other Design Professionals in favor of County ensuring that County shall have the full and unconditional right to use the Plans for any subsequent maintenance, repair, replacement, modification and/or reconstruction of the Project.

SECTION 5 - PROJECT BUDGET/GMP CONTRACT/BONDS

5.1 Preliminary Budget. Upon completion of the Approved Plans for the Project, Developer shall provide a construction cost estimate to County for a preliminary Project Budget. Except as otherwise specifically set forth herein with respect to payment of (a) the County Clinic Cost Contribution and the County Library Cost Contribution at Closing 1 and (b) County Change Orders, County shall not be responsible for any costs of any nature whatsoever arising out of or in connection with the construction of the Project, except for any increased costs that are directly caused by a County Delay.

5.2 GMP Contract. Developer shall negotiate the terms and conditions of the guaranteed maximum price general construction contract for the construction of the Project which shall include all labor, materials, equipment and supplies for the construction of the Project as well

as the Project Contractor's overhead and profit (the "**GMP Contract**") to be entered into between the Project Contractor and Developer. The GMP Contract shall, among other things:

5.2.1 Include (a) a warranty from the Project Contractor guarantying the integrity of the Project structure and/or any elements thereof to be free of water intrusion and/or excessive moisture inside the building as a result of the Project Contractor's or any other Contractor's work for a minimum period of [] years, and (b) the warranties required of the Project Contractor under **Section 8**; and

5.2.2 Include a provision providing that all warranties obtained under the GMP Contract with respect to the Project shall benefit or be assignable to County.

No changes to the GMP Contract shall be permitted that would revise the GMP Contract in a manner adverse to County in any material respect without the prior written consent of County, which consent shall not be unreasonably withheld, conditioned or delayed.

5.3 Final Budget. Upon receipt of a "guaranteed maximum price" or hard bid from the Project Contractor pursuant to the GMP Contract, Developer shall provide a final Project Budget to County. The final updated Project Budget provided to County under this Section shall be deemed the Project Budget for purposes of this Rider.

5.4 Art in Public Places. The Project shall be subject to the Art in Public Places provisions in Section 2.11.15 of the Code and in the Dade County Guide to Art in Public Places (the "Guide"), which provisions of the Code and Guide are incorporated herein by this reference. Developer shall transmit 1.5% of all capital costs (as defined by the Code) to the Miami-Dade County Department of Cultural Affairs for Art in Public Places (the "Department") for the implementation of the Art in Public Places program (the "Public Art Funds") and the contract(s) with the artist(s) for the Project shall be between the artist(s) and the Art in Public Places Trust, in accordance with the Code and Guide. The full amount of the Public Art Funds shall be dedicated to Developer's use for public art within the Replacement Property and such sum shall be included in the Project Costs. Developer shall either: (a) submit the proposed artworks to be funded with the Public Art Funds to the Department for its review, recommendation and approval; or (b) seek the County's approval of the proposed artworks and waiver of any applicable Art in Public Places program requirements, which approval by the County shall not to be unreasonably withheld, conditioned or delayed.

SECTION 6 - CONSTRUCTION PROGRESS; COMPLETION

6.1 Construction Progress. Developer and County and, where necessary, the Design Professionals and Project Contractor, shall cooperate with each other in good faith to address any issues pertaining to the conformance of the work to the Design and Construction Documents or Approved Plans, proposed or potential change orders, concerns (if any) raised by the parties and other matters pertaining to the construction, occupancy and operation of the Project. The parties shall use the Construction Meetings to address all of the foregoing matters. Developer shall cause the Project Architect to certify to Developer and County Construction Commencement and Substantial Completion once such events have occurred.

6.2 Submissions; Change Orders. Change Orders shall be reviewed and/or implemented in accordance with the terms and conditions of this Section.

6.2.1 Governmental Change Orders. The parties acknowledge that the Approved Plans may require changes during the construction process. Developer and County hereby consent to and approve any Change Orders which are required by any Governmental Authorities (“**Governmental Change Orders**”). Any proposed Governmental Change Orders shall be promptly delivered to County by Developer or delivered at the periodic Construction Meetings.

6.2.2 Developer Change Orders. County’s prior written consent shall be required for any Developer Change Orders that result in a Material Adverse Effect, which consent may be granted or withheld by County in its sole discretion. In the event Developer proposes to implement a Developer Change Order that result in a Material Adverse Effect, Developer shall deliver written notice to County requesting County’s review and approval of the Developer Change Order (“**Developer’s Plan Change Notice(s)**”), together with a copy of the plans or other documents depicting or describing the Developer Change Order, for its review and approval in accordance herewith. County shall deliver its written approval or disapproval thereof within 10 Business Days after its receipt of Developer’s Plan Change Notice and the accompanying plans. In the event that County disapproves of the Developer Change Order, such notice shall include a reasonably detailed explanation of the reasons for such disapproval and specific suggestions for changes or corrections to the Developer Change Order. Developer shall have the right to implement any Developer Change Orders that: (a) do not result in a Material Adverse Effect; or (b) result in a Material Adverse Effect but are approved pursuant to this Section in accordance with this Rider.

6.2.3 County Change Orders. County may elect to propose County Change Orders to the Approved Plans by written request to Developer from time to time prior to Substantial Completion. Each proposed County Change Order shall be subject to Developer’s approval, which shall not be unreasonably withheld, conditioned or delayed. If a proposed County Change Order is determined by Developer in its reasonable discretion to likely increase the cost of the Project, to delay the completion of the Project and/or to cause an increase in other costs and expenses payable by Developer, then Developer shall notify County and, within 5 Business Days after receipt of such notice from Developer, County shall either pay to Developer the anticipated amount of such increased costs and expenses as estimated by Developer in its reasonable discretion or, alternatively, withdraw the proposed County Change Order. If, within such 5 Business Day period, County withdraws the proposed County Change Order or fails to pay such increased costs and expenses to Developer, then Developer will not be obligated to implement the proposed County Change Order and the proposed County Change Order shall be null and void and of no further force or effect.

6.3 County’s Inspection Rights. Upon prior reasonable written notice to Developer, Developer will grant County’s Representative access to review the status of the construction of the Project, including without limitation, access to the site and all construction books and records relating to the Project. Developer shall provide County and County’s Representative with: (a) access to any daily (or other periodic) third party reports provided in connection with the construction of the Project; and (b) such other information relating to the construction of the Project as may be reasonably requested by County from time to time. County and County’s Representatives shall have the right at any and all reasonable times, upon reasonable prior written notice to Developer, to conduct inspections respecting the work in progress, but shall not unreasonably interfere with the work in progress and such inspections shall not occur more frequently than twice per month. For the avoidance of doubt, the parties agree that neither (x) County’s review or comment on any Plans, nor (y) County’s review of the GMP Contract or any other Design and Construction Documents, nor (z) County’s inspection of the Project shall impose

any liability on County or constitute an inspection for compliance with Laws, it being agreed that any such activities undertaken by County hereunder are solely for County's benefit.

SECTION 7 - FUNDING OF COUNTY CONTRIBUTION PROCEEDS

Prior to Construction Commencement, the County shall deliver the County Clinic Cost Contribution and the County Library Cost Contribution (collectively, the "**County Contribution Proceeds**") to the Escrow Agent. The Escrow Agent shall disburse the County Contribution Proceeds to Developer during the construction of the Project through a construction draw process on a percentage of completion basis pursuant to an escrow agreement to be entered into among Developer, the County and the Escrow Agent.

SECTION 8 - CONSTRUCTION WARRANTIES

8.1 Construction Warranties. Developer shall assign to, or cause County to be added as an express benefited party on, and shall provide County with a copy of, the construction warranties provided by the Project Contractor or any other Contractor for the Project, together with any and all other assignable warranties or guaranties of workmanship or materials provided to Developer by the Project Architect or any other Design Professionals, any subcontractor, manufacturer, supplier or installer of any element or system in the Project, and all other assignable warranties and guaranties issued to Developer in connection with the Project (collectively, the "**Construction Warranties**"). Without limiting the other requirements of this Rider, the Construction Warranties for the Project shall include warranties from all Contractors and Design Professionals for the Project in form, content and coverage (in terms of scope and term of years) consistent with the warranties and guaranties of design, workmanship, labor, products, materials, supplies, building and life safety systems, equipment and the like, provided by contractors and design professionals for comparable projects in Miami-Dade County, Florida, in addition to the warranty from the Project Contractor covering the matters set forth in **Section 8.2**. To the extent the Construction Warranties are assigned by Developer to County, the Construction Warranties shall nevertheless remain jointly enforceable by Developer and County. All Construction Warranties shall be required to extend for not less than 1 year from the date the Project is Substantially Complete or such longer time period to the extent customary for the improvement, element, system or item in question.

8.2 Required Project Contractor Warranty. The Project Contractor will warrant in the GMP Contract that all products, materials and equipment furnished to the Project will be of good quality and new unless otherwise required or permitted by the Approved Plans, that the Project will be free from defects, and that the Project will conform with the requirements of the Design and Construction Documents and the Approved Plans. The warranty shall provide that: (a) any work not conforming to the foregoing requirements, including substitutions not properly approved and authorized in writing by any required party or parties pursuant to the Design and Construction Documents, shall be considered defective and shall be corrected by the Project Contractor, at its expense, promptly following written notice from Developer or County (as applicable); and (b) if the Project Contractor fails to promptly cure and correct such defects after such notice to the Project Contractor (and, in any event, within the Cure Period), Developer or County (as applicable) may perform same and the Project Contractor shall be liable for all actual, reasonable, documented out-of-pocket costs and expenses incurred by such party in curing and correcting such defects. The foregoing warranty may exclude recovery for damage or defect caused by abuse or improper or insufficient maintenance of the Project by the beneficiary enforcing the warranty. Developer shall reasonably cooperate with County to make a claim in connection with and enforce the Construction

Warranties (including, without limitation, the foregoing Project Contractor warranty) upon County's request.

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