AMENDED AND RESTATED LAND DISPOSITION AGREEMENT

THIS LAND DISPOSITION AGREEMENT (this "**Agreement**"), is made effective for all purposes as of the _____ day of _____, 2014, between (i) DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development ("**District**"), and (ii) 3800 Lot, LLC, a District of Columbia Limited Liability Company ("**Developer**").

RECITALS:

R-1. District owns the parcel of land located at 3825-3829 Georgia Avenue, N.W., in Washington, D.C., known for tax and assessment purposes as Lot 0818, Square 3028 as more particularly described on Exhibit A, attached hereto and incorporated herein by reference (the "**Property**").

R-2. District desires to convey the Property to Developer to be developed in accordance with this Agreement. The disposition of the Property to Developer was approved on April 7, 2009 by the Council of the District of Columbia pursuant to the 3813-3815 and 3825-3829 Georgia Avenue, NW, Disposition Approved Resolution of 2009, Resolution #18-72 ("**Resolution**"), subject to certain terms and conditions incorporated herein.

R-3. District and Developer entered into a land Disposition Agreement dated effective June 10, 2009 pursuant to which District agreed to convey the property to developer ("**Original Agreement**"); however, the conveyance was not consummated pursuant to the Resolution prior to the disposition authority expiring.

R-4. District and Developer desire to amend and restate the Original Agreement in its entirety, and to make certain modifications to the same. The parties agree and acknowledge that this new Agreement will be submitted to Council in order to gain the approval needed for the District to dispose of the Property.

R-5. The Property has a unique and special importance to District. Accordingly, this Agreement makes particular provision to assure the excellence and integrity of the design and construction of the Project necessary and appropriate for a first class, urban development serving District residents and the public at large.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration in hand paid, the receipt and sufficiency of which are hereby acknowledged by the Parties hereto, District and Developer do hereby agree as follows, to wit:

ARTICLE I
DEFINITIONS

For the purposes of this Agreement, the following capitalized terms shall have the meanings ascribed to them below and, unless the context clearly indicates otherwise, shall include the plural as well as the singular:

"Affordability Covenant" is that certain Affordable Housing Covenant between District and Developer in the form attached hereto as Exhibit B, to be recorded in the Land Records against the Property in connection with Closing.

"**Affordable Unit**" means each unit to be developed, sold or rented and used for residential purposes in accordance with the requirements of the Affordability Covenant.

"Approved Plans and Specifications" is defined in Section 4.2.

"Architect" means an architect of record, licensed to practice architecture in the District of Columbia, which has been selected by Developer for the Project and approved by District.

"Business Days" means Monday through Friday, inclusive, other than holidays recognized by the District of Columbia government.

"CBE" is an entity designated as such by the DSLBD, or any successor governmental entity.

"**CBE Agreement**" is that agreement between Developer and DSLBD governing certain obligations of Developer under D.C. Law 16-33 with respect to the Project, attached hereto as Exhibit C and executed by the Parties prior to the Effective Date.

"Certificate of Completion" means that certificate provided by the Architect to District upon Completion of Construction, as required under Section 8.1.1(e) herein.

"Certificate of Occupancy" means a certificate of occupancy or similar document or permit (whether conditional, unconditional, temporary, or permanent) that must be obtained from the appropriate governmental authority as a condition to the lawful occupancy of the Project.

"Closing" is the consummation of the purchase and sale of the Property as contemplated by this Agreement.

"**Closing Date**" is defined in Section 6.1.1.

"Commencement of Construction" means Developer has (i) executed a construction contract with its general contractor; (ii) given such general contractor a notice to proceed under said construction contract; (iii) caused such general contractor to mobilize on the Property equipment required to commence construction, and (iv) obtained the Permits and commenced construction upon the Property pursuant to the Approved Plans and Specifications. For purposes of this Agreement, the term "Commencement of Construction" does not mean site exploration, borings to determine foundation conditions, or other pre-construction monitoring or testing to establish background information related to the suitability of the Property for development of the Improvements thereon or the investigations of environmental conditions.

"Completion of Construction" means (i) Developer has completed construction of the Improvements, exclusive only of Punch List Items, in accordance with the Approved Plans and Specifications and the Construction and Use Covenant; (ii) Developer's general contractor is entitled to final payment under the construction contract exclusive only of any retainage held on account of Punch List Items; (iii) Developer has provided District with a copy of the Certificate of Completion; and (iv) a permanent Certificate of Occupancy has been issued for the Project.

"**Compliance Form**" is defined in Section 4.5.

"**Condominium Instruments**" shall mean the condominium declaration, bylaws, and plats and plans recorded pursuant to the D.C. Condominium Act, D.C. Official Code §§ 42-1901.01, *et seq.*

"Construction and Use Covenant" is that covenant agreement between District and Developer governing the development, construction and use of the Property, in the form attached hereto as Exhibit D, to be recorded in the Land Records.

"**Construction Drawings**" is defined in Section 4.1.1.

"Construction Plans and Specifications" mean the detailed architectural drawings and specifications that are prepared for all aspects of the Project in accordance with the Approved Plans and Specification that are used to obtain Permits, detailed cost estimates, to solicit and receive construction bids, and to direct the actual construction of the Improvements.

"Contaminant Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discharge of barrels, containers, and other receptacles containing any Hazardous Materials) of any Hazardous Materials.

"Deed" means the special warranty deed conveying the Property to Developer at Closing in the form of Exhibit E attached hereto and incorporated herein by reference.

"Deposit Letter of Credit" is defined in Section 2.2.1.

"**Developer Default**" is defined in Section 9.1.1.

"**Developer's Agents**" mean Developer's agents, employees, consultants, contractors, and representatives.

"Development and Completion Guaranty" is that guaranty, in the form attached hereto as Exhibit F, to be executed by Guarantors, which shall bind the Guarantors to develop and otherwise construct the Project in the manner and within the time frames pursuant to the terms of this Agreement and the Construction and Use Covenant.

"Development Plan" means Developer's detailed plans for developing, constructing, financing, using, and operating the Project, in the form and substance required under Section 4.1 and the Permitted Use Plan.

"**Disapproval Notice**" is defined in Section 4.2.2.

"**Disposal Plan**" is defined in Section 2.3.1.

"**District Default**" is defined in Section 9.1.2.

"**DOES**" is the District of Columbia Department of Employment Services.

"**DOL**" is the United States Department of Labor.

"**DSLBD**" is the District of Columbia Department of Small and Local Business Development.

"**Effective Date**" is the date first written above, which shall be the date of the last Party to sign this Agreement as set forth on the signature pages attached hereto, provided that all Parties shall have executed and delivered this Agreement to one another.

"**Environmental Claims**" is defined in Section 8.1.3(a).

"Environmental Law" means any federal or District of Columbia law, ordinance, rule, regulation, requirement, guideline, code, resolution, order, or decree (including consent decrees and administrative orders) that regulates the use, generation, handling, storage, treatment, transportation, decontamination, clean-up, removal, encapsulation, enclosure, abatement, or disposal of any Hazardous Material, including the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, the Toxic Substance Control Act, 15 U.S.C. § 2601, *et seq.*, the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, their District of Columbia analogs, and any other federal or District of Columbia statute, law, ordinance, resolution, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Material.

"Final Completion" means following Completion of Construction (i) the completion of all Punch List Items; (ii) the close-out of all construction contracts for the Improvements; (iii) the payment of all costs of constructing the Improvements and receipt by Developer of fully executed and notarized valid releases of liens from all manufacturers, suppliers, subcontractors, general contractors, and all other Persons furnishing supplies or labor in connection with the Project; and (iv) the receipt by District of a certification by Developer of the items in clauses (i) through (iii) of this definition.

"First Source Agreement" is that agreement, in the form attached hereto as Exhibit G, between Developer and DOES, entered into in accordance with Section 8.4 herein, governing certain obligations of Developer under D.C. Law 14-24, D.C. Law 5-93, and Mayor's Order 83-265 regarding job creation and employment generated as a result of the Project.

"Force Majeure" is an act or event, including, as applicable, an act of God, fire, earthquake, flood, explosion, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure or a general shortage of labor, equipment, facilities, materials, or supplies in the open

market, failure or unavailability of transportation, strike, lockout, actions of labor unions, a taking by eminent domain, requisition, and laws or orders of government or of civil, military, or naval authorities enacted or adopted after the Effective Date, so long as such act or event (i) is not within the reasonable control of Developer, Developer's Agents, or its Members; (ii) is not due to the fault or negligence of Developer, Developer's Agents, or its Members; (iii) is not reasonably foreseeable and avoidable by Developer, Developer's Agents, or its Members or District in the event District's claim is based on a Force Majeure Event, and (iv) directly results in a delay in performance by Developer or District, as applicable; but specifically excluding (A) shortage or unavailability of funds or financial condition, (B) changes in market conditions such that construction of the Project as contemplated by this Agreement and the Approved Plans and Specifications are no longer practicable under the circumstances, or (C) the acts or omissions of a general contractor, its subcontractors, or any of Developer's Agents or Members.

"**Guarantor**" is Christopher J. Donatelli, pursuant to the Development and Completion Guaranty, and any successor(s) approved by District pursuant to Section 7.1 hereof.

"Hazardous Materials" means any flammable, explosive, radioactive, or reactive materials, any asbestos (whether friable or non-friable), any pollutants, contaminants, or other hazardous, dangerous, or toxic chemicals, materials, or substances, any petroleum products or substances or compounds containing petroleum products, including gasoline, diesel fuel, and oil, any polychlorinated biphenyls or substances or compounds containing polychlorinated biphenyls, medical waste, and any other material or substance defined as a "hazardous substance," "hazardous material," "hazardous waste," "toxic materials," "contamination," or "pollution" within the meaning of any Environmental Law.

"**Improvements**" mean landscaping, hardscape, and improvements to be constructed or placed on the Property in accordance with the Development Plan and Approved Plans and Specifications; provided, however, that in no event shall trade fixtures, furniture, operating equipment (in contrast to building equipment), stock in trade, inventory, or other personal property used in connection with the conduct of any business within the Improvements be deemed included in the term "Improvements" as used in this Agreement.

"**Indemnified Parties**" are defined in Section 8.1.3(a).

"Land Records" means the property records maintained by the Recorder of Deeds for the District of Columbia.

"Laws" means all applicable District of Columbia and federal laws, codes, regulations, and orders, including, without limitation, Environmental Laws, laws relating to historical preservation, laws relating to accessibility for persons with disabilities, and, if applicable, the Davis-Bacon Act.

"**Letters of Credit**" is defined in Section 2.2.1.

"**Major Casualty**" means damage or destruction to the Project that results in an estimated cost of restoration (as determined by an arms-length appraisal) in excess of one million dollars ($1,000,000.00).

"Member" means any Person with an ownership interest in Developer.

"Party or Parties" when used in the singular, shall mean either District or Developer; when used in the plural, shall mean both District and Developer.

"**Performance Letter of Credit**" is defined in Section 2.2.1.

"Permits" means all demolition, site, building, construction, and other permits, approvals, licenses, and rights required to be obtained from the District of Columbia government or other authority having jurisdiction over the Property (including, without limitation, the federal government, WMATA, and any utility company, as the case may be) necessary to commence and complete construction, operation, and maintenance of the Project in accordance with the Development Plan and this Agreement.

"Permitted Exceptions" has the meaning given it in Section 2.4.

"Permitted Use Plan" shall mean the development and construction of a mixed income residential property that includes: (a) approximately twenty-two (22) to thirty-one (31) Residential Units (anticipated to be comprised of 31 one-bedroom units) (b) the minimum number of parking spaces required by law, subject to any variances granted by the District Board of Zoning Adjustment, but in any case, not fewer than four parking spaces, unless otherwise modified by Developer with the prior written approval of District in its sole discretion.

"Person" means any individual, corporation, limited liability company, trust, partnership, association, or other entity.

"**Prohibited Person**" shall mean any of the following Persons: (a) Any Person (or any Person whose operations are directed or controlled by a Person) who has been convicted of or has pleaded guilty in a criminal proceeding for a felony or who is an on-going target of a grand jury investigation convened pursuant to Applicable Law concerning organized crime; or (b) Any Person organized in or controlled from a country, the effects of the activities with respect to which are regulated or controlled pursuant to the following United States laws and the regulations or executive orders promulgated thereunder: (x) the Trading with the Enemy Act of 1917, 50 U.S.C. App. §1, et seq., as amended (which countries are, as of the Effective Date hereof, North Korea and Cuba); (y) the International Emergency Economic Powers Act of 1976, 50 U.S.C. §1701, et seq., as amended; and (z) the Anti-Terrorism and Arms Export Amendments Act of 1989, codified at Section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. § 2405(j), as amended (which countries are, as of the Effective Date hereof, Iran, Sudan and Syria); or (c) Any Person who has engaged in any dealings or transactions (i) in contravention of the applicable money laundering laws or regulations or conventions or (ii) in contravention of Executive Order No. 13224 dated September 24, 2001 issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), as may be amended or supplemented from time-to-time or any published terrorist or watch list that may exist from time to time; or (d) Any Person who appears on or conducts any business or engages in any transaction with any person appearing on the list maintained by the U.S. Treasury Department's Office of Foreign Assets Control list located at 31 C.F.R., Chapter V, Appendix A or is a person described in Section 1 of the Anti-Terrorism Order; or (e) Any Person suspended or debarred by HUD or by the District of

Columbia government; or (f) Any Affiliate of any of the Persons described in paragraphs (a) through (e) above.

"Project" means those Improvements on the Property, and the development and construction thereof in accordance with the Permitted Use Plan, the Development Plan, the Construction and Use Covenant, and this Agreement.

"Punch List Items" mean the minor items of work to be completed or corrected prior to final payment to Developer's general contractor pursuant to its construction contract in order to fully complete the Project in accordance with the Approved Plans and Specifications.

"Purchase Price" means the price Developer shall pay for the acquisition of the Property pursuant to Section 2.1 hereof.

"**Residential Unit**" is any unit constructed as part of the Project to be developed, then sold or rented for residential purposes.

"**Resolution**" is defined in the Recitals.

"Schedule of Performance" means that schedule of performance, attached hereto as Exhibit H and incorporated herein, setting forth the timelines for milestones in the design, development, construction, and completion of the Project (including a construction timeline in customary form) together with the dates for submission of documentation required under this Agreement, which schedule shall be attached to the Development Plan and to the Construction and Use Covenant.

"Settlement Agent" means the title agent selected by Developer and mutually acceptable to Developer and District.

"Settlement Statement" is the statement prepared by the Settlement Agent setting forth the sources and uses of all acquisition funds associated with Closing.

"**Studies**" is defined in Section 2.3.1.

ARTICLE 2
CONVEYANCE; PURCHASE PRICE; CONDITION OF PROPERTY

2.1 SALE; PURCHASE PRICE

2.1.1 Subject to and in accordance with the terms of this Agreement, District shall sell to Developer and Developer shall purchase from District, all of District's right, title, and interest in and to the Property.

2.1.2 The Purchase Price shall be ONE DOLLAR ($1.00). Purchaser shall pay the Purchase Price at Closing in immediately available funds.

2.2 LETTERS OF CREDIT

2.2.1 Prior to the Effective Date, Developer has delivered to District a letter of credit in the amount of TWELVE THOUSAND FIVE HUNDRED DOLLARS ($12,500), in a form attached hereto as Exhibit I (the "**Deposit Letter of Credit**"). On the Effective Date, Developer shall deliver to District an additional letter of credit in the amount of TWELVE THOUSAND FIVE HUNDRED DOLLARS ($12,500) in a form reasonably satisfactory to District in all respects (the "**Performance Letter of Credit**") and District shall hold both the Deposit Letter of Credit and the Performance Letter of Credit (collectively, the "**Letters of Credit**") pursuant to the terms of this Agreement.

2.2.2 The Letters of Credit are not a payment on account of and shall not be credited against the Purchase Price; rather, the Letters of Credit shall be used as security to ensure Developer's compliance with this Agreement and the Construction and Use Covenant and may be drawn on by District in accordance with the terms thereof. Upon Completion of Construction and Developer's compliance with all other requirements of this Agreement, CBE Agreement, the Construction and Use Covenant, and the First Source Agreement, the Letters of Credit shall be released to Developer.

2.3 CONDITION OF PROPERTY

2.3.1 Feasibility Studies; Access to Property.

(a) From time to time prior to Closing, provided this Agreement is in full force and effect and that Developer is not then in default hereunder, Developer and Developer's Agents shall have the right to enter the Property for purposes of conducting surveys, soil tests, environmental studies, engineering tests, and such other tests, studies, and investigations (hereinafter "**Studies**") as Developer deems necessary or desirable to evaluate the Property; provided, Developer's Agents shall not conduct any invasive Studies without the prior written consent of District and, if approved, shall permit a representative of District to accompany Developer or Developer's Agents during the conduct of any such invasive Studies.

(b) Developer and Developer's Agents are solely responsible for obtaining any necessary licenses and permits for the Studies and any work associated therewith, including transportation and disposal of materials. In addition, Developer and Developer's Agents shall be obligated to comply with all Laws and the provisions of this Agreement during their entry on the Property and while conducting any Studies.

(c) At least 24 hours prior to entering on the Property, Developer shall provide District (i) written notice, including a written description of the intended Studies, (ii) evidence of insurance, as required under the terms of this Agreement, and (iii) copies of any required licenses and permits in accordance with Section 2.3.1(b).

(d) In the event Developer or Developer's Agents disturbs, removes or discovers any materials or waste from the Property while conducting the Studies, or otherwise during its entry on the Property, which are determined to be Hazardous Materials as defined herein, Developer shall notify District and DDOE within one (1) Business Day after its discovery of such Hazardous Materials. Thereafter, within ten (10) days after its discovery of such Hazardous

Materials, Developer shall submit a written notice of a proposed plan for disposal (the "**Disposal Plan**") to District and DDOE. The Disposal Plan shall contain all identifying information as to the type and condition of the Hazardous Materials or waste discovered and a detailed account of the proposed removal and disposal of the Hazardous Materials, including the name and location of the hazardous waste disposal site. DDOE may conduct an independent investigation of the Property, including but not limited to, soil sampling and other environmental testing as may be deemed necessary. Upon completion of DDOE's investigation, District and/or the DDOE shall notify Developer of its findings and shall notify Developer by written notice of its approval or disapproval of the proposed Disposal Plan. In the event DDOE disapproves the proposed Disposal Plan, Developer shall resubmit a revised Disposal Plan to District and DDOE. Developer shall seek the advice and counsel of DOEE prior to any resubmission of a proposed Disposal Plan. Upon review of the revised Disposal Plan, District or DDOE shall notify Developer of its decision. Upon approval of the Disposal Plan, Developer shall remove and dispose of all Hazardous Materials in accordance with the approved Disposal Plan and all Laws; provided, however, Developer shall not be required to begin its removal and disposal of Hazardous Materials not already disturbed or removed until after Closing. Within seven (7) Business Days after the disposal of any Hazardous Materials or waste, Developer shall provide District such written evidence and receipts confirming the proper disposal of all Hazardous Materials or waste removed from the Property.

(e) Developer shall not have the right to object to any condition that may be discovered, offset any amounts from the Purchase Price, or to terminate this Agreement as a result of such Studies except as otherwise expressly set forth herein.

(f) Developer hereby indemnifies and holds District harmless and shall defend District (with counsel reasonably satisfactory to District) from and against any and all losses, costs, liabilities, damages, expenses, mechanic's liens, claims and judgments, including, without limitation, reasonable attorneys' fees and court costs, incurred or suffered by District as a result of any Studies or other activities at the Property conducted by Developer or Developer's Agents. This provision shall survive Closing or the earlier termination of this Agreement.

(g) Developer covenants and agrees that Developer shall keep confidential all information obtained by Developer as to the condition of the Property; provided, however, that (i) Developer may disclose such information to its Members, officers, directors, attorneys, consultants, Settlement Agent, and potential lenders so long as Developer directs such parties to maintain such information as confidential and (ii) Developer may disclose such information as it may be legally compelled so to do. The foregoing obligation of confidentiality shall not be applicable to any information, which is a matter of public record or, by its nature, necessarily available to the general public. This provision shall survive Closing or the earlier termination of this Agreement.

(h) Any access to the Property by Developer pursuant to this Section shall additionally be subject to all of Developer's insurance obligations contained in Article 11 and Developer shall restore the Property after such tests are completed.

2.3.2 Soil Characteristics. District hereby states that, to the best of its knowledge, the soil on the Property has been described by the Soil Conservation Service of the United States Department of Agriculture in the Soil Survey of the District of Columbia and as shown on the Soil Maps as Urban land not rated and Urban land not rated - chillum complex, 0 to 8 percent slopes (UeB). Developer acknowledges that, for further soil information, Developer may contact a soil testing laboratory, the D.C. Department of Environmental Services or the Soil Conservation Service. The foregoing is set forth pursuant to requirements contained in D.C. Official Code § 42-608(b) and does not constitute a representation or warranty by District.

2.3.3 Underground Storage Tanks. In accordance with the requirements of Section 3(g) of the D.C. Underground Storage Tank Management Act of 1990, as amended by the District of Columbia Underground Storage Tank Management Act of 1990 Amendment Act of 1992 (D.C. Code § 8-113.01, *et seq.*) (collectively, the "**UST Act**") and the applicable D.C. Underground Storage Tank Regulations, 20 DCMR Chapter 56 (the "**UST Regulations**"), District hereby notifies Developer that it is unaware of any "underground storage tanks" (as defined in the UST Act) located on the Property or previously removed from the Property during District's ownership. Information pertaining to underground storage tanks and underground storage tank removals of which the D.C. Government has received notification is on file with the District Department of the Environment, Underground Storage Tank Branch, 51 N Street, N.E., Third Floor, Washington, D.C., 20002, telephone (202) 535-2525. District's knowledge for purposes of this Section shall mean and be limited to the actual knowledge of Victor L. Hoskins, the Deputy Mayor of Planning and Economic Development. The foregoing is set forth pursuant to requirements contained in the UST Act and UST Regulations and does not constitute a representation or warranty by District.

2.3.4 AS-IS. DISTRICT SHALL CONVEY THE PROPERTY TO DEVELOPER IN "AS IS" CONDITION AND DISTRICT MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE PROPERTY OR ANY IMPROVEMENTS THEREON, AS TO THE SUITABILITY OR FITNESS OF THE PROPERTY OR ANY IMPROVEMENTS THEREON, AS TO ANY LAW, OR ANY OTHER MATTER AFFECTING THE USE, VALUE, OCCUPANCY, OR ENJOYMENT OF THE PROPERTY, OR, EXCEPT AS SET OUT IN SECTION 3.1, AS TO ANY OTHER MATTER WHATSOEVER. DISTRICT SHALL HAVE NO RESPONSIBILITY TO PREPARE THE PROPERTY IN ANY WAY FOR DEVELOPMENT AT ANY TIME. DEVELOPER ACKNOWLEDGES THAT NEITHER DISTRICT NOR ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF DISTRICT HAS MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY OR ANY IMPROVEMENTS THEREON. THE PROVISIONS HEREOF SHALL SURVIVE CLOSING OR THE EARLIER TERMINATION OF THIS AGREEMENT.

2.4 TITLE

At Closing, District shall convey title to the Property "AS IS" and subject to the Permitted Exceptions. The **"Permitted Exceptions"** shall be the following collectively: (i) encroachments, overlaps, boundary disputes, or other matters which would be disclosed by an accurate survey or an inspection of the Property as of the Effective Date; (ii) any documents described in this Agreement that are to be recorded in the Land Records pursuant to the terms of

this Agreement; (iii) defects or exceptions to title to the extent such defects or exceptions are created by Developer or Developer's Agents or created as a result of or in connection with the use of or activities on the Property or any portion thereof by Developer or Developer's Agents; (iv) all building, zoning, and other Laws affecting the Property as of the Effective Date; (v) anything of record on the title as of the Effective Date; and (vi) any easements, rights-of-way, exceptions, and other matters required in order to obtain necessary governmental approval of the development of the Project or construction of the Improvements located thereon in accordance with this Agreement. From and after the Effective Date through Closing, District agrees not to take any action that would cause a material adverse change to the status of title to the Property existing as of the Effective Date, except as expressly permitted by this Agreement.

2.5 RISK OF LOSS

All risk of loss prior to Closing with respect to any and all existing improvements on the Property shall be borne by Developer; provided (i) in the event of a casualty, Developer shall not be required to rebuild any such improvements, but shall either raze same or render same so as not to cause a risk to person or property, (ii) in the event of a casualty, Developer shall not be required to restore the historic nature or features of the Property unless required to do so by Law, and (iii) the foregoing is not intended and shall not be construed to impose any liability on Developer for personal injury or property damage incurred by District or any third party prior to Closing except as otherwise set forth herein to the contrary as contained in Developer's indemnification obligations contained in Section 2.3 and Article 11.

2.6 CONDEMNATION

2.6.1 Notice. If, prior to Closing, any condemnation or eminent domain proceedings shall be commenced by any competent public authority against the Property, District shall promptly give Developer written notice thereof.

2.6.2 Total Taking. In the event of a taking of the entire Property prior to Closing, District shall release the Letters of Credit, this Agreement shall terminate, and the Parties shall be released from any and all obligations hereunder except those that expressly survive termination, and District shall have the right to any and all condemnation proceeds.

2.6.3 Partial Taking. In the event of a partial taking prior to Closing, District and Developer shall jointly determine in good faith whether the development of the Project remains physically and economically feasible. If the Parties reasonably determine that the Project is no longer feasible, whether physically or economically, as a result of such condemnation, this Agreement shall terminate, District shall release the Letters of Credit, and the Parties shall be released from any further liability or obligation hereunder, except as expressly provided otherwise herein. In such event, District shall have the right to collect all condemnation proceeds. If the Parties jointly determine that the Project remains economically and physically feasible, the Parties shall be deemed to have elected to proceed to Closing, the condemnation proceeds shall be paid to District at Closing; provided, however, that if no compensation has been actually paid on or before Closing, Developer hereby acknowledges and agrees that District shall be entitled to any condemnation proceeds resulting from ownership of the Property regardless of whether title has already been transferred by District to Developer. In either event, District (as the seller hereunder) shall have no liability or obligation to make any payment to

Developer with respect to any such condemnation. In the event that within forty-five (45) days after the date of receipt by Developer of notice of such condemnation the Parties have not jointly determined, in accordance with the foregoing provisions, to elect to terminate or proceed to Closing hereunder, such failure shall be deemed the Parties' election to terminate this Agreement.

2.7 SERVICE CONTRACTS AND LEASES

District has not procured or entered into any (i) service, management, maintenance, or development contracts, or (ii) leases, licenses, easements, or other occupancy agreements affecting the Property that will survive Closing. District will not hereafter enter into any such contracts or agreements that will bind the Property or Developer as successor-in-interest with respect to the Property, without the prior written consent of Developer.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

3.1 REPRESENTATIONS AND WARRANTIES OF DISTRICT

3.1.1 District hereby represents and warrants to Developer as follows:

(a) The execution, delivery and performance of this Agreement by District and the transactions contemplated hereby between District and Developer shall have been approved by all necessary parties prior to Closing and District has the authority to dispose of the Property, pending expiration of the authority granted in the Resolution, unless extended.

(b) No agent, broker, or other Person acting pursuant to express or implied authority of District is entitled to any commission or finder's fee in connection with the transactions contemplated by this Agreement or will be entitled to make any claim against Developer for a commission or finder's fee. District has not dealt with any agent or broker in connection with the sale of the Property.

(c) There is no litigation, arbitration, administrative proceeding, or other similar proceeding pending against District, which relates to the Property. There is no other litigation, arbitration, administrative proceeding, or other similar proceeding pending against District which, if decided adversely to District, would impair District's ability to perform its obligations under this Agreement.

(d) The execution, delivery, and performance of this Agreement by District and the transactions contemplated hereby between District and Developer do not violate any of the terms, conditions or provisions of any judgment, order, injunction, decree, regulation, or ruling of any court or other governmental authority to which District is subject, or any agreement, contract or Law to which District is a party or to which it is subject.

3.1.2 Survival. The representations and warranties contained in Section 3.1.1 shall survive Closing for a six (6) months; provided the Developer's sole remedy resulting form a

breach of the representations and warranties contained in Section 3.1.1 shall be to terminate this Agreement, re-convey the Property to District, and have the Letters of Credit returned to the Developer. District shall have no liability or obligation hereunder for any representation or warranty that becomes untrue because of reasons beyond District's control; provided District shall be required to notify Developer prior to Closing in the event it becomes aware that any representation or warranty becomes untrue.

3.2 REPRESENTATIONS AND WARRANTIES OF DEVELOPER

3.2.1 Developer hereby covenants, represents, and warrants to District as follows:

(a) Developer is a limited liability company, duly formed and validly existing and in good standing and has full power and authority under the laws of the District of Columbia to conduct the business in which it is now engaged. Christopher J. Donatelli is the sole Member of Developer and is the only Persons with an ownership interest in Developer as of the date hereof; provided prior to Closing, Mosaic Urban Partners LLC, or an affiliate, shall acquire a minimum twenty percent (20%) equity ownership in Developer and subject to the requirements of the CBE Agreement, additional Persons may acquire ownership interests in Developer as long as Christopher J. Donatelli retains a minimum twenty percent (20%) equity ownership in Developer and is the Manager of Developer. Notwithstanding anything herein to the contrary, Developer shall not permit any Prohibited Person to acquire any ownership interest in Developer.

(a) The execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by Developer. Upon the due execution and delivery of the Agreement by Developer, this Agreement constitutes the valid and binding obligation of Developer, enforceable in accordance with its terms.

(b) The execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby do not violate any of the terms, conditions, or provisions of (i) Developer's organizational documents, (ii) any judgment, order, injunction, decree, regulation, or ruling of any court or other governmental authority, or Law to which Developer is subject, or (iii) any agreement or contract to which Developer is a party or to which it is subject.

(c) No agent, broker, or other Person acting pursuant to express or implied authority of Developer is entitled to any commission or finder's fee in connection with the transactions contemplated by this Agreement or will be entitled to make any claim against District for a commission or finder's fee. Developer has not dealt with any agent or broker in connection with its purchase of the Property.

(d) There is no litigation, arbitration, administrative proceeding, or other similar proceeding pending against Developer that, if decided adversely to Developer, (i) would impair Developer's ability to enter into and perform its obligations under this Agreement or (ii) would materially adversely affect the financial condition or operations of Developer.

(e) Developer's purchase of the Property and its other undertakings pursuant to this Agreement are for the purpose of constructing the Project in accordance with the Development Plan; the Permitted Use Plan and the Construction Drawings not for speculation in land holding.

(f) Neither Developer nor any of its Members are the subject debtor under any federal, state, or local bankruptcy or insolvency proceeding, or any other proceeding for dissolution, liquidation or winding up of its assets.

3.2.2 Survival. The representations and warranties contained in Section 3.2.1 shall survive Closing for a period of two years. Developer shall have no liability or obligation hereunder for any representation or warranty that becomes untrue because of reasons beyond Developer's control; provided Developer shall be required to notify District in the event it becomes aware that any representation or warranty becomes untrue.

ARTICLE 4

SUBMISSION AND APPROVAL OF CONSTRUCTION DRAWINGS

4.1 CONSTRUCTION DRAWINGS

4.1.1 Developer's Submissions for the Project. Developer shall submit to District for District's review and approval, the following drawings, plans and specifications (collectively, the "**Construction Drawings**") for the Project within the timeframes specified below:

(a) Not less than eighty percent (80%) complete Construction Plans and Specifications within eighty-five (85) days after the Effective Date; and

(b) One hundred percent (100%) complete Construction Plans and Specifications on or before the date of Closing. As part of this submission, Developer shall also provide District with a description of (i) the projected unit type of each Residential Unit and the size of each such unit type and identify the location of each market rate Residential Unit and each Affordable Unit (ii) all interior and exterior finishes of each Residential Unit, and (iii) the appliances and equipment to be included therein. All standard interior and exterior finishes, appliances and equipment shall be substantially the same for all Residential Units. All Construction Drawings shall be prepared and completed in accordance with this Agreement and the Permitted Use Plan.

All Construction Drawings shall be prepared and completed in accordance with this Agreement and the Permitted Use Plan. As used in this Agreement, the term "**Construction Drawings**" shall include any changes to such Construction Drawings.

4.1.2 Approval by District. Notwithstanding anything to the contrary herein, prior to application for any Permit, Developer shall cause the Construction Drawings applicable to such Permit to become Approved Plans and Specifications prior to their application. All of the Construction Drawings shall conform to and be consistent with Laws, including but not limited to, zoning requirements and shall comply with the following:

(a) The Construction Drawings shall be prepared or supervised by and signed by the Architect.

(b) A structural, geotechnical, and civil engineer, as applicable, who is licensed by the District of Columbia, shall review and certify all final foundation and grading designs.

(c) Upon Developer's submission of all Construction Drawings to District, the Architect shall certify (on a form reasonably acceptable to District) that the Improvements have been designed in accordance with all Laws relating to accessibility for persons with disabilities. No Prohibited Person shall be engaged by Developer or its general contractor to provide architectural, engineering, or other design or consulting services with respect to the Project.

4.1.3 Building Permit. Developer shall apply for a building Permit within one hundred twenty (120) days after the Effective Date.

4.1.4 Delay Caused By District. The dates set forth in Sections 4.1.1, 4.1.2 and 4.1.3 shall be extended on a day-for-day basis for each day of delay caused by District due to its failure to timely respond to any prior submission, as more particularly described in Section 4.2.1 below. For purposes of calculating any period of such delay, the twenty-five (25) day period set forth in Section 4.2.1 shall control, such that the day-for-day extension shall commence as of the 26th calendar day after the applicable submission by Developer.

4.2 DISTRICT REVIEW AND APPROVAL OF CONSTRUCTION DRAWINGS

4.2.1 Generally. District shall have the right to review and approve or disapprove all or any part of each of the Construction Drawings. District shall use good faith efforts to complete its review of each submission by Developer and provide a written response thereto, within twenty-five (25) days after its receipt of the same. Any Construction Drawings approved (or any approved portions thereof) pursuant to this Section 4.2 shall be "**Approved Plans and Specifications**."

4.2.2 Disapproval Notices. Any notice of disapproval ("**Disapproval Notice**") shall state in reasonable detail the basis for such disapproval. If District issues a Disapproval Notice, Developer shall revise the Construction Drawings to address the objections of District and shall resubmit the revised Construction Drawings for approval. Any Approved Plans and Specifications may not be later disapproved by District unless any disapproval and revision is mutually agreed upon by the Parties. District's review of any submission that is responsive to a Disapproval Notice shall be limited to the matters disapproved by District as set forth in the Disapproval Notice, but shall not be so limited with regard to any new matters shown on such submission that were not included or indicated on any prior submission.

4.2.3 Submission Deadline Extensions. If Developer is proceeding diligently and in good faith and desires to extend a specified deadline for submission of a particular Construction Drawing, Developer may request such extension in writing, and, for good cause shown, District may, in its sole discretion, grant such extension by written notice.

4.2.4 No Representation; No Liability. District's review and approval of the Construction Drawings is not and shall not be construed as a representation or other assurance that they comply with any building codes, regulations, or standards, including, without limitation, building engineering and structural design or any other Laws. District shall incur no liability in connection with its review of any Construction Drawings and is reviewing such Construction Drawings solely for the purpose of protecting its own interests.

4.3 CHANGES IN APPROVED PLANS AND SPECIFICATIONS

No material changes to the Approved Plans and Specifications shall be made without District's prior written approval. If Developer desires to make any material changes to the Approved Plans and Specifications, Developer shall submit the proposed changes to District for approval, which approval shall be granted or withheld in District's sole discretion. District agrees that it shall respond to any such request within a reasonable period of time, not to exceed thirty (30) days.

4.4 PROGRESS MEETINGS/CONSULTATION

During the preparation of the Construction Drawings, District's staff and Developer, at the request of District's staff, shall hold periodic progress meetings as appropriate considering the progress of Developer's plans and specifications. During such meetings, Developer and District staff shall coordinate the preparation and submission of the Construction Drawings as well as their review by District.

4.5 PROJECT COMPLIANCE MONITORING SYSTEM

Pursuant to the Compliance Unit Establishment Act of 2008, D.C. Law 17-176, effective June 13, 2008, Council established a compliance unit within the Office of the District of Columbia Auditor, which was charged with conducting audits and reporting on compliance of certain real estate projects. In furtherance of this compliance review, beginning the first month immediately following the Effective Date and continuing each month thereafter through issuance of the Certificate of Completion, no later than five (5) Business Days prior to the end of each calendar month, Developer shall submit to District a detail of the status of the Project in the form attached hereto and incorporated herein as Exhibit J (the "**Compliance Form**"). Upon District's receipt of Developer's monthly Compliance Form, District will generate a written report, which Developer shall execute prior to the first day of the immediately succeeding month.

4.6 PROVISIONS TO BE INCLUDED IN COVENANTS

The requirements contained in this Article shall be incorporated into the Construction and Use Covenant, which shall be recorded in the Land Records against the Property.

ARTICLE 5
CONDITIONS TO CLOSING

5.1 CONDITIONS PRECEDENT TO DEVELOPER'S OBLIGATION TO CLOSE

5.1.1 The obligations of Developer to consummate the Closing on the Closing Date shall be subject to the following conditions precedent:

(a) The representations and warranties made by District in Section 3.1 of this Agreement shall be true and correct in all material respects on and as if made on the Closing Date.

(b) District shall have performed all of its material obligations and observed and complied with all material covenants and conditions required at or prior to Closing under this Agreement.

(c) As of the Closing Date, there shall be no rezoning or other statute, law, judicial, or administrative decision, ordinance, or regulation (including amendments and modifications of any of the foregoing) by any governmental authorities or any public or private utility having jurisdiction over the Property that would materially adversely affect the acquisition, development, sale, or use of the Property such that the Project is no longer physically or economically feasible. This provision shall not apply to any normal and customary reassessment of the Property for ad valorem real estate tax purposes.

(d) Title to the Property shall be subject only to the Permitted Exceptions.

5.1.2 Failure of Condition. If all of the conditions to Closing set forth above in Section 5.1.1 have not been satisfied by the Closing Date, provided the same is not the result of Developer's failure to perform any obligation of Developer hereunder, Developer shall have the option to (i) waive such condition and proceed to Closing hereunder; (ii) terminate this Agreement by written notice to District, whereby District will release the Letters of Credit and the Parties shall be released from any further liability or obligation hereunder except those that expressly survive termination of this Agreement; or (iii) delay Closing for up to three (3) months (in addition to the day-for-day extension provided under Section 6.1.2) to permit District to satisfy the conditions to Closing set forth in Section 5.1.1. In the event Developer proceeds under clause (iii), Closing shall occur within thirty (30) days after the conditions precedent set forth in Section 5.1.1 have been satisfied, but if such conditions precedent have not been satisfied by the end of the three (3) month period, provided the same is not the result of Developer's failure to perform any obligation of Developer hereunder, Developer may again proceed under clause (i) or (ii) above. The foregoing notwithstanding, Closing shall not occur after the expiration of the authority granted in the Resolution in accordance with Section 6.1. If Closing has not occurred by such date, this Agreement shall immediately terminate and be of no further force and effect.

5.2 CONDITIONS PRECEDENT TO DISTRICT'S OBLIGATION TO CLOSE

5.2.1 The obligation of District to convey the Property and perform the other obligations it is required to perform on the Closing Date shall be subject to the following conditions precedent:

(a) Developer shall have performed all of its material obligations and observed and complied with all material covenants and conditions required to be performed by Developer at or prior to Closing under this Agreement.

(b) The representations and warranties made by Developer in Section 3.2 of this Agreement shall be true and correct in all material respects on and as if made on the Closing Date.

(c) District's authority, pursuant to the Resolution, to proceed with the disposition, as contemplated in this Agreement, shall have not previously expired.

(d) The Development Plan and all Construction Drawings for the Project shall have been approved as Approved Plans and Specifications in their entirety pursuant to Article 4.

(e) Developer shall be ready, willing, and able in accordance with the terms and conditions of this Agreement to acquire the Property and proceed with the development of the Project in accordance with the Approved Plans and Specifications.

(f) Developer shall have certified in writing to District that Developer is ready, willing, and able, in accordance with the terms and conditions of this Agreement to achieve Commencement of Construction within thirty (30) days of Closing.

(g) Developer shall have furnished to District certificates of insurance or duplicate originals of insurance policies required of Developer hereunder.

(h) Developer shall have provided satisfactory corporate resolutions evidencing its authority to acquire the Property and perform its obligations under this Agreement.

(i) Developer shall have applied for and be diligently pursuing from the District of Columbia, or other authority having jurisdiction over the Property, approval of any zoning changes, lot consolidations or subdivisions, or other Permits or approvals.

(j) Developer shall have obtained all Permits for the Project required under Section 105A of Title 12A of the D.C. Municipal Regulations.

(k) Developer shall have delivered (or caused to be delivered) the original, executed documents required to be delivered pursuant to Section 6.2.2 herein.

(l) Prior to the Closing, Developer shall have secured all equity and debt financing necessary to achieve Final Completion pursuant to this Agreement and the Construction and Use Covenant. At least 15 days prior to Closing, Developer

shall provide District with a statement, in a form reasonably satisfactory to District, sufficient to demonstrate that Developer and its Members have adequate funds to develop and construct the Project. The statement shall also include a recital of the sources and uses of such funds, which shall detail the disbursement of the proceeds of Developer's financing and equity funding. The statement of sources and uses shall be updated in a final statement delivered at Closing.

(m) Developer shall not be in default under the CBE Agreement.

(n) Developer shall have submitted to District a copy of its binding agreement with its CBE partner(s).

(o) Developer shall have executed a construction contract with its general contractor for the Project.

(p) There shall have occurred no material adverse change in the financial condition of the Guarantor(s) from the effective date of the information provided to District in connection with its approval of the Guarantor(s) through the Closing Date.

(q) Developer shall have executed a First Source Agreement.

(r) The Letters of Credit shall have been validly issued and shall not have expired.

5.2.2 Failure of Condition. If all of the conditions to Closing set forth above in Section 5.2.1 have not been satisfied by the Closing Date, provided the same is not the result of District's failure to perform any obligation of District hereunder, District shall have the option, at its sole discretion, to (i) waive such condition and proceed to Closing hereunder; (ii) terminate this Agreement by written notice to Developer and draw on the Letters of Credit in its full amount, whereupon the Parties shall be released from any further liability or obligation hereunder except those that expressly survive termination of this Agreement or (iii) delay Closing for up to three (3) months (in addition to the day-for-day extension provided under Section 6.1.2), to permit Developer to satisfy the conditions to Closing set forth in Section 5.2.1. In the event District proceeds under clause (iii), Closing shall occur within thirty (30) days after the conditions precedent set forth in Section 5.2.1 have been satisfied, but if such conditions precedent have not been satisfied by the end of the three (3) month period, District may again proceed under clause (i) or (ii) above, in its sole discretion.

ARTICLE 6
CLOSING

6.1 CLOSING DATE

6.1.1 Closing on the Property shall be held within fifteen (15) days after Developer's receipt of a building Permit for the construction of the Improvements in accordance with the Approved Plans and Specifications. In no event shall the Closing Date be later than 240 days after the Effective Date ("**Closing Date**"), unless the parties agree to an extension. Notwithstanding any provision in this Agreement to the contrary, in no event shall the Closing

Date be held after December 31, 2014. ("**Outside Closing Date**"). Closing shall occur at 10:00 a.m. at the offices of District or another location in the District of Columbia acceptable to the Parties.

6.1.2 Except for extension rights granted to the Parties under Sections 5.1 or 5.2, the date of Closing shall not occur later than the Closing Date except if delay results, despite the best efforts of Developer, from (i) the failure of the government of the District of Columbia or other authority having jurisdiction over the Property to grant Developer any Permit (despite timely application therefor), or (ii) Developer's failure to submit any Construction Drawings timely, which failure is due exclusively to the delay of the government of the District of Columbia (or to another authority with jurisdiction over the Property) in issuing a Permit or other approval, then the Closing Date shall be extended day-for-day during the period of such delay, but in no event not more than sixty (60) days, subject to Section 6.1.1.

6.2 DELIVERIES AT CLOSING

6.2.1 District's Deliveries. On or before the Closing Date, subject to the terms and conditions of this Agreement, District shall execute, notarize, and deliver, as applicable, to Settlement Agent:

(a) the Deed, in the form attached to this Agreement as Exhibit E and incorporated herein by reference, in recordable form;

(b) the Affordability Covenant in recordable form to be recorded in the Land Records against the Property;

(c) the Construction and Use Covenant in recordable form to be recorded in the Land Records against the Property;

(d) a certificate, dated as of the Closing Date, duly executed by District, certifying that the closing conditions specified in Section 5.1.1(a) and (b) have been satisfied; and

(e) any and all other deliveries required from District on the Closing Date under this Agreement and such other documents and instruments as are customary and as may be reasonably requested by Developer or Settlement Agent and reasonably acceptable to District to effectuate the transactions contemplated by this Agreement.

6.2.2 Developer's Deliveries. On or before the Closing Date, subject to the terms and conditions of this Agreement, Developer shall execute, notarize, and deliver, as applicable, to Settlement Agent:

(a) the Purchase Price (by delivery of same to the Settlement Agent) in full and any funds in excess of the Purchase Price, if so required by the Settlement Statement to be executed at Closing;

(b) any documents required to close on the equity and debt financing for Developer's construction of the Project;

(c) the fully executed Development and Completion Guaranty;

(d) the Affordability Covenant in recordable form to be recorded in the Land Records against the Property;

(e) the Construction and Use Covenant in recordable form to be recorded in the Land Records against the Property;

(f) a certificate, dated as of the Closing Date, duly executed by an officer of Developer, certifying that the closing conditions specified in Section 5.2.1(a) and (b) have been satisfied;

(g) copies of all submissions and applications for Permits to the District of Columbia Department of Consumer and Regulatory Affairs ("**DCRA**"), submitted pursuant to the Development Plan;

(h) copies of the Permits for the Project required under Section 105A of the Title 12A of the D.C. Municipal Regulation and other Permits already obtained that are necessary to commence construction;

(i) a copy of the fully executed CBE Agreement;

(j) a copy of the operating agreement and/or partnership agreement with its CBE partner;

(k) a copy of the fully executed First Source Agreement;

(l) the following documents evidencing the due organization and authority of Developer to enter into, join and consummate this Agreement and the transactions contemplated herein:

(i) The organizational documents and a current certificate of good standing issued by the District of Columbia;

(ii) Authorizing resolutions, in form and content reasonably satisfactory to District, demonstrating the authority of the entity and of the Person executing each document on behalf of Developer in connection with this Agreement and development of the Project;

(iii) Evidence of satisfactory liability, casualty and builder's risk insurance policies in the amounts, and with such insurance companies, as required in Article XI of this Agreement;

(iv) Any financial statements of Developer that may be requested by District;

(v) If requested by District, an opinion of counsel that Developer is validly organized, existing and in good standing in and is authorized to do business in the District of Columbia, that Developer has the full authority and legal right to carry out the terms of this Agreement and the documents to be recorded in the Land Records, that Developer has taken all actions to authorize the execution, delivery, and performance of said documents and any other document relating thereto in accordance with their respective terms, that to the best of counsel's knowledge, none of the aforesaid actions, undertakings, or agreements violate any restriction, term, condition, or provision of the organizational documents of Developer or any contract or agreement to which Developer is a party or by which it is bound.

(m) Any and all other deliveries required from District on the Closing Date under this Agreement and such other documents and instruments as are customary and as may be reasonably requested by District or Settlement Agent to effectuate the transactions contemplated by this Agreement.

6.2.3 On the Closing Date, Settlement Agent shall record and distribute documents and funds in accordance with closing instructions provided by the Parties so long as they are consistent with this Agreement.

6.3 RECORDATION OF CLOSING DOCUMENTS; CLOSING COSTS

6.3.1 At Closing, Settlement Agent shall file for recordation among the Land Records: (a) the Deed, (b) the Affordability Covenant, and (c) the Construction and Use Covenant.

6.3.2 At Closing, Developer shall pay all costs pertaining to the transfer and financing of the Property, including without limitation: (1) title search costs, (2) title insurance premiums and endorsement charges, (3) survey costs, (4) D.C. Real Estate Deed Recordation Tax, and (5) all Settlement Agent's fees and costs.

ARTICLE 7
DEVELOPMENT OF PROJECT IMPROVEMENTS

7.1 OBLIGATION TO CONSTRUCT IMPROVEMENTS

Developer hereby agrees to develop, construct, use, maintain, and operate the Project in accordance with the Approved Plans and Specifications, this Agreement, the Permitted Use Plan and the Construction and Use Covenant. The Improvements shall be constructed in compliance with all Permits and Laws and in a first-class and diligent manner in accordance with industry standards. The cost of developing the Project shall be borne solely by Developer. As further assurance of the above and of the construction and use covenants contained in the Construction and Use Covenant, Developer shall cause the Development and Completion Guaranty to be executed by Guarantor and forward the original executed version of the same to District prior to Closing. Within fifteen (15) days after the Effective Date hereof, Guarantor shall submit to District updated, unaudited financial statements (certified by such Guarantor as being true, correct, and complete) and unaudited balance sheets, profit and loss statements, cash flow

statements, other financial reports, and other financial information of such Guarantor as District may reasonably request to determine if such Person has sufficient net worth or liquidity to satisfy its obligations under the Development and Completion Guaranty, taking into account all relevant factors, including, without limitation, such Person's obligations under other guaranties and the other contingent obligations of such Person.

At any time upon District's request, but in any event no later than fifteen (15) days prior to Closing, each Guarantor shall submit to District updated financial information as required by this Section 7.1 In the event District determines, in its sole discretion, that a material adverse change in the financial condition of the Guarantor(s) has occurred, Developer shall, within five (5) Business Days after notice from District, request District's approval of a substitute proposed guarantor, which request shall include the relevant financial information.

7.2 ISSUANCE OF PERMITS

Developer shall have the sole responsibility for obtaining all Permits and shall make application therefor directly to the applicable agency within the District of Columbia government or other authority. District shall, upon request by Developer, execute applications for such Permits as are required by the District of Columbia government or other authority, at no cost, expense, obligation, or liability to District. In no event shall Developer commence site work or construction of all or any portion of the Project until Developer shall have obtained all Permits for the work in question. Developer shall submit its application for Permits required under Section 105A of Title 12A of the D.C. Municipal Regulations within the period of time set forth in the Development Plan and Schedule of Performance. From and after the date of Developer's submission of an application for a Permit, Developer shall diligently prosecute such application until receipt. In addition, from and after submission of any such application until issuance of the Permit, Developer shall report Permit status in writing every thirty (30) days to District.

7.3 SITE PREPARATION

Developer, at its sole cost and expense, shall be responsible for all preparation of the Property for development and construction in accordance with the Development Plan and Approved Plans and Specifications, including costs associated with excavation, construction of the Improvements, utility relocation and abandonment, relocation and rearrangement of water and sewer lines and hook-ups, and construction or repair of alley ways on the Property and abutting public property necessary for the Project. All such work, including but not limited to, excavation, backfill, and upgrading of the lighting and drainage, shall be performed under all required Permits and in accordance with all appropriate District of Columbia agency approvals and government standards, and Laws.

7.4 AFFORDABILITY COVENANT

Developer agrees that seven (7) of Residential Units to be developed on the Property shall be dedicated as Affordable Units, as required in the Affordability Covenant, such that four (4) of the Affordable Units shall be affordable to individuals or families with incomes at or below thirty percent (30%) of the area median income and the other three (3) of the Affordable Units shall be affordable to individuals or families with incomes at or below sixty percent (60%) of the area median income.

7.5 DEVELOPER'S SUBMISSION OF PROJECT TO CONDOMINIUM REGIME

Developer shall not submit any portion of the Project to a condominium regime, or otherwise file or record any Condominium Instruments, without District's prior approval of the proposed Condominium Instruments, which approval shall not be unreasonably withheld.

ARTICLE 8
COVENANTS AND RESTRICTIONS

Developer agrees to develop, construct and use the Property in accordance with the Construction and Use Covenant to be entered into by the Parties on the Closing Date and recorded in the Land Records.

ARTICLE 9
DEFAULTS AND REMEDIES

9.1 DEFAULT.

9.1.1 Default by Developer. It shall be deemed a default by Developer if Developer fails to perform any obligation or requirement under this Agreement or fails to comply with any term or provision of this Agreement and such default remains uncured for thirty (30) days after receipt of written notice of such failure from District (except no notice shall be necessary nor shall any cure period apply to Developer's obligation to close on its acquisition of the Property, time being of the essence) (any such uncured default, a "**Developer Default**"). Notwithstanding the foregoing, if a default does not involve the payment of money and cannot reasonably be cured within thirty (30) days, Developer shall have such additional time as is reasonably necessary, not to exceed an additional forty-five (45) days, to cure such default; provided, however, Developer must commence the cure within the initial thirty (30) day period and diligently pursue completion of such cure thereafter. Notwithstanding the foregoing, in the event of a pre-Closing default, the cure periods provided herein shall not delay the Closing Date and shall terminate on the Closing Date.

9.1.2 Default by District. It shall be deemed a default by District if District fails to perform any obligation or requirement under this Agreement or fails to comply with any term or provision of this Agreement and such default remains uncured for thirty (30) days after receipt of written notice of such failure from Developer (any such uncured default, a "**District Default**"). Notwithstanding the foregoing, if a default cannot reasonably be cured within thirty (30) days, District shall have such additional time as is reasonably necessary, not to exceed an additional forty-five (45) days, to cure such default; provided, however, District must commence the cure within the initial thirty (30) day period and diligently pursue completion of such cure thereafter. Notwithstanding the foregoing, in the event of a pre-Closing default, the cure periods provided herein shall not delay the Closing Date and shall terminate on the Closing Date.

9.2 DISTRICT REMEDIES IN THE EVENT OF DEFAULT BY DEVELOPER

In the event of Default by Developer under this Agreement, District may terminate this Agreement and, as liquidated damages, draw on the Letters of Credit in its full amount, whereupon the Parties shall be released from any further liability or obligation hereunder, except

those that expressly survive termination of this Agreement. Upon such termination, all plans and specifications with regard to the development and construction of the Project, including, without limitation, the Construction Drawings produced to date and any Permits obtained, shall be automatically assigned to District free and clear of all liens and claims for payment.

9.3 DEVELOPER REMEDIES IN THE EVENT OF DEFAULT BY DISTRICT

In the event of Default by District, Developer may terminate this Agreement whereupon District will release the Letters of Credit and the Parties shall be released from any further liability or obligation hereunder except those that expressly survive termination of this Agreement.

9.4 NO WAIVER BY DELAY; WAIVER

Notwithstanding anything to the contrary contained herein, any delay by any Party in instituting or prosecuting any actions or proceedings with respect to a Default by the other hereunder or otherwise asserting its rights or pursuing its remedies under this Article, shall not operate as a waiver of such rights or to deprive such party of or limit such rights in any way (it being the intent of this provision that neither party shall be constrained by waiver, laches, or otherwise in the exercise of such remedies). Any waiver by either party hereto must be made in writing. Any waiver in fact made with respect to any specific Default under this Section shall not be considered or treated as a waiver with respect to any other Defaults or with respect to the particular Default except to the extent specifically waived in writing.

9.5 RIGHTS AND REMEDIES

The rights and remedies of the Parties set forth in this Article and as otherwise provided in this Agreement are the sole and exclusive remedies of the Parties for a default hereunder prior to the Closing.

ARTICLE 10
TRANSFER AND ASSIGNMENT

10.1 ASSIGNMENT

Developer represents, warrants, covenants, and agrees, for itself and its successors and assigns, that Developer (or any successor in interest thereof) shall not assign its rights under this Agreement, or delegate its obligations under this Agreement, without District's prior written approval, which may be granted or denied in District's sole discretion. The foregoing restrictions shall also be included in the Construction and Use Covenant. Notwithstanding the foregoing, Developer may assign this Agreement to an affiliate of Developer, provided Christopher J. Donatelli or Donatelli & Klein owns at least twenty percent of such affiliate and such affiliate is managed by Christopher J. Donatelli and provided further that Developer's LSDBE partner owns at least twenty percent (20%) of such affiliate.

10.2 NO UNREASONABLE RESTRAINT

Developer hereby acknowledges and agrees that the restrictions on transfers set forth in this Article do not constitute an unreasonable restraint on Developer's right to transfer or

otherwise alienate the Property or its rights under this Agreement. Developer hereby waives any and all claims, challenges, and objections that may exist with respect to the enforceability of such restrictions, including any claim that such restrictions constitute an unreasonable restraint on alienation.

ARTICLE 11
INSURANCE OBLIGATIONS; CASUALTY; INDEMNIFICATION

11.1 INSURANCE OBLIGATIONS

11.1.1 Insurance Coverage. During the periods identified below and as may be set forth in the Construction and Use Covenant, Developer shall carry and maintain in full force and effect the following insurance policies:

(a) Property Insurance - After achieving Completion of Construction, Developer shall maintain property insurance insuring the Project under a Special Form (Causes of Loss) policy for 100% insurable replacement value with no co-insurance penalty.

(b) Builder's Risk Insurance - During development of the Project, Developer shall maintain builder's risk insurance for the amount of the completed value of the Project (or lesser amount acceptable to District) under a Special Form (Causes of Loss) policy with no co-insurance penalty, including flood risks if the Property is located in a flood zone, insuring the interests of Developer, and District with respect to work or services performed, and any contractors and subcontractors as named insureds as their interests may appear.

(c) Automobile Liability and Commercial General Liability Insurance - At all times after the Effective Date of this Agreement until such time as all obligations of Developer hereunder have been satisfied or have expired, Developer shall maintain and/or cause its contractor to maintain automobile liability insurance and commercial general liability insurance policies written so that each have a combined single limit of liability for bodily injury and property damage of not less than five million dollars ($5,000,000.00) per occurrence, of which at least one million dollars ($1,000,000.00) must be maintained as primary coverage, and of which the balance may be maintained as umbrella coverage; provided, however, that the foregoing statement as to the amount of insurance Developer is required to carry shall not be construed as any limitation on Developer's liability under this Agreement. The foregoing limits may be increased by District from time to time, in its reasonable discretion.

(d) Workers' Compensation Insurance - At all times after the Effective Date of this Agreement until such time as all obligations of Developer hereunder have been satisfied or have expired, Developer shall maintain and cause its general contractor and any subcontractors to maintain workers' compensation insurance in such amounts as required by applicable Laws.

(e) Professional Liability Insurance - During development of the Project, Developer shall cause Architect and every engineer or other professional who will perform

services in connection with the Project to maintain professional liability insurance with limits of not less than one million dollars ($1,000,000.00) for each occurrence, including coverage for injury or damage arising out of acts or omissions with respect to all design and engineering professional services provided by the architect of record, structural, electrical and mechanical engineers with a deductible acceptable to District.

11.1.2 General Policy Requirements. Prior to Closing, Developer shall name District as an additional insured under all policies of liability insurance, property insurance, and builder's risk insurance identified above. Any deductibles with respect to the foregoing insurance policies shall be commercially reasonable. All such policies shall include a waiver of subrogation endorsement in favor of District. All insurance policies required pursuant to this Article 11 shall be written as primary policies, not contributing with or in excess of any coverage that District may carry. Such insurance shall be obtained through a recognized insurance company licensed to do business in the District of Columbia and rated by A.M. BEST as an A-X or above. No insurance from another source shall apply before the contractor's insurance coverage and limits of liability are exhausted. Prior to any entry onto the Property at any time pursuant to this Agreement, Developer shall furnish to District certificates of insurance (or copies of the policies if requested by District) together with satisfactory evidence of payment of premiums for such policies. The policies shall contain an agreement by the insurer notifying District in writing, by certified U.S. Mail, return receipt requested, not less than thirty (30) days before any material change, reduction in coverage, cancellation, including cancellation for nonpayment of premium, or other termination thereof or change therein.

11.2 CASUALTY

11.2.1 Prior to Issuance of the Certificate of Completion. The Construction and Use Covenant shall set forth that, in the event of damage or destruction to the Project following Closing but prior to the issuance of the Certificate of Completion, Developer shall be obligated to repair or restore the Project in conformity with the Approved Plans and Specifications, subject to changes necessary to comply with then-current building code requirements, as approved by District in its reasonable discretion.

11.2.2 After Issuance of the Certificate of Completion. In accordance with the Construction and Use Covenant, in the event of damage or destruction to the Project following the issuance of the Certificate of Completion, Developer shall promptly cause the Project to be restored to its condition existing prior to the casualty, subject to changes necessary to comply with then current building code or insurance requirements, as approved by District in its reasonable discretion.

11.3 INDEMNIFICATION

Developer shall indemnify, defend, and hold harmless District from and against any and all losses, costs, claims, damages, liabilities, and causes of action (including reasonable attorneys' fees and court costs) arising out of death of or injury to any person or damage to any property occurring on or adjacent to the Property and directly or indirectly caused by any acts done thereon or any acts or omissions of Developer, its Members, agents, employees, invitees, or contractors; provided, however, that the foregoing indemnity shall not apply to any losses, costs,

claims, damages, liabilities, and causes of action (including reasonable attorneys' fees and court costs) due to the gross negligence or willful misconduct of District or its agents or employees. The obligations of Developer under this Section shall survive Closing or the earlier termination of this Agreement, and shall be set forth in the Construction and Use Covenant.

ARTICLE 12
NOTICES

12.1 TO DISTRICT

Any notices given under this Agreement shall be in writing and delivered by certified mail (return receipt requested, postage pre-paid), by hand, or by reputable private overnight commercial courier service, to District at the following addresses:

Office of the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, N.W., Suite 317
Washington, D.C. 20001
Attention: Corey Lee

With a copy to:

The Office of the Attorney General for the District of Columbia
1100 15th Street, N.W., Suite 800
Washington, D.C. 20005
Attn: Deputy Attorney General, Commercial Division

12.2 TO DEVELOPER

Any notices given under this Agreement shall be in writing and delivered by certified mail (return receipt requested, postage pre-paid), by hand, or by reputable private overnight commercial courier service, to Developer at the following addresses:

c/o Donatelli & Klein, Incorporated.
4416 East West Highway
Suite 410
Bethesda, Maryland 20814
Attn: Chris Donatelli

With a copy to:

Lerch Early & Brewer, Chartered
3 Bethesda Metro Center
Suite 460
Bethesda, Maryland 20814
Attn: Cindi E. Cohen, Esquire

Notices served upon Developer or District in the manner aforesaid shall be deemed to have been received for all purposes hereunder at the time such notice shall have been: (i) if hand delivered to a Party against receipted copy, when the copy of the notice is receipted; (ii) if given by overnight courier service, on the next Business Day after the notice is deposited with the overnight courier service; or (iii) if given by certified mail, return receipt requested, postage pre-paid, on the date of actual delivery or refusal thereof. If notice is tendered under the terms of this Agreement and is refused by the intended recipient of the notice, the notice shall nonetheless be considered to have been received and shall be effective as of the date provided in this Agreement.

ARTICLE 13
MISCELLANEOUS

13.1 PARTY IN POSITION OF SURETY WITH RESPECT TO OBLIGATIONS

Developer, for itself and its successors and assigns and for all other persons who are or who shall become, whether by express or implied assumption or otherwise, liable upon or subject to any obligation or burden under the Agreement, hereby waives, to the fullest extent permitted by law and equity, any and all claims or defenses otherwise available on the grounds of its being or having become a person in the position of surety, whether real, personal, or otherwise or whether by agreement or operation of law, including, without limitation any and all claims and defenses based upon extension of time, indulgence or modification of this Agreement.

13.2 FORCE MAJEURE

Neither District nor Developer, as the case may be, nor any successor-in-interest, shall be considered in Default under this Agreement with respect to their respective obligations to prepare the Property for development, convey the Property, acquire the Property, or commence and complete construction of the Project, or progress in respect thereto, in the event of forced delay in the performance of such obligations due to Force Majeure. It is the purpose and intent of this provision that in the event of the occurrence of any such Force Majeure event, the time or times for performance of the obligations of District or of Developer shall be extended for the period of the Force Majeure; provided, however that: (a) the Party seeking the benefit of this Section 13.2 shall have first notified, within ten (10) days after it becomes aware of the beginning of any such Force Majeure event, the other Party thereof in writing of the cause or causes thereof, with supporting documentation, and requested an extension for the period of the forced delay; (b) in the case of a delay in obtaining Permits, Developer must have filed complete applications for such Permits by the dates set forth in the Schedule of Performance and hired an expediter reasonably acceptable to District to monitor and expedite the Permit process; and

(c) the Party seeking the delay must take commercially reasonable actions to minimize the delay. If either Party requests any extension on the date of completion of any obligation hereunder due to Force Majeure, it shall be the responsibility of such Party to reasonably demonstrate that the delay was caused specifically by a delay of a critical path item of such obligation. Force Majeure delays shall not delay the Closing Date and shall not apply to any obligation to pay money.

13.3 CONFLICT OF INTERESTS; REPRESENTATIVES NOT INDIVIDUALLY LIABLE

No official or employee of District shall participate in any decision relating to this Agreement which affects his personal interests or the interests of any District of Columbia agency, partnership, or association in which he is, directly or indirectly, interested. No official or employee of District shall be personally liable to Developer or any successor-in-interest in the event of any default or breach by District or for any amount which may become due to Developer or such successor-in-interest or on any obligations hereunder. Except as provided by the Development and Completion Guaranty, no employee, officer, director, or shareholder of Developer shall be personally liable to District in the event of any default or breach by Developer or for any amount which may become due to District or on account of any obligations hereunder.

13.4 SURVIVAL; PROVISIONS NOT MERGED WITH DEED

Unless expressly stated otherwise herein, the provisions of this Agreement are intended to and shall merge with the Deed transferring title to the Property from District to Developer.

13.5 TITLES OF ARTICLES AND SECTIONS

Titles and captions of the several parts, articles, and sections of this Agreement are inserted for convenient reference only and shall be disregarded in construing or interpreting Agreement provisions.

13.6 SINGULAR AND PLURAL USAGE; GENDER

Whenever the sense of this Agreement so requires, the use herein of the singular number shall be deemed to include the plural; the masculine gender shall be deemed to include the feminine or neuter gender; and the neuter gender shall be deemed to include the masculine or feminine gender.

13.7 LAW APPLICABLE; FORUM FOR DISPUTES

This Agreement shall be governed by, interpreted under, construed, and enforced in accordance with the laws of the District of Columbia, without reference to the conflicts of laws provisions thereof. District and Developer irrevocably submit to the jurisdiction of (a) the courts of the District of Columbia and (b) the United States District Court for the District of Columbia for the purposes of any suit, action, or other proceeding arising out of this Agreement or any transaction contemplated hereby. District and Developer irrevocably and unconditionally waive any objection to the laying of venue of any action, suit, or proceeding arising out of this Agreement or the transactions contemplated hereby in (a) the courts of the District of Columbia

and (b) the United States District Court for the District of Columbia, and hereby further waive and agree not to plead or claim in any such court that any such action, suit, or proceeding brought in any such court has been brought in an inconvenient forum.

13.8 ENTIRE AGREEMENT; RECITALS; EXHIBITS

This Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements and understandings related to the subject matter hereof. The Recitals of this Agreement are incorporated herein by this reference and are made a substantive part of the agreements between the Parties. All Exhibits are incorporated herein by reference, whether or not so stated. In the event of any conflict between the Exhibits and this Agreement, this Agreement shall control.

13.9 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall together constitute one and the same instrument. Execution and delivery of this Agreement by facsimile shall be sufficient for all purposes and shall be binding on any Person who so executes.

13.10 TIME OF PERFORMANCE

All dates for performance (including cure) shall expire at 6:00 p.m. (Eastern time) on the performance or cure date. A performance date which falls on a Saturday, Sunday, or District holiday is automatically extended to the next Business Day.

13.11 SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and shall inure to the benefit of, the successors and assigns of District and Developer, and where the term "Developer" or "District" is used in this Agreement, it shall mean and include their respective permitted successors and assigns.

13.12 THIRD PARTY BENEFICIARY

No Person shall be a third party beneficiary of this Agreement.

13.13 WAIVER OF JURY TRIAL

TO THE EXTENT PERMITTED BY LAW, ALL PARTIES HERETO WAIVE THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION ARISING IN RESPECT OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

13.14 FURTHER ASSURANCES

Each Party agrees to execute and deliver to the other Party such additional documents and instruments as the other Party reasonably may request in order to fully carry out the purposes and intent of this Agreement.

13.15 MODIFICATIONS AND AMENDMENTS

None of the terms or provisions of this Agreement may be changed, waived, modified, or removed except by an instrument in writing executed by the Party or Parties against which enforcement of the change, waiver, modification, or removal is asserted. None of the terms or provisions of this Agreement shall be deemed to have been abrogated or waived by reason of any failure or refusal to enforce the same.

13.16 ANTI-DEFICIENCY LIMITATION; AUTHORITY

13.16.1 Though no financial obligations on the part of District are anticipated, Developer acknowledges that District is not authorized to make any obligation in advance or in the absence of lawfully available appropriations and that District's authority to make such obligations is and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1350, 1351; (ii) D.C. Official Code Section 47-105; (iii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08, as the foregoing statutes may be amended from time to time; and (iv) Section 446 of the District of Columbia Home Rule Act.

13.16.2 Developer acknowledges and agrees that any unauthorized act by District is void. It is Developer's obligation to accurately ascertain the extent of District's authority.

13.17 SEVERABILITY

If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future Laws, such provisions shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

13.18 TIME OF THE ESSENCE; STANDARD OF PERFORMANCE

Time is of the essence with respect to all matters set forth in this Agreement. For all deadlines set forth in this Agreement, the standard of performance of the Party required to meet such deadlines shall be strict adherence and not reasonable adherence.

13.19 NO PARTNERSHIP

Nothing contained herein shall be deemed or construed by the Parties hereto or any third party as creating the relationship of principal and agent or of partnership or of joint venture between Developer and District.

13.20 EACH PARTY TO BEAR ITS OWN COSTS

Each Party shall bear its own costs and expenses incurred in connection with the negotiation of this Agreement and the performance of such Party's duties and obligations hereunder.

13.21 ORIGINAL AGREEMENT SUPERSEDED

This Agreement amends and restates the Original Agreement which is hereby superseded in its entirety.

[*Signatures Appear on the Following Page.*]

IN WITNESS WHEREOF, District and Developer have each caused these presents to be signed, acknowledged and delivered in its name by its duly authorized representative.

WITNESS:

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

_____

By: _____
Victor L. Hoskins
Acting Deputy Mayor for Planning and Economic Development

APPROVED AS TO LEGAL SUFFICIENCY

BY: _____
Assistant Attorney General

DATE: _____

WITNESS:

3800 STORE FRONTS, LLC,
a District of Columbia Limited Liability Company

_____

By: _____
Name: _____
Title: _____

JOINDER OF GUARANTOR

For the purpose of evidencing his consent and agreement to be bound to the provisions in this Agreement applicable to the Guarantor, Christopher J. Donatelli hereby executes this Joinder of Guarantor on and as of the date of the Agreement.

By:_____
Christopher J. Donatelli

Exhibits:

Exhibit A – Legal Description of Property
Exhibit B – Affordability Covenant
Exhibit C – CBE Agreement
Exhibit D – Construction and Use Covenant
Exhibit E – Deed
Exhibit F – Development and Completion Guaranty
Exhibit G –First Source Agreement
Exhibit H – Schedule of Performance
Exhibit I – Intentionally deleted
Exhibit J – Compliance Form
Exhibit K – Community Participation Plan (Intentionally Omitted)
Exhibit L– Form of District Note (Intentionally Omitted)
Exhibit M – Form of District Deed of Trust (Intentionally Omitted)
Exhibit N – Project Funding Plan (Intentionally Omitted)
Exhibit O – Project Budget (Intentionally Omitted)
Exhibit P – Green Communities Self Certification (Intentionally Omitted)

Exhibit A

Legal Description

Lots 42, 43 and 44 in Jacob Xander's subdivision of lots in Block 28, "Petworth Addition to the City of Washington", as per plat recorded in the Office of the Surveyor for the District of Columbia in Liber 56 at folio 86.

At the date hereof the said land is known and designated for assessment and taxation purposes as Lot 818 in Square 3028.

CERTIFIED BUSINESS ENTERPRISE UTILIZATION AND PARTICIPATION AGREEMENT

THIS CERTIFIED BUSINESS ENTERPRISE UTILIZATION AND PARTICIPATION AGREEMENT (this "Agreement") is made by and between the **DISTRICT OF COLUMBIA DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT**, (the "DSLBD") and **3800 LOTS, LLC**, a District of Columbia limited liability company, or its designees, successors or assigns (the "Developer").

RECITALS

A. Pursuant to a Land Disposition Agreement dated as of _____ between the Developer and the **DISTRICT OF COLUMBIA**, regarding 3825-29 Georgia Ave, N.W., Washington, D.C., Developer intends to provide for the development of a retail restaurant (the "Project").

B. Pursuant to the Development Agreement, the Developer covenants that it has executed and shall comply in all respects with this Certified Business Enterprise Utilization and Participation Agreement.

C. Capitalized terms not defined herein shall have the meaning assigned to them in the Development Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the receipt and adequacy of which is hereby acknowledged by both parties hereto, DSLBD and the Developer agree, as follows:

ARTICLE I
UTILIZATION OF CERTIFIED BUSINESS ENTERPRISES

Section 1.1 CBE Utilization. Developer, on its behalf and/or on behalf of its successors and assigns (if any), shall hire and contract with Certified Business Enterprises certified pursuant to the Small, Local and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended (the "Act") (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*) (each a "CBE") in connection with the predevelopment and development phases of the Project, including, but not limited to, professional and technical services, construction management, and construction trade work, and suppliers. Developer shall expend funds contracting and procuring goods and services from CBEs in an amount equivalent to *no less than* thirty-five percent (35%) of the Adjusted Development Budget (the "CBE Minimum Expenditure"). As detailed in Attachment 1 hereto, the Adjusted Development Budget is **$4,094,250**. The CBE Minimum Expenditure is therefore **$1,432,988**.

Section 1.2 Capacity Building Incentives. Developer acknowledges that a priority of the District of Columbia is to assist local businesses in developing greater capacity, technical capabilities and valuable experience, especially in areas of development and construction related services. To that end, the parties agree that Developer shall have the right to earn and receive certain incentives for engaging in activities that are likely to create opportunities for CBEs

generally, and to facilitate capacity building for Disadvantaged Business Enterprises as defined in the Act ("DBEs") in particular. Such incentives when earned by Developer shall be applied by DSLBD to reduce Developer's CBE utilization requirements set forth in Section 1.1 of this Agreement.

(a) The Developer shall devise a list of professional services, trade specialties, or other vocational areas in which CBEs either lack capacity, lack depth, or in which such firms traditionally do not participate as prime contractors in construction projects of this nature and size (each, a "Target Sector"), and submit the list to DSLBD for approval within thirty (30) days of signing this Agreement. CBEs identified on the list shall not be eligible for a bonus, as described in paragraphs (1), (2), and (3) below ("Reporting Bonus"), unless the list is approved by DSLBD. Such list shall be attached hereto as Attachment 2 and made a part of this Agreement.

(1) For every dollar expended with a *DBE* for services that fall *within* a Target Sector, Developer shall receive credit for $1.50 against the CBE Minimum Expenditure. For example, a $100,000 contract award paid to a DBE Construction Management firm within the Target Sector would be counted as $150,000 by DSLBD when measuring Developer's performance against the CBE Minimum Expenditure.

(2) For every dollar expended with a *CBE* that is not a DBE for services that fall *within* a Target Sector, Developer shall receive credit for $1.25 against the CBE Minimum Expenditure. For example, a $100,000 contract award paid to a CBE Construction Management firm within the Target Sector would be counted as $125,000 by DSLBD when measuring Developer's performance against the CBE Minimum Expenditure.

(3) For every dollar expended with a *DBE* for services *not* included in a Target Sector, Developer shall receive a credit for $1.25 against the CBE Minimum Expenditure. For example, a $100,000 contract award paid to a DBE Construction Management firm outside of the Target Sector would be counted as $125,000 by DSLBD when measuring Developer's performance against the CBE Minimum Expenditure.

(b) Every contract, purchase or task order (as applicable) issued by Developer to CBE firms, either directly or indirectly, which Developer believes should qualify for the Reporting Bonus shall be subject to review and approval by the Director of DSLBD (the "Director") to ensure that the scope of work is properly characterized within a Target Sector. The Reporting Bonus shall not be credited to Developer unless the Director approves the specific procurement, provided, however, that a negative determination shall not preclude Developer from receiving standard credit (either 1:1 or 1.25:1, as applicable) for the expenditure as set forth herein.

(c) The parties may mutually agree in writing to additional incentives that may be earned by Developer for instituting additional capacity building initiatives for CBEs (*e.g.*, pay without delay programs; establishment of strategic partnerships or mentor-protégé initiatives). In particular, Developer is encouraged to work with its general contractors and/or construction

managers to develop more flexible criteria for pre-qualifying CBEs for participation on the mixed-use projects. The modified pre-qualification criteria should consider the size and economic wherewithal usually present in small contractors as well as insurance and bonding requirements. Developer is also highly encouraged to establish CBE set-asides for certain procurements that shall restrict bidders to those bid packages.

ARTICLE II
CBE OUTREACH AND RECRUITEMENT EFFORTS

Section 2.1 Identification of CBEs and Outreach Efforts. Developer shall utilize the resources of DSLBD, including the *CBE Business Center* found on DSLBD's website (http://dslbd.dc.gov). In particular, Developer shall publish all contracting opportunities for this Project within the CBE Business Center's Business Opportunities area. Developer shall use the CBE Company Directory as the primary source for identifying CBEs. The primary contact regarding CBE referrals shall be the Director or such other DSLBD representative as the Director may designate. Developer may use other resources to identify individuals or businesses that could qualify as CBEs and is encouraged to refer any such firms to DSLBD's Certification unit for certification. Throughout the duration of the Project, Developer or its general contractor/construction manager shall (as set forth in Section 4.1) periodically publish notices in any of the following newspapers primarily serving the District of Columbia: *The Current Newspapers, The Washington Informer,* the *Washington Afro-American, Common Denominator, Washington Blade, Asian Fortune* and *El Tiempo Latino* (or if any of them should cease to exist, their successor, and if there is no successor, in another newspaper of general circulation) to inform CBEs, and entities which could qualify as CBEs, about the business opportunities. In the event that Developer develops a website for the Project, such website shall (i) advertise upcoming bid packages, (ii) present instructions on how to bid, and (iii) directly link to DLSBD's website.

ARTICLE III
INFORMATION SUBMISSIONS AND REPORTING

Section 3.1 CBE Utilization Plans. Developer shall require its general contractor to submit a CBE utilization plan to DSLBD for approval no less than thirty (30) days following the date of this Agreement, which plans shall be automatically incorporated and made a part of this Agreement as Attachment 3 following approval by DSLBD (each, a "Utilization Plan"). Each Utilization Plan shall list all of the projected procurement items, quantities and estimated costs, bid opening and closing dates, and start-up and completion dates. This plan should indicate whether any items will be bid without restriction in the open market, or limited to CBEs. Developer may not deviate materially from the steps and actions set forth in each Utilization Plan without first obtaining the written consent of the Director. For ease of monitoring, Developer agrees to work with DSLBD to implement procedures for its general contractor to submit Utilization Plans electronically through the DSLBD compliance administration database, as applicable.

Section 3.2 Quarterly Reports. Throughout the duration of the construction of the Project, Developer shall submit quarterly contracting and subcontracting expenditure reports for the Project which identify:

(i) those contracts where the party providing services, goods or materials was a CBE, including the name of the company and the amount of the contract;

(ii) the nature of the contract;

(iii) the amount actually paid by Developer to the CBE under such contract that month and to date;

(iv) the certification categories for each vendor/contractor;

(v) the work performed by vendors/contractors in Target Sector(s) and relevant multipliers; and

(vi) the percentage of overall development expenditures which were to CBEs.

These reports shall be submitted no later than thirty days (30) after the end of each quarter. The reports shall be submitted on a form provided by DSLBD (a prototype of this form is included as Attachment 4). However, DSLBD reserves the right to reasonably amend this form, after consultation with the Developer. This report shall also describe the Developer's outreach efforts (if any) during the reporting period, to identify CBEs and/or encourage them to bid on or otherwise apply to provide labor, services, goods, and materials for use in the construction or operation of the development project. Companies that may be eligible for certification, but are not yet certified, or whose certification is pending with DSLBD shall not be included in these reports unless and until the company is certified. Further, only amounts expended after a company is certified shall be counted towards the CBE Minimum Expenditure. Concurrently with submission of the quarterly reports, Developer shall also submit vendor verification forms (each, a "Vendor Verification Form") substantially in the form of Attachment 5.

ARTICLE IV
GENERAL CONTRACTORS AND CONSTRUCTION MANAGERS

Section 4.1 Adherence to CBE Minimum Expenditure. Developer shall require in its contractual agreements with the general contractor and/or construction manager for the development project, as applicable, (the "General Contractor"), that the General Contractor comply with the relevant obligations and responsibilities of Developer contained in this Agreement with respect to achieving the applicable CBE Minimum Expenditure. Developer further agrees to inform the General Contractor and subcontractors of the other obligations and requirements applicable to Developer under this Agreement. Developer shall inform the General Contractor that non-compliance with this Agreement may negatively impact future opportunities with the District for the Developer and the General Contractor respectively. Specifically, Developer shall obtain the following commitments from its General Contractor ("GC"):

(i) The GC shall publish a public notice in a newspaper whose primary circulation is in the District of Columbia (*e.g. Afro American, Washington Informer, El Tiempo Latino, Asian Fortune, The Current Newspapers*, etc.), for the purpose of soliciting bids for products or services being sought for construction and renovation projects and will allow a reasonable time (*e.g.*, no less than 30 business days) for all bidders to respond to the invitations or requests for bids.

(ii) The GC shall contact DSLDB to obtain a current listing of all CBEs qualified to bid on procurements as they arise and will make full use of the CBE Business Center found at http://dslbd.dc.gov for listing opportunities and for subcontracting compliance monitoring.

(iii) In order to achieve the applicable CBE Minimum Expenditure for the mixed-use project, Developer shall require in its contractual agreements with the GC, that the GC provide a CBE bidder that is not the low bidder an opportunity to provide its final best offer before contract award, provided the CBE bid price is among the top 3 bidders.

(iv) The GC shall not require that CBEs provide bonding on contracts with a dollar value less than $100,000, provided that in lieu of bonding the GC may accept a job specific certificate of insurance.

(v) The GC shall include in all contracts and subcontracts to CBEs, a process for alternative dispute resolution. This process shall afford an opportunity for CBEs to submit documentation of work performed and invoices by regarding requests for payments. Included in the contract shall be a mutually agreed upon provision for mediation (to be conducted by DSLBD) or arbitration in accordance with the rules of the American Arbitration Association.

(vi) The GC and subcontractors shall strictly adhere to their contractual obligations to pay all subcontractors in accordance with the contractually agreed upon schedule for payments. In the event that there is a delay in payment to the general contractor, the GC is to immediately notify the subcontractor and advise as to the date on which payment can be expected.

(vii) The GC commits to pay all CBEs, within fifteen (15) days following the GC's receipt of a payment which includes funds for such subcontractors, from the Developer. Developer also agrees to establish a procedure for giving notice to the subcontractors of the Developer's payment to the GC.

ARTICLE V
EQUITY AND DEVELOPMENT PARTICIPATION

Section 5.1 Minimum LSDBE Participation Requirements. Developer acknowledges and agrees that businesses certified pursuant to the Act, as local, small and disadvantaged business enterprises ("LSDBEs"), shall receive no less than twenty percent (20%) in equity participation

and no less than twenty percent (20%) in development participation in the Project, in accordance with Section 2349a of the Act, D.C. Official Code § 2-218.49a. To address and fulfill the aforementioned requirements, a legally binding Memorandum of Understanding ("MOU") dated to be effective as of _____, between Donatelli & Klein, Inc., d/b/a Donatelli Development ("Donatelli,") and Mosaic Urban Partners, LLC ("Mosaic" or the "LSDBE partner"), attached as Attachment 7 and incorporated herein by reference, was executed. Donatelli, or its affiliates and Mosaic, or its affiliates formed a limited liability company known as 3800 LOTS, LLC to serve as the Developer of the Project. Christopher J. Donatelli, a principal of Donatelli, is the Manager of Developer. Pursuant to the MOU, Mosaic and Donatelli have certain rights, interests and responsibilities as each of those are more particularly described in the MOU. In the event of any conflict between (i) this Agreement and (ii) the MOU or any operating agreement or other necessary legal agreements executed by Donatelli and Mosaic, this Agreement shall control.

Section 5.2 Pari Passu Returns for LSDBE Equity Partner(s). Developer agrees that the LSDBE partner shall receive a return on investment in the Project that is pari passu with all other sources of sponsor developer equity. In addition, if the LSDBE partner elects to contribute additional capital to the Project, they shall receive the same returns as Developer with respect to such additional capital.

Section 5.3 Preservation of LSDBE Financial Interest. The LSDBE partner's equity interests shall not be diluted over the course of the Project, including for failure to contribute additional capital.

Section 5.4 LSDBE Risk Commensurate With Equity Position. No LSDBE partner shall be expected to bear financial or execution requirements that are out of proportion with the LSDBE partner's equity position in Developer and/or the Project. An LSDBE partner's contribution shall be in direct proportion to its interest in Developer and pari passu with Developer.

Section 5.5 Management Control and Approval Rights. Pursuant to section 4 of the MOU, all partners shall have management control and approval rights in line with their equity position. All major decisions involving Developer, including the admission of new members, borrowings and financings, dissolution and other material actions, shall require the unanimous consent of all partners. Any reduction of the carried interest payable to an LSDBE partner from Developer shall be a major decision. In voting on all major decisions affecting Developer, Donatelli (non-LSDBE partner) must consult with the LSDBE partner regarding all such decisions, and in no event shall the LSDBE partner's equity interest in Developer be reduced or modified without their written consent.

Section 5.6 LSDBE Inclusion, Recognition, Access and Involvement. Developer acknowledges that a priority of the District is to ensure that LSDBE partners on development projects are granted and encouraged to maintain active involvement in all phases of the development effort, from initial-pre-development activities through development completion and ongoing asset management. To assist LSDBE partners in gaining the skills necessary to participate in larger development efforts, Developer agrees to provide all LSDBE partners full and open access to information utilized in project execution, including, for example, market

studies, financial analyses, project plans and schedules, third-party consultant reports, etc. Developer agrees to consistently represent and include LSDBE partners of Developer as team members through such actions as joint naming (if applicable), advertising, and branding opportunities that incorporate LSDBE partners. LSDBE partners of Developer shall not be precluded from selling services back to Developer. The LSDBE partners shall participate in budget, schedule, and strategy meetings. LSDBE partners may also participate in the negotiation of development agreements, creating a site plan, managing design development, hiring and managing consultants, seeking and securing zoning and entitlements, developing and monitoring budgets, apply for and securing financing, performing due diligence, marketing and sales of all units, and any other tasks necessary to the development and construction of the project.

ARTICLE VI
CONTINGENT CONTRIBUTIONS

Section 6.1 Contingent Contributions for Failure to Meet CBE Minimum Expenditure. At the conclusion of the Project, DSLBD shall measure the percentage difference between the CBE Minimum Expenditure and Developer's actual expenditures. If Developer's actual expenditures are less than the CBE Minimum Expenditure, DSLBD shall identify the percentage difference (the "Shortfall"). If Developer fails to meet its CBE Minimum Expenditure within 60 days of the conclusion of the Project, which shall be determined by issuance of certificate(s) of occupancy for the Project, Developer shall make the following payments (each, a "Contingent Contribution"), which shall be paid to the District of Columbia in the time and in a manner to be determined by DSLBD. The Contingent Contributions shall be based on twenty-five percent (25%) of the CBE Minimum Expenditure (the "Contribution Fund"). The Contribution Fund is therefore **$358,247**.

(i) If the Shortfall is more than 50% of the CBE Minimum Expenditure, Developer shall make a Contingent Contribution of one hundred percent (100%) of the Contribution Fund. For example, if at the conclusion of the Project, the Shortfall is 60%, Developer shall make a Contingent Contribution of $356,497.

(ii) If the Shortfall is between 10% and 50% of the CBE Minimum Expenditure, Developer shall make a Contingent Contribution that is the percentage of the Contribution Fund that is equal to the Shortfall. For example, if the Shortfall is 20%, the Developer shall make a Contingent Contribution of 20% of the Contribution Fund, *i.e.*, $71,649.

(iii) If the Shortfall is less than 10% of the CBE Minimum Expenditure, and the Director determines that the Developer has taken all actions reasonably necessary (as reasonably determined by DSLBD based on Developer's reports and other verifiable evidence) to achieve the CBE Minimum Expenditure, the Developer shall not be required to make a Contingent Contribution. The Developer may meet its burden to demonstrate it has taken all actions reasonably necessary to achieve its CBE Minimum Expenditure by (1) fulfilling all CBE outreach and recruitment efforts identified in Article II of this Agreement; (2) complying with Article IV of this Agreement; (3) providing evidence of the General Contractors'

compliance with the commitments set forth in Article IV of this Agreement, and (4) by taking the following actions, among other things[1]:

a. In connection with the preparation of future bid packages, if any, develop a list of media outlets that target CBEs and *potential* CBEs hereafter referred to as "Target Audience" based on D.C. certification criteria;

b. During the initial construction of the Project, place advertisements in media outlets that address the Target Audience on a regular basis (i.e., each time a new bid package is sent out) and advertise the programmatic activities established pursuant to the Agreement on an as needed basis;

c. Fax and/or email new procurement opportunity alerts to targeted CBEs according to trade category;

d. In connection with the preparation of future bid packages, if any, develop a list of academic institutions, business and community organizations that represent the Target Audience so that they may provide updated information on available opportunities to their constituents;

e. Make presentations and conduct pre-bid conferences advising of contracting opportunities for the Target Audience either one-on-one or through targeted business organizations;

f. Provide up to ten (10) sets of free plans and specifications for business organizations representing Target Audiences upon request;

g. Commit to promoting opportunities for joint ventures between non-CBE and CBE firms to further grow CBEs and increase contract participation.

(iv) If the Shortfall is less than 10% of the CBE Minimum Expenditure, but the Director determines that the Developer has *not* taken all actions reasonably necessary (as reasonably determined by DSLBD based on Developer's reports and other verifiable evidence) to achieve the CBE Minimum Expenditure, Developer shall make a Contingent Contribution that is the percentage of the Contribution Fund that is equal to the Shortfall. For example, if the Shortfall is 5%, the Developer shall make a Contingent Contribution of 5% of the Contribution Fund, *i.e.*, $17,912.

Section 6.2 Failure to Meet Equity and Development Participation Requirements. Failure to meet the minimum 20% Equity and 20% Development Participation requirements shall constitute a material breach of the Land Disposition Agreement signed _____.

Section 6.3 Other Remedies. Failure to make any required Contingent Contribution in the time and manner specified by DSLBD shall be a material breach of this Agreement. In the event that the Developer breaches any of its obligations under this Agreement, in addition to the remedies

[1] See Attachment 6 for a list of suggested outreach activities.

stated herein, DSLBD does not waive its right to seek any other remedy against the Developer, the general contractor of the Project and any manager of the Project that might otherwise be available at law or in equity, including specific performance.

Section 6.4 Waiver of Contingent Contributions. Any Contingent Contribution required under this Section may be rescinded or modified by the Director upon consideration of the totality of the circumstances affecting such noncompliance.

ARTICLE VII
MISCELLANEOUS

Section 7.1 Primary Contact. The Director, or his or her designee, shall be the primary point of contact for Developer for the purposes of collecting or providing information, or carrying out any of the activities under this Agreement. The Director and a representative of the Developer with contracting and/or hiring authority shall meet regularly.

Section 7.2 Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to either party shall be deemed to have been received when personally delivered or transmitted by telecopy or facsimile transmission (which shall be immediately confirmed by telephone and shall be followed by mailing an original of the same within 24 hours after such transmission) or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To DSLBD:
Department of Small and Local Business Development
441 4th Street, N.W., Suite 970 North
Washington, DC 20001
Attention: Director
Tel: (202) 727-3900
Fax: (202) 724-3786

and
Office of the Deputy Mayor for Planning and Economic Development Government of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004
Attention: Deputy Mayor for Planning and Economic Development
Tel: (202) 727-6365
Fax: (202) 727-6703

With a copy to:	Office of the Attorney General John A. Wilson Building 1350 Pennsylvania Avenue, NW, Suite 407 Washington, DC 20004 Attention: Attorney General Tel: (202) 724-3400 Fax: (202) 347-8922
To Developer:	3800 LOTS, LLC c/o Donatelli & Klein, Incorporated. 7200 Wisconsin Avenue Suite 310 Bethesda, Maryland 20814 Attn: Chris Donatelli
With a copy to:	Lerch Early & Brewer, Chartered 3 Bethesda Metro Center Suite 460 Bethesda, Maryland 20814 Attn: Cindi E. Cohen, Esquire
And a copy to:	Mosaic Urban Partners, LLC 604 G Street SE #2 Washington, DC 20003 Attention: Calvin Gladney, Managing Member Tel: (202) 577-4466 Fax: (202) 513-8075

Each party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

Section 7.3 Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent possible.

Section 7.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of any permitted successors and assigns of the parties hereto. This Agreement shall not be assigned by the Developer without the prior written consent of the DSLBD, which consent shall not be unreasonably withheld or delayed. In connection with any such consent of DSLBD, DSLBD may condition its consent upon the acceptability of the financial condition of the proposed assignee, upon the assignee's express assumption of all obligations of the Developer hereunder or upon any other reasonable factor which DSLBD deems relevant in the circumstances. In any event, any such assignment shall be in writing, shall clearly identify the scope of the rights and obligations assigned and shall not be effective until approved by the DSLBD. DSLBD shall have no right to assign this Agreement except to another District agency.

Section 7.5 Amendment; Waiver. This Agreement may be amended from time to time by written supplement hereto and executed by DSLBD and Developer. Any obligations hereunder may not be waived, except by written instrument signed by the party to be bound by such waiver. No failure or delay of either party in the exercise of any right given to such party hereunder or the waiver by any party of any condition hereunder for its benefit (unless the time specified herein for exercise of such right, or satisfaction of such condition, has expired) shall constitute a waiver of any other or further right nor shall any single or partial exercise of any right preclude other or further exercise thereof or any other right. The waiver of any breach hereunder shall not be deemed to be a waiver of any other or any subsequent breach hereof.

Section 7.6 Governing Law. This Agreement shall be governed by the laws of the District of Columbia.

Section 7.7 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 7.8 Entire Agreement. All previous negotiations and understandings between the parties hereto or their respective agents and employees with respect to the transactions set forth herein are merged into this Agreement, and this Agreement alone fully and completely expresses the parties' rights, duties and obligations with respect to its subject matter.

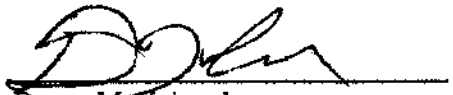
Section 7.9 Captions, Gender, Number and Language of Inclusion. The captions are inserted in this Agreement only for convenience of reference and do not define, limit or describe the scope or intent of any provisions of this Agreement. Unless the context clearly requires otherwise, the singular includes the plural, and vice versa, and the masculine, feminine and neuter adjectives include one another. As used in this Agreement, the word "including" shall mean "including but not limited to".

Section 7.10 Attachments. The following exhibits shall be deemed incorporated into this Agreement in their entirety:

Attachment 1:	CBE Minimum Expenditure
Attachment 2:	Target Sector List
Attachment 3:	Utilization Plan
Attachment 4:	CBE Reports
Attachment 5:	Vendor Verification Forms
Attachment 6:	Suggested Outreach Activities
Attachment 7:	Memorandum of Understanding for Developer

Section 7.11 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs and personal representatives.

Approved as to legal sufficiency for the Department of Small and Local Business Development:

BY: 

Duane M. Kokesch
General Counsel

AGREED TO AND EXECUTED THIS 19th DAY OF May, 2009

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

BY: _____
LEE A. SMITH III
DIRECTOR

3800 LOTS, LLC

BY: _____
CHRISTOPHER J. DONATELLI
MANAGER

Attachment 1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

CBE Minimum Expenditure

The CBE Minimum Expenditure for the 3813-3815 Georgia Ave, NW project is: **$ 1,432,988**

Project Name: 3800 LOTS, LLC	
Address:	3825 -3829 Georgeia Ave NW, Washington DC
Description:	Mixed Use Residential Buildings
Project Owner/Developer:	3800 LOTS LLC
Address:	3825 -3829 Georgeia Ave NW, Washington DC
Type of Entity:	For Profit Organization
Projected Start Date	
Duration / Ending Date	
Reporting Contact Person:	Larry Clark
Title:	
Telephone:	703-598-3588
Email:	lclark@dkdevelopment.com
Land Disposition and Development Agreement:	Deputy Mayor for Planning and Economic Development

Sources of Funds

Private Debt Financing	$	4,449,250
Total Sources of Funds:	$	4,449,250

Attachment 1

Uses of Funds			Exclusions		Adjusted Budget
Hard Costs					
Base Building	$	2,687,500	$ -	$	2,687,500
Base Building2	$	475,000	$ -	$	475,000
3rd Party Inspectors	$	50,000	$ -	$	50,000
Contingency - Hard Costs	$	273,750	$ -	$	273,750
Soft Costs					
Accounting and Consulting	$	15,000	$ -	$	15,000
Advertising	$	25,000	$ -	$	25,000
Appraisal	$	7,500	$ -	$	7,500
A&E	$	250,000	$ -	$	250,000
Development Fee	$	100,000	$ -	$	100,000
Bonds & Letter of Credit	$	35,000	$ 35,000	$	-
Insurance-Builders Risk	$	50,000	$ 50,000	$	-
Legal & Settlement	$	20,000		$	20,000
Loan Fees	$	25,000	$ 25,000	$	-
Debt Placement Fee	$	20,000	$ 20,000	$	-
Real Estate Taxes During Construction	$	20,000	$ 20,000	$	-
Recording & Transfer Taxes	$	30,000	$ 30,000	$	-
Soft Cost - general - 2	$	140,500	$ -	$	140,500
Construction Interest - 1	$	90,000	$ 90,000	$	-
Interest During Construction - 2	$	85,000	$ 85,000	$	-
Project Contingency	$	50,000	$ -	$	50,000
Total Uses of Funds	$	4,449,250	$ 355,000	$	**4,094,250**

CBE Minimum Expenditure (35% of Adjusted Budget)	$	**1,432,988**
Contingent Contribution (25% of the CBE Minimum Expenditure)	$	358,247
Contingent Contribution (Section 5.1, Paragraph ii)	$	71,649
Contingent Contribution (Section 5.1, Paragraph iv)	$	17,912

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services

VINCENT C. GRAY
MAYOR

LISA MARÍA MALLORY
DIRECTOR

April 18, 2013

Larry Clark
Vice President
Donatelli Development
4416 East West Highway
Suite 410
Bethesda, MD 20814

Dear Mr. Clark:

Enclosed is your copy of the signed First Source Employment Agreement between the D.C. Department of Employment Services (DOES) and Donatelli Development. Under the terms of the Agreement, you are required to use DOES as the first source to fill all new jobs created as a result of Project: Lot 3825 Project. In addition, at least 51% of the newly created jobs must be filled by D.C. residents. Further, District residents registered in programs approved by the District of Columbia Apprenticeship Council shall work 35% of all apprenticeship hours worked in connection with the Project.

You should post your job vacancies to the Department of Employment Services' Virtual One-Stop (VOS) at www.dcnetworks.org. Please contact DeCarlo Washington at (202) 698-5772 to receive assistance with identifying qualified District residents for placement.

The First Source Program has implemented an electronic compliance database which will provide a more efficient way for employers to enter and track their monthly First Source data. If you have any questions regarding the Monthly Compliance Reporting Database, please contact DeCarlo Washington at (202) 698-5772.

Thank you for participating in the First Source Employment Agreement Program, and we are looking forward to working with you.

Sincerely,

Ruby M. Washington
Deputy Director
Employment Programs and Monitoring

Enclosure

Government of the District of Columbia

FIRST SOURCE EMPLOYMENT AGREEMENT

Contract Number: N/A

Employer Name: 3800 Lot LLC c/o Donatelli Development

Project Contract Amount: $4,500,000

Employer Contract Award: $4,500,000

Project Name: 3825-29 Georgia Ave NW

Project Address: 3825 Georgia Ave Ward: 4

Nonprofit Organization with 50 Employees or Less: ☐ Yes ☒ No

This First Source Employment Agreement, in accordance with The First Source Employment Agreement Act of 1984 (codified in D.C. Official Code §§ 2-219.01 – 2.219.05), The Apprenticeship Requirements Amendment Act of 2004 (Codified in D.C. Official Code §§ 2-219.03 and 32-1431) for recruitment, referral, and placement of District of Columbia residents, is between the District of Columbia Department of Employment Services, hereinafter referred to as "DOES", and 3800 LOT LLC c/o Donatelli Development, hereinafter, referred to as EMPLOYER. Under this Employment Agreement, the EMPLOYER will use DOES as its first source for recruitment, referral, and placement of new hires or employees for all new jobs created by the Project. The Employer will hire 51% District of Columbia residents for all new jobs created by the Project, and 35 % of all apprenticeship hours be worked by DC residents employed by EMPLOYER in connection with the Project shall be District residents registered in programs approved by the District of Columbia Apprenticeship Council.

I. GENERAL TERMS

A. Subject to the terms and conditions set forth herein, the EMPLOYER will use DOES as its first source for the recruitment, referral and placement for jobs created by the Project.

B. The EMPLOYER will require all Project contractors with contracts totaling $100,000 or more, and Project subcontractors with subcontracts totaling $100,000 or more, to enter into a First Source Employment Agreement with DOES.

C. DOES will provide recruitment, referral and placement services to the EMPLOYER, which are subject to the limitations set out in this Agreement.

D. The participation of DOES in this Agreement will be carried out by the Office of Employer Services, which is responsible for referral and placement of employees, or such other offices or divisions designated by the Office of the Director, of DOES.

E. This Agreement will take effect when signed by the parties below and will be fully effective for the duration of the Project contract and any extensions or modification to the Project contract.

F. This Agreement will not be construed as an approval of the EMPLOYER'S bid package, bond application, lease agreement, zoning application, loan, or contract/subcontract for the Project.

G. DOES and the EMPLOYER agree that, for purposes of this Agreement, new hires and jobs created for the Project (both union and nonunion) include all EMPLOYER'S job openings and vacancies in the Washington Standard Metropolitan Statistical Area created for the Project as a result of internal promotions, terminations, and expansions of the EMPLOYER'S workforce, as a result of this project, including loans, lease agreements, zoning applications, bonds, bids, and contracts.

H. This Agreement includes apprentices as defined and as amended, in D.C. Law 2-156. D.C. Official Code §§ 32-1401- 1431.

I. The EMPLOYER, prime subcontractors and subcontractors who contract with the District of Columbia government to perform construction, renovation work, or information technology work with a single contract, or cumulative contracts, of at least $500,000, let within a 12-month period will be required to register an apprenticeship program with the District of Columbia Apprenticeship Council; and this includes but is not limited to, any construction or renovation contract or subcontract signed as the result of, a loan, bond, grant, Exclusive Right Agreement, street or alley closing, or a leasing agreement of real property for one (1) year or more. In furtherance of the foregoing, the EMPLOYER shall enter into an agreement with its contractors, including the general contractor, that requires that such contractors and subcontractors for the Project participate, in apprenticeship programs for the Project that: (i) meet the standards set forth in Chapter 11 of Title 7 of the District of Columbia Municipal Regulations, and (ii) have an apprenticeship program registered with the District of Columbia's Apprenticeship Council.

II. RECRUITMENT

A. The EMPLOYER will complete the attached Employment Plan, which will indicate the number of new jobs projected to be created on the Project, salary range, hiring dates, residency status, ward information, new hire justification and union requirements.

B. The Employer will post all job vacancies in the DOES' Virtual One-Stop (VOS) at www.jobs.dc.gov within five (5) days of executing the Agreement. Should you need assistance posting job vacancies, please contact Job Bank at (202) 698-6001.

C. The EMPLOYER will notify DOES, by way of the First Source Office of its Specific Need for new employees for the Project, within at least five (5) business days (Monday - Friday) upon Employers identification of the Specific Need. This must be done before using any other referral source. Specific Needs shall include, at a minimum, the number of employees needed by job title, qualifications, hiring date, rate of pay, hours of work, duration of employment, and work to be performed.

D. Job openings to be filled by internal promotion from the EMPLOYER'S current workforce do not need to be referred to DOES for placement and referral. However, EMPLOYER shall notify DOES of such promotions.

E. The EMPLOYER will submit to DOES, prior to commencing work on the Project, the names, residency status and ward information of all current employees, including apprentices, trainees, and laid-off workers who will be employed on the Project.

III. REFERRAL

A. DOES will screen applicants and provide the EMPLOYER with a list of applicants according to the Notification of Specific Needs supplied by the EMPLOYER as set forth in Section II (B).

B. DOES will notify the EMPLOYER, prior to the anticipated hiring dates, of the number of applicants DOES will refer.

IV. PLACEMENT

A. The EMPLOYER will make all decisions on hiring new employees but will, in good faith, use reasonable efforts to select its new hires or employees from among the qualified persons referred by DOES.

B. In the event that DOES is unable to refer qualified personnel meeting the Employer's established qualifications, within five (5) business days (Monday - Friday) from the date of notification, from the EMPLOYER , the EMPLOYER will be free to directly fill remaining positions for which no qualified applicants have been referred. Notwithstanding, the EMPLOYER will still be required to hire 51% District residents for all new jobs created by the Project.

C. After the EMPLOYER has selected its employees, DOES will not be responsible for the employees' actions and the EMPLOYER hereby releases DOES, and the Government of the District of Columbia, the District of Columbia Municipal Corporation, and the officers and employees of the District of Columbia from any liability for employees' actions.

V. TRAINING

A. DOES and the EMPLOYER may agree to develop skills training and on-the-job training programs; the training specifications and cost for such training will be mutually agreed upon by the EMPLOYER and DOES and will be set forth in a separate Training Agreement.

VI. CONTROLLING REGULATIONS AND LAWS

A. To the extent that this Agreement is in conflict with any federal labor laws or governmental regulations, the federal laws or regulations shall prevail.

B. DOES will make every effort to work within the terms of all collective bargaining agreements to which the EMPLOYER is a party.

C. The EMPLOYER will provide DOES with written documentation that the EMPLOYER has provided the representative of any collective bargaining unit involved

with this Project a copy of this Agreement and has requested comments or objections. If the representative has any comments or objections, the EMPLOYER will promptly provide them to DOES.

VII. EXEMPTIONS

A. All contracts, subcontracts or other forms of government-assistance less than $100,000.

B. Employment openings the contractor will fill with individuals already employed by the company.

C. Job openings to be filled by laid-off workers according to formally established recall procedures and rosters.

D. Construction or renovation contracts or subcontracts in the District of Columbia totaling less than $500,000 are exempt from the requirements of Section I(H) and I(I) of the General Terms hereof.

E. Non-profit organization with 50 or less employees are exempt from the requirements.

VIII. AGREEMENT MODIFICATIONS, RENEWAL, MONITORING, AND PENALTIES

A. If, during the term of this Agreement, the EMPLOYER should transfer possession of all or a portion of its business concerns affected by this Agreement to any other party by lease, sale, assignment, merger, or otherwise this First Source Agreement shall remain in full force and effect and transferee shall remain subject to all provisions herein. In addition, the EMPLOYER as a condition of transfer shall:

1. Notify the party taking possession of the existence of this EMPLOYER'S First Source Employment Agreement.

2. Notify DOES within seven (7) business days of the transfer. This advice will include the name of the party taking possession and the name and telephone of that party's representative.

B. DOES will monitor EMPLOYER'S performance under this Agreement. The EMPLOYER will cooperate with the DOES monitoring and will submit a Contract Compliance Form to DOES monthly.

C. To assist DOES in the conduct of the monitoring review, the EMPLOYER will make available to DOES, upon request, payroll and employment records for the review period indicated for the Project.

D. The Employer will provide DOES additional information upon request.

E. With the submission of the final request for payment from the District, the EMPLOYER shall:

1. Document in a report to DOES its compliance with the requirement that 51% of the new employees hired by the EMPLOYER for the Project be District residents; or

2. Submit to DOES a request for a waiver of compliance of the requirement that 51% of the new employees hired by the EMPLOYER the Project be District residents which will include the following documentation:
   a. Documentation supporting EMPLOYERS good faith effort to comply;
   b. Referrals provided by DOES and other referral sources; and
   c. Advertisement of job openings listed with DOES and other referral sources.

F. The DOES may waive the requirement that 51% of the new employees hired by the EMPLOYER for the Project be District residents, if DOES finds that:

1. A good faith effort to comply is demonstrated by the EMPLOYER; or

2. The EMPLOYER is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area:

   The Washington Standard Metropolitan Statistical Area includes the District of Columbia, the Virginia Cities of Alexandria, Falls Church, Manasas, Manasas Park, Fairfax, and Fredericksburg; the Virginia Counties of Fairfax, Arlington, Prince William, Loundon, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.

3. The EMPLOYER enters into a special workforce development training or placement arrangement with DOES; or

4. DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the EMPLOYER for the positions created as a result of the Project. No failure by Employer to request a waiver under any other provision hereunder shall be considered relevant to a requested waiver under this Subsection.

G. Willful breach of the First Source Employment Agreement by the EMPLOYER, failure to submit the Contract Compliance Report, or deliberate submission of falsified data, may be enforced by the DOES through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract for the positions created by EMPLOYER.

H. The parties acknowledge that the provisions of E and F of Article VIII apply only to First Source hiring.

I. Nonprofit organizations with 50 or less employees are exempt from the requirement that 51% of the new employees hired by the EMPLOYER on the Project be District residents.

J. The EMPLOYER and DOES, or such other agent as DOES may designate, may mutually agree to modify this Agreement.

K. The EMPLOYER's noncompliance with the provisions of this Agreement may result in termination.

IX. LOCAL, SMALL, DISADVANTAGES USINESS ENTERPRISE

A. Is your firm a certified Local, Small, Disadvantaged Business Enterprise (LSDBE)?
☐ YES ☒ NO The LLC is not but Mosaic Partners is a CBE and member of LLC

If yes, certification number:_____

X. APPRENTICESHIP PROGRAM

A. Do you have a registered Apprenticeship program with the D.C. Apprenticeship Council? ☐ YES ☒ NO But the GC does

If yes, D.C. Apprenticeship Council Registration Number: _____

XI. SUBCONTRACTOR

A. Is your firm a subcontractor on this project? ☐ YES ☒ NO
If yes, name of prime contractor: _____

Dated this 1st day of April 20 13

Signature Dept. of Employment Services

Signature of Employer

For 3500 Lot LLC c/o Donatelli Development
Name of Company

4416 East West Hwy - Suite 410
Address

301 654-0700
Telephone

laurye@dkdevelopment.com
E-mail

EMPLOYMENT PLAN

NAME OF EMPLOYER: 3800 Lot LLC c/o Donatelli Dev.

ADDRESS OF EMPLOYER: 4416 EAST WEST HWY #410

TELEPHONE NUMBER: 301 654-0700 FEDERAL IDENTIFICATION NO.: TBD

CONTACT PERSON: Lurray Clark TITLE: VP

E-MAIL: larry@dkdevelopment.com TYPE OF BUSINESS: REAL ESTATE

DISTRICT CONTRACTING AGENCY: DMPED

CONTRACTING OFFICER: _____ TELEPHONE NUMBER: _____

TYPE OF PROJECT: LAND SALE CONTRACT AMOUNT: $4,500,000

EMPLOYER CONTRACT AMOUNT: $ 4,500,000

PROJECT START DATE: 7/13 PROJECT END DATE: 8/14

EMPLOYER START DATE: TBD EMPLOYER END DATE: TBA

NEW JOB CREATION PROJECTIONS: Please indicate ALL new position(s) your firm will create as a result of the Project. If the firm WILL NOT be creating any new employment opportunities, please complete the attached justification sheet with an explanation. Attach additional sheets as needed.

	JOB TITLE	# OF JOBS F/T P/T	SALARY RANGE	UNION MEMBERSHIP REQUIRED NAME LOCAL#	PROJECTED HIRE DATE
A					
B	Construction	5	$15+		10/13
C					
D					
E					
F					
G					
H					
I					
J					
K					

CURRENT EMPLOYEES: Please list the names, residency status and ward information of all current employees, including apprentices, trainees, and transfers from other projects, who will be employed on the Project. Attach additional sheets as needed.

NAME OF EMPLOYEE	CURRENT DISTRICT RESIDENT √Please Check	WARD
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	☐	

JUSTIFICATION SHEET: Please provide a detailed explanation of why the Employer will not have any new hires on the Project.

The Developer (3800 Lot LLC) will not have any manpower/staff at the site.

The General Contractor will adhere to the First Source Law and the submitted employment plan.